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GFIA Comments on OECD paper "Conflicts of interest in retirement financial advice - Background report", developed by the OECD working party on private pensions

Introduction

The Global Federation of Insurance Associations (GFIA) appreciates the opportunity to provide comments on the working party on private pensions' paper, "Conflicts of interest in retirement financial advice - Background report". GFIA recognizes and supports the need to manage conflicts of interest when it comes to any kind of financial advice. It is important that the Organisation for Economic Cooperation and Development's (OECD) consideration of this issue recognize that there are many different ways to manage conflicts of interest and that appropriate solutions vary according to the regulatory structure and culture of each jurisdiction.

General comments

GFIA is concerned that the OECD paper suggests a direction which is out of line with over-arching OECD work, and that it does so built on biased assumptions. Although the paper focuses on advice provided to consumers in defined contribution retirement plans faced with making either investment decisions or retirement income decisions, recommendations by the working party with respect to retirement financial advice could have a ripple effect to other types of financial advice.

The G20/OECD Principles on Financial Consumer Protection recognizes that there are different ways to manage potential conflicts of interest. The International Association of Insurance Supervisors (IAIS), in its Insurance Core Principles, mirrors that.

Principle 6, Responsible business conduct of financial services providers and authorized agents, of the G20/OECD Principles on Financial Consumer Protection, endorsed at the G20 summit in 2011, states that it should be the objective of providers and their agents to work in the best interest of their customers, that they should understand the needs of a customer before providing them with a product, make sure staff are properly trained and qualified, and manage conflicts of interest. It further states that providers and agents should endeavor to avoid conflicts of interest, but *"When such conflicts cannot be avoided, financial services providers and authorised agents should ensure proper disclosure, have in place internal mechanisms to manage such conflicts, or decline to provide the product, advice or service. The remuneration structure for staff of both financial services providers and authorised agents should be designed to encourage responsible business conduct, fair treatment of consumers and to avoid conflicts of interest. The remuneration structure should be disclosed to customers where appropriate, such as when potential conflicts of interest cannot be managed or avoided."*

IAIS insurance core principle 19 on conduct of business states that conduct of business requirements should include policies and procedures on the fair treatment of customers (FTC), including that where consumers receive advice, the advice is appropriate and takes into account the customer's disclosed circumstances, and that any potential conflicts of interest are managed.

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Corollary documents for both the G20/OECD principle 6 and IAIS ICP 19 list a variety of ways in which conflicts of interest can be managed, including designing remuneration and reward strategies that consider the consumer's interest, requiring financial services providers to have conflict of interest management policies in place and, in some cases, in some jurisdictions, prohibiting particular types of incentives.

Contrary to both the G20/OECD and IAIS principles, the paper appears to start from an assumption that commission-based structures equal conflicted advice. The terminology "conflicted advice", "conflicted advisors" and "biased advice" is used throughout the paper when referring to commission-based remuneration structures. Starting from this assumption, the paper then looks at ways to remove the conflict, through a ban on commissions or imposition of a pure fiduciary duty.

With respect, GFIA believes that this approach fails to sufficiently consider various factors:

1. The degree to which the regulatory and industry structure and culture supports the fair treatment of consumers. This lends itself to having processes in place to consider the customer's interests, understand their situation, and make recommendations that are suitable to that customer. How the advisor is paid is not so much a factor in this case, as is having excellent processes in place to support the customer. Various jurisdictions have codes of conduct, strong proficiency requirements for advisors, requirements to assess the customer's needs before making a recommendation, as well as disclosure approaches to managing conflicts of interest. Taken together, this provides a strong foundation for "doing the right thing" for consumers.

2. The fact that, where commission bans have been introduced, this has been in response to specific miss-selling scandals that highlighted regulatory and industry structures, and cultures that weren't sufficiently robust.

3. The degree to which it is important that consumers have financial products in place, and the role of compensation in that process. This is particularly important with insurance where there is a strong public policy advantage to having a well-insured populace and a "supply-driven" nature to it. The adage that the product is sold rather than bought still largely holds true.

A correction is also needed in paragraph 46 of the paper. It states that the EU Insurance Mediation Directive will add higher transparency measures and ban certain commission payments for non-tied advisors. In fact, a new Insurance Distribution Directive (IDD) will replace the IMD, and will not introduce a ban on commission.

In conclusion, GFIA agrees that managing conflicts of interest is important, but believes it needs to be put into the context of treating consumers fairly, which brings with it a wide range of regulatory and industry tools. GFIA would, therefore, urge the OECD working party on private pensions to take a broader, more holistic approach to managing conflicts of interest.

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About the GFIA

Through its 39 member associations, the Global Federation of Insurance Associations (GFIA) represents the interests of insurers and reinsurers in 59 countries. These companies account for around 87% of total insurance premiums worldwide. The GFIA is incorporated in Switzerland and its secretariat is based in Brussels.