
Market conduct and complaint handling by ASF

ASF Regulatory Standard 7/2022-R of June 30

Legal flash – Banking, Finance and Capital Markets
June 30, 2022



Key aspects

- > Establishes robust rules for all areas affecting relations with policyholders, insured parties, beneficiaries and injured third parties within the scope of insurance activity, and with members, contributors, participants and beneficiaries within the scope of pension fund management activity
- > Updates the regime applicable to complaint management, customer ombudspersons and liaison officers of the Portuguese Insurance and Pension Funds Supervisory Authority, which will also apply to pension fund management activity
- > Regulates the principles and risks associated with market conduct within the governance system of insurance companies and pension fund management companies
- > Adapts the applicable reporting requirements for behavioral supervision purposes



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Published in the Official Gazette of the Republic of Portugal on June 30, ASF Regulatory Standard 7/2022-R regulates market conduct and complaint handling by the Portuguese Insurance and Pension Funds Supervisory Authority (“ASF”).

The main changes are summarized below.

Scope of application

With a view to converging insurance regimes, ASF Regulatory Standard 7/2022-R aims to define and flesh out the rules applicable to complaint management, customer ombudspersons, ASF liaison officers and governance systems within the scope of market conduct, as well as for pension fund management activity.

Main changes

- > Under the new regulatory standard, **handling policies**—which establish the principles applicable to customer relations—will now include the necessary mechanisms to ensure (i) products or contracts unsuitable for the profile and needs of customers are not marketed or signed; and (ii) customers’ personal data are processed in line with the principles and obligations arising from applicable European and Portuguese legislation.
- > As regards **complaint management**, new time limits are established for (i) the request to correct any omissions in complaints made (5 business days); (ii) correcting these omissions under penalty of rejection (20 business days); (iii) replying to the complaint (20 business days); and (iv) the company to inform the customer of any failure to meet these time limits (5 business days).
- > As to **customer ombudspersons**, the new standard fleshes out the principles of exclusivity and independence in the provision of services and establishes a broader range of conflicts of interest.
- > It also reinforces the requirement that the reply to the complainant must contain clear and understandable language and be appropriate for each specific complainant.
- > The ombudsperson’s recommendations must be published on the company website, and companies must send the hyperlink to the ASF so it can include it on its website. Also, the recommendations are to be kept for a minimum of three years.



- > All communications or information will now be provided in a durable and preferably digital medium accessible to the addressee.
- > Regarding **ASF liaison officers**, companies must use the Consumer - Operators Portal of the ASF for the purpose of managing complaints and responding to requests for information or clarification.
- > As to the **governance system**, companies must establish a **separate function with responsibility for market conduct**. They must also monitor the quality, adequacy and effectiveness of their policies and procedures by carrying out periodic assessments.
- > Companies must communicate the following to the ASF: (i) the identity of the customer ombudsperson; (ii) the liaison officer's contact details; and (iii) how the separate function responsible for complaint management and the separate function responsible for market conduct have been implemented, within 10 working days from the date the activity is implemented/started.
- > The **complaint management report** in respect of the previous year, which must be prepared by the end of February, must also include (i) the complaints the ombudsperson is considering; (ii) those in which an insurance broker or external service provider was involved; (iii) the behavioral risk units; and (iv) a conclusive analysis with the measures implemented or to be implemented.
- > By April 15 of each year, companies must also prepare a **report** that includes a description of the risk acceptance policy and the product introduction strategy.
- > It establishes **duties of communication to the ASF**, particularly regarding the marketed products (up to 8 days after they are launched) and the signing of protocols/agreements between insurance companies that affect customer relations (within 10 business days of the signing date).
- > The principles for **complaint handling by the ASF** are reinforced and include efficiency, speed (setting a limit of 90 business days to reply), impartiality, use of electronic means, and the absence of costs for the customer.
- > The standard establishes the requirements for lodging complaints and the respective handling procedure. It establishes that complaints must first be lodged with the entity against which the complaint is being made (which has 10 days to reply to ASF requests), preferably using the form available on the consumer portal of the ASF website.



Entry into force

Regulatory Standard 7/2022-R of June 30 enters into force on July 30, 2022.

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