

**For Publication**

**Reply to the  
Joint Committee Consultation Paper on draft  
guidelines for complaints-handling for the securities  
(ESMA) and banking (EBA) sectors**

**February 7, 2014**

**UniCredit is a major international financial institution with strong roots in 17 European countries, active in approximately 50 markets, with more than 9.000 branches and circa 150.000 employees. UniCredit is among the top market players in Italy, Austria, Poland, CEE and Germany. UniCredit operates a large international banking network outside Italy with around 4,800 branches.**

The position expressed in this paper is based on contributions of the functions mentioned in the contact list at the end of the response, involved in accordance with their tasks and related responsibilities.

### Question 1:

Do you agree that complaints-handling is an opportunity for further supervisory convergence? Please also state the reasons for your answer.

### UNICREDIT FEEDBACK TO QUESTION 1

#### UniCredit Reasoning

- Yes, complaints-handling can be a relevant driver through which supervisory practices across EU can converge further.
- In fact, first the adoption within the European System of Financial Supervision of more homogeneous criteria can be regarded as a valid indicator of unsuitable product features across EU. In this regard, in late 2011 the FSB identified the establishment of indicators of unsuitable product features among those areas where *“more work is needed to ensure consumer protection authorities are equipped with the necessary supervisory tools to identify gaps and weaknesses in consumer protection frameworks”*<sup>1</sup>.
- Second, the more guidance on complaints handling is set out at EU level rather than at Member-State level, the easier and more efficient for a cross-EU bank is to adopt the same model-approach to manage complaints.

\* \* \*

### Question 2 on the 7 Draft Guidelines

#### Guideline 1 - Complaints management policy

Competent authorities should ensure that:

- a) A ‘complaints management policy’ is put in place by firms. This policy should be defined and endorsed by the firm’s senior management, who should also be responsible for its implementation and for monitoring compliance with it.

<sup>1</sup> FSB, *Report on Consumer Finance Protection with particular focus on credit*, 16 December 2011, p. 20.

- b) This ‘complaints management policy’ is set out in a (written) document e.g. as part of a ‘general (fair) treatment policy’.
- c) The ‘complaints management policy’ is made available to all relevant staff of the firm through an adequate internal channel.

## UNICREDIT FEEDBACK TO GUIDELINE 1

### UniCredit Reasoning

- The Group has already in place dedicated policies and is already taking on board the key points raised in the consultation.

Besides that, before entering into the answers to each Guideline, the following 3 points are made by the division of Corporate and Investment Banking (CIB) within UniCredit:

- Overall, most of the 7 guidelines are already a common practice across main EU countries where UniCredit CIB currently operates (including Germany, Italy and in the UK);
- We welcome the joint EBA-ESMA initiative since it contributes to harmonizing the regulatory framework of complaints handling both for competent authorities and the various categories of firms affected;
- As already put forward elsewhere in the policy debate regarding the EU regulation on investment products, also in the case of complaints-handling a unique definition of retail client is missing. Indeed the draft guidelines could become more effective (and “easier” to be implemented for international banks, such as UniCredit) if a proper and universal definition of retail client were provided. The more exhaustive definition is given in the guidelines, the more convergence and level playing field is achieved, both across the EU and across all the EU covered sectors.
- As far as the Guideline 1 is concerned, UniCredit understands and recognizes the role of Public Authorities in shaping internal complaints handling schemes through regulation by requiring financial and banking firms to adopt a specific policy on this topic.
- Given the cross-sectorial approach of the proposed Guidelines, we think it is important that the complaints-handling policy be always easily detectable, in particular when it is part of a more general internal rule. As it is a very sensitive area, any policy dealing with complaints-handling ought always to be clearly identifiable by the bank’s employees selling products.
- As regards firms’ internal organization, it would be advisable the establishment of a central unit charged with supervising the compliance with these Guidelines (then to be administered and reviewed on a regular basis). For example in Italy the policy<sup>2</sup> currently in place is already coherent with the Guidelines and available in written form to all employees through the “Normanet” platform, an internal website designed to provide information on all internal rules.

\* \* \*

<sup>2</sup> N. 476/2.

## Guideline 2 - Complaints management function

*Competent authorities should ensure that firms have a complaints management function which enables complaints to be investigated fairly and possible conflicts of interest to be identified and mitigated.*

### UNICREDIT FEEDBACK TO GUIDELINE 2

#### UniCredit Reasoning

- UniCredit fully understands the importance of having a dedicated function handling complaints. For this reason, the UniCredit Global Compliance Guidelines - Complaints Management have established that the overall management and processing of complaints have to be assigned to a dedicated unit with a reporting line which is independent of the front office.

Such a set up guarantees that complaints are assessed on an impartial basis, in order to avoid actual and potential conflicts of interest concerning structures and/or individual subjects involved in a complaint. Importantly, both the direct resolution and the monitoring of submitted complaints are effectively managed.

\* \* \*

## Guideline 3 – Registration

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

### UNICREDIT FEEDBACK TO GUIDELINE 3

#### UniCredit Reasoning

- UniCredit agrees with the proposed principle and, given its key importance for a well-functioning handling of client complaints, the UniCredit Global Compliance Guidelines - Complaints Management have already provided a record keeping system.
- Each complaint is recorded in accordance with all relevant details as required by domestic regulations (including for example: date of receipt, sender, transmission channel, the responsible unit, any refund to the customer, etc).

\* \* \*

## Guideline 4 – Reporting

*Competent authorities should ensure that firms provide information on complaints and complaints-handling to the competent authorities or ombudsman. This data should cover the number of complaints received, differentiated according to their national criteria or own criteria, where relevant.*

## UNICREDIT FEEDBACK TO GUIDELINE 4

### UniCredit Reasoning

- UniCredit already collects information about client complaints as it believes this is a crucial step to gain a broader view and to improve the quality and fairness of its selling practices and provision of services. An ever-growing customer satisfaction is a goal of crucial importance to UniCredit.

Moreover, UniCredit is fully aware of the need to comply with domestic regulations specifying the way complaints are to be categorized; and of the importance that information on client complaints is conveyed to public authorities.

For this reason, the “UniCredit Global Compliance Guidelines - Complaints Management” provide that Compliance of Legal Entities has to file a report about the received complaints with the relevant regulatory bodies, when required by the local regulations.

- For example in Italy UniCredit periodically provides data to competent authorities (i.e Bank of Italy) with exhaustive reports.

\* \* \*

## Guideline 5 – Internal follow-up of complaints-handling

Competent authorities should ensure that firms analyse, on an on-going basis, complaints-handling data, to ensure that they identify and address any recurring or systemic 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.

## UNICREDIT FEEDBACK TO GUIDELINE 5

### UniCredit Reasoning

- UniCredit is aware of the importance of a well-functioning system of information collection, storing, retrieval, reporting, and review, concerning customer complaints which is an important tool to identify frequent problems and potential legal risks, and streamline the provision of services and products.

\* \* \*

## Guideline 6 – Provision of information

Competent authorities should ensure that firms:

- 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 firm'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) mechanism, etc.).
- d) Keep the complainant informed about further handling of the complaint.

## UNICREDIT FEEDBACK TO GUIDELINE 6

### UniCredit Reasoning

- UniCredit believes that a banking and financial firm should be proactive in informing customers about its own already-existing schemes of client complaint handling. However, in order to improve public confidence in banking and financial markets, a monitoring and regulatory activity concerning client complaints-handling carried out by public authorities is highly welcome.
- UniCredit agrees with the proposed principle. The “UniCredit Global Compliance Guidelines - Complaints Management” establish to give all the necessary detailed information about complaint procedures to customers (or potential customers). Moreover, UniCredit has to inform the complainant about the progress and additional information of any possible delays (see feedback to Guideline 7).
- For example, with reference to UniCredit in Italy, the process is almost in place. For further information visit <https://www.unicredit.it/it/info/reclami.html>.

\* \* \*

## Guideline 7 – Procedures for responding to complaints

Competent authorities should ensure that firms:

- 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 firm should inform the complainant about the causes of the delay and indicate when the firm’s investigation is likely to be completed.
- 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 firm’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.

## UNICREDIT FEEDBACK TO GUIDELINE 7

### UniCredit Reasoning

- UniCredit agrees with the proposed principle and has already adopted internal rules providing procedures concerning: the research and collection of the necessary information about the case at hand; the use of a plain language when communicating with customers; the timing for a complete and exhaustive response to the complainant, the progress of the procedure and the prompt communication of any possible delay.

\* \* \*

### III. Cost-Benefit Analysis

#### Question 3

Do you agree with the analysis of the cost and benefit impact of the proposals?.

#### UNICREDIT FEEDBACK TO QUESTION 3

##### UniCredit Reasoning

- Besides the number of Member States (MS) reported among the findings of the survey on existing national requirements in MS compared with the proposed guidelines, the piece of information about the Member States would also be useful where: i) some or all of the guidelines are already met; ii) stricter requirements are already in; iii) where no requirement at all are in place.
- ESMA and EBA expect to promote greater convergence in the interpretation of, and supervisory approaches to, the requirements set out in the Guidelines. However, the Impact Assessment should also take into account the two following dimensions:
  - i) compliance with the Guidelines by Competent Authorities is subject to interpretation and this could also lead to a certain degree of uneven level playing field across the EU, which is undesirable (hence the reported benefits for the consumers would be reduced);
  - ii) as evidenced in the survey, the percentage of MS where Guideline 3 (Registration) are already met or exceeded spans from 91% of Investment Firms (IF) and Management Companies to 47% of Payment Institutions (PI) and, as the lowest end, 42% of Electronic Money Institutions (EMI). Based on this evidence, the Impact Assessment should also take properly into account to what extent the enforcement is carried forward homogeneously both across EU countries and across the various sectors (*“investment firms, management companies and credit institutions are the three types of firms for which, in most Member States, the requirements of the guidelines are met”*<sup>3</sup>).

<sup>3</sup> Joint Committee, *Consultation Paper on draft guidelines for complaints-handling for the securities (ESMA) and banking (EBA) sectors*, 6 November 2013, p. 19.



## **Contact people** ([name.surname@UniCredit.eu](mailto:name.surname@UniCredit.eu))

Please find below the list of the key people involved in this work, whose contribution made possible to coordinate and provide UniCredit answers to this Consultation. Some other experts have been involved alongside the UniCredit Group, but are not listed below.

## **Coordination Team and contributor**

### **European and Regulatory Affairs / Public Affairs**

Costanza Bufalini – Head of European & Regulatory Affairs

Micol Levi – Head of Regulatory Affairs

Anousheh Alamir – European and Regulatory Affairs

Laura Esposito – European and Regulatory Affairs

Riccardo Brogi – European and Regulatory Affairs

Andrea Mantovani – European and Regulatory Affairs

## **Other contributors**

### **CIB**

Sen-Gupta Pamela – Head of Global CIB Legal

Andrea Abbott – Global CIB Legal (Contributor and CIB Coordinator)

### **Global Compliance**

Giuseppe Silvestro – Head Global Compliance CAMP, Controls and Reporting

Antonio La Rocca – Head of Global Regulatory Counsel

Patrizia della Mura – Global Financial Services Counsel

Marcacci Antonio – Global Financial Services Counsel

### **Reputational Risk**

Davide Bazzarello – Head of Group Operational & Reputational Risks

Stefano Alberigo – Operational & Reputational Risk Oversight

### **Unicredit SpA**

Riccardo Zanni – Head of Claims

Paolo Berenato – Head of Customer Insight