IVASS
ISTITUTO PER LA VIGILANZA SULLE ASSICURAZIONI

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CONSUMER PROTECTION DIRECTORATE
COMPLAINTS HANDLING DIVISION

Classificazione

To insurance Undertakings
with head offices in Italy
that carry out motor liability insurance
THEIR PREMISES

To insurance Undertakings whose head offices are in another EEA Member State pursuing motor liability insurance in Italy under the freedom to provide services or the right of establishment
THEIR PREMISES

To Branches in Italy of insurance Undertakings whose head offices are in a non-EEA country, pursuing motor liability insurance in Italy
THEIR PREMISES

RE: Complaints relative to the settlement of motor liability claims. Refusal of compensation.

In the context of the management of complaints towards insurance undertakings, IVASS is noting a recurring number of cases in which the damaged parties of motor accidents that have submitted requests for compensation complain of having received from the undertaking a communication of refusal to make an offer which was either inadequately justified, or based on reasons which, after further investigations, were not supported by specific checks.

Reference is made, for example, to communications of refusal in which the undertaking:

1. generally contests "*the absence of a causal link between the damage complained of and the event reported*" or "*the incompatibility between the damage and the dynamics of the accident*", without providing specific technical indications, nor the evidence on which the refusal is based (expertise, technical investigations, testimonies, findings from "black box", medico-legal reports....); this happens for accidents with personal injury as well as with material damage;

2. simply contests the responsibility for having caused the event without indicating the objective elements and/or preliminary investigations that brought about this conclusion;

3. justifies the refusal on the grounds of the impossibility of carrying out an expertise on the vehicle because of its unavailability, without proving that the expert has tried to carry out the expertise within the time limits and according to the procedures provided for by law, and that the attempt has been unsuccessful as the result of the behaviour attributable to the damaged party.

The lack of adequate justification and the absence of specific references to inquiry findings in the possession of the undertaking prevents the damaged party from understanding the reasons for the refusal, generates situations of dissatisfaction and distrust in the activities of the insurer and may fuel litigation.

Since art. 148 of the Insurance Code requires insurance undertakings to communicate to the damaged party "*the specific reasons for not making an offer*", the examination of these complaints shows that in several cases, following the complaint of the damaged party and the intervention of IVASS, the initial refusal of the offer is superseded with the acquisition/ consideration of evidence that lead the company to review its position, and to award compensation for damages.

In these cases, initial refusals, proven, in fact, to be unfounded, result in an unjustified lengthening of settlement times.

When, on the other hand, the refusal is based on concrete elements, their clear exhibition may contribute to persuading the damaged party, avoiding unnecessary litigation.

Transparency towards damaged parties does not conflict with the need to adopt, in the presence of strong indications of fraud, the necessary anti-fraud initiatives, in the interest of undertakings and of the community.

In the light of the above information, also taking into account that, according to art. 183, paragraph 1, letter *a)* of the Insurance Code, undertakings, in the execution of contracts, must act with transparency, the above undertakings are required to verify, even through the findings emerging from the analysis of complaints, the existence of the described critical issues in settlement processes and, where necessary, review the processes to ensure:

- communication to the damaged party of the specific reasons for refusing compensation. To that end, it is necessary to ensure that the texts of the communications indicate in detail the elements of inconsistency between the facts reported and those established by the undertaking, and cite the facts or events underlying the rejection of the offer (car expertise, testimonies, findings from black box, medico-legal reports …);

- consistency of the refusal communication and their relative reasons with the investigative elements in possession of the undertaking, completing the acquisition and full consideration of these elements before communicating the refusal.

The review of the settlement process and of the texts of the communications should be concluded by 30 April 2017. The corrective actions, after obtaining the approval of the Boards of Directors, must be described in the bi-annual reports on complaints under Regulation no. 24, relating to the first half of 2017.

Regards,

By delegation of the
Joint Directorate