



Istituto per la Vigilanza sulle Assicurazioni Private e di Interesse Collettivo

GUIDE TO COMPLAINTS

Rome, 2 September 2008

What you need to know to file a complaint

1. Who can file a complaint

Complaints can be filed by insurance users (insured persons and/or injured parties) – be they natural or legal persons – and consumer organisations having a legitimate interest in protecting consumers.

2. Cases where complaints can be filed

Complaints can be made about:

- a) non-observance by insurance and reinsurance undertakings, insurance intermediaries and loss-adjusters, of the provisions of the Insurance Code, of the relevant implementing rules and of the rules on the distance marketing of insurance products;
- b) cross-border disputes regarding financial services for which the activation of the FIN-NET (network for the out-of-court settlement of disputes) is sought.

3. Cases where a complaint cannot be filed

When it concerns aspects for which an action has already been brought before the courts.

4. With whom it must be filed

The complaint must first be filed with **the undertaking** which has a specific function for the handling of complaints, including replies to complainants. Consumers can find any useful information for filing a complaint in the undertakings' websites and in precontractual information notes.

If the undertaking fails to reply (see point 5 below) or if the reply is unsatisfactory it is possible to apply to **ISVAP**.

If the complaint concerns transparency of unit and index linked products or capital redemption operations it must be sent to **CONSOB** (via G.B. Martini 3 – 00198 Roma); while, if it concerns supplementary pension schemes, it must be sent to **COVIP** (via in Arcione 71 – 00187 Roma).

It must be underlined that: ISVAP has laid down rules on the procedure for the handling of complaints by undertakings, which have *inter alia* envisaged a wide involvement of the undertakings' administrative and control bodies in this process.

Undertakings licensed to pursue business in Italy must in fact record all the complaints received in an electronic databank which is continuously updated with data regarding the management of such complaints; the handling procedures are monitored by the person in charge of the internal auditing within the undertaking. At least on a quarterly basis the state of the complaints is brought to the attention of the administrative body and of the control body of every company, together with a report by the internal auditing on the correctness of the handling procedures, in order to make an assessment.

ISVAP receives detailed information every three months, and based on such information it carries out its supervisory activity over undertakings and provides market statistics.

It must also be underlined that: If the complaint is first filed with ISVAP, the latter must forward it to the undertakings, and as a result the time limits for replying to users are longer.

On the contrary it is useful to apply to the Authority when, as we said before, the undertaking does not reply within the established deadline or when the user is not satisfied with such reply.

In this case ISVAP, after receiving the complaint, carries out a preliminary enquiry, and informs the complainant thereof within 90 days; where necessary it gathers information from other supervised entities, including undertakings.

The complainant receives a reply from the Authority on the outcome of the complaint no later than 120 days from the filing of the complaint.

If the Authority finds out that there has been a breach of the rules by the supervised entities, it starts a sanctioning procedure (of an administrative, pecuniary or disciplinary nature), and gives information on its outcome in its bulletin and internet site.

5. *How long does it take to have a reply?*

Undertakings must reply to users within 45 days of receiving the complaint. Non compliance with this deadline – which we recommend to report to us – is punished by ISVAP with a pecuniary administrative sanction.

ISVAP advises on the outcome of the preliminary enquiry within 120 days of receiving the complaint.

6. *How to file a complaint (see specimen letters enclosed)*

The complaint must contain the following essential information: name, surname and address of the complainant, name of the undertaking, the intermediary or the loss adjuster whose behaviour is the subject of the complaint, brief description of the reason for the complaint, any document useful to provide a detailed description of the fact and the relevant circumstances.

If the complaint is addressed to the undertaking (encl. 1), it must be sent by mail, telefax or e-mail to the Complaints office of the insurance undertaking concerned, whose address can be found in the pre-contractual information notes or in ISVAP's website www.isvap.it – *Sportello reclami* (link: *uffici gestione reclami*) or in the undertaking's internet site.

If the complaint is addressed to ISVAP (encl. 2), it must be sent by mail to ISVAP, via del Quirinale 21 – 00187 Roma or faxed to the fax numbers 06.42133.426 or 06.42133.353 and must contain a copy of the complaint already sent to the undertaking and the relevant reply.

7. *What to do in case of cross border disputes*

In these cases the complaint can be filed directly to the competent foreign system, and namely that of the country where the undertaking underwriting the policy has its head office (available in the internet site: <http://www.ec.europa.eu/fin-net>) or to ISVAP, which will forward it to that system and inform the complainant accordingly.

8. *How to gather information on the handling of complaints by undertakings:*

Precontractual information notes and undertakings' internet sites (whose address can be found in ISVAP's site too) indicate the offices responsible for complaints and the addresses to which the complainant may apply.

9. *How to gather information on the handling of complaints by ISVAP*

A telephone service line for advice and assistance to users (tel. 06.42133.000) is active at ISVAP and is operated by ISVAP staff with the following timetable:

Monday – Thursday from 9.30 a.m. to 1.30 p.m.

Friday from 9.30 a.m. to 1.00 p.m.

Outside these hours an automatic answering machine is available.

10. *Provisions regulating the filing and handling of complaints*

The main sources of the provisions relating to complaints are the Insurance Code (legislative decree n. 209 of 7 September 2005) and ISVAP Regulation n. 24 of 19 May 2008 (see encl. 3).

SPECIMEN LETTER OF COMPLAINT TO THE UNDERTAKING

... .. (name of the insurance undertaking)

Complaints office (function of the undertaking in charge for the handling of complaints, its address and fax number, as they can be found in the precontractual information note, in ISVAP's website (www.isvap.it) "Sportello reclami" (link: "uffici gestione reclami") or in the insurance undertaking's website)

Street/square

Zip **City**

Fax n.

Complaint about: **policy n. and/or claim n. of**
pertaining to the product (type of insurance product: e.g. accident, sickness, motor vehicle liability etc.)
insured/policyholder
damaged person and/or vehicle

I the undersigned (name, surname, address and telephone number of the person filing the complaint, be it the subject directly concerned or a subject acting on behalf of the complainant*)

complaint that

(reason for the complaint, i.e. the behaviour or service which is the object of the complaint and all the circumstances which can be used in the valuation).

In relation to the above I ask the aforementioned undertaking
(state the requests to the undertaking and any reasons in support of them).

Enclosures(documents necessary to evaluate the behaviour or service which is the object of the complaint).

I look forward to your reply within 45 days of receiving this letter (ISVAP Regulation 24/08).

Date

Signature (of the subject filing the complaint)

In the latter case the subject concerned is required to countersign the complaint to allow that any confidential information on the person in whose interest the complaint is filed is immediately handled.

SPECIMEN LETTER OF COMPLAINT TO ISVAP

**to be sent in case the undertaking does not reply within 45 days or
in case the answer is not satisfactory**

**ISVAP
via del Quirinale 21
00187 Roma
Fax n. 06.42133.353/745**

Complaint against:

(name of the insurance undertaking, intermediary or loss adjuster against which the complaint is filed)

policy n. and/or claim n. of
pertaining to the product *(type of insurance product: e.g. accident, sickness, motor vehicle liability etc.)*

insured/policyholder

damaged person and/or vehicle

date of the complaint already filed with the undertaking

I the undersigned *(name, surname, address and telephone number of the person filing the complaint, be it the subject directly concerned or a subject acting on behalf of the complainant*)*

complaint that

(reason for the complaint, i.e. the behaviour or service which is the object of the complaint and all the circumstances which can be used in the valuation).

Enclosures*(documents necessary to evaluate the behaviour or service which is the object of the complaint). Enclose the complaint if it has already been filed with the undertaking).*

Date

Signature *(of the subject who files the complaint)*

In the latter case the subject concerned is required to countersign the complaint to allow that any confidential information on the person in whose interest the complaint is filed is immediately handled.

RELEVANT PROVISIONS

The main sources of the provisions relating to complaints are the Insurance Code (legislative decree n. 209 of 7 September 2005) and ISVAP Regulation n. 24 of 19 May 2008.

The Regulation has updated the provisions on insurance undertakings' complaints management procedure and laid down rules on the procedure for the filing of complaints with ISVAP.

As to the handling of complaints by insurance undertakings the Regulation establishes that complaints management is an effective instrument for the control, guidance and analysis of an undertaking's activity, for the survey on the consumer's degree of satisfaction and, as a last resort, for the setting up of insurance market's self-correcting procedures.

As to the management of complaints by ISVAP the Regulation clearly specifies its areas of competence, also with regard to the other sectoral supervisors, and describes the procedures for handling them. There are deadlines within which the complainant must be informed of the starting of the preliminary inquiry and of its outcome, as well as deadlines for replying to ISVAP's inquiries to supervised subjects.

The Regulation lays down rules regarding (references to articles are shown in brackets):

- who can file a complaint (art. 3);
- the cases where complaints can be filed (art. 4 para. 1);
- complaints which do not lie within ISVAP's province (art. 4, para. 2-5);
- the documents to be enclosed to the complaint (art. 5);
- ISVAP's complaints management procedure and the deadlines for replying to the complainant (art. 6);
- the complaints management procedure pertaining to cross-border disputes (art. 7);
- undertakings' complaints management procedure and the deadlines for replying to the complainant (art. 8, 9 and 10).

The governing principles of the new regulation are the following:

- insurance undertakings carrying on business in Italy manage all the complaints received, even if they regard third parties included in the operational cycle (art. 8, para. 1);
- undertakings must reply to the complainant within 45 days of receiving the complaint (article 8 para. 1). Non-compliance with the deadline is subject to a pecuniary administrative sanction by ISVAP;
- undertakings publish in their internet sites all the information necessary for the filing of complaints (art. 8, para. 5);
- undertakings carrying on business in Italy entrust the management of complaints to a specific business function, which has its own procedures and guarantees independence of judgment, also with a view to avoiding conflicts of interest with the structures or subjects concerned by the complaint (art. 8, para. 2);
- undertakings store all the complaints received in an electronic databank (art. 9 para. 1);
- undertakings' administrative and control bodies make their valuations on the report about complaints which the undertaking draws up every three months (art. 9, para 4), which is sent to ISVAP for supervisory purposes;
- precontractual information notes contain all the information for the filing of a complaint, including the undertaking's addresses (art. 10).