

GFIA response to IAIS public consultation, "Application Paper on Approaches to Supervising the Conduct of Intermediaries"

The Global Federation of Insurance Associations (GFIA) welcomes the opportunity to comment on the IAIS Application Paper on Approaches to Supervising the Conduct of Intermediaries. Through its 41 member associations, the Global Federation of Insurance Associations (GFIA) represents the interests of insurers and reinsurers that account for around 87% or more than \$4 trillion in total insurance premiums worldwide.

Para 28. We recommend the addition of a sentence along the following lines: "Some jurisdictions may have conflicts between different levels of government, not all of which may be subject to the ICPs."

Para 30-32 notes that jurisdictions should consider the principles of proportionality, "driven by the consumer protection objective", and flexibility, in their supervisory frameworks for intermediaries, so that the nature of scale and different business models is considered, and that there are not unreasonable barriers to entry. In particular, paragraph 32 notes that proportionality be considered when new requirements are introduced so that customers' access to products and services isn't impaired. We agree with these principles and will refer back to them in other sections of the paper where, we believe, there is an intention of applying the principles of proportionality and flexibility, but where it is less clear.

Para 35 discusses insurer responsibility for intermediary conduct, including product training and accreditation of the intermediary and appears to endorse a shift to greater insurer responsibility. In many jurisdictions, intermediaries are regulated entities in their own right and have specific accountabilities that should not be diluted. While we appreciate that the paragraph states that "this shift is not about undermining the intermediary's responsibility for its own conduct", we wonder if that could be reinforced by wording along the lines of "even where there is shared responsibility between intermediary and insurer, this does not dilute the intermediary's obligations".

Para 45. This new paragraph, which notes that some jurisdictions have established narrower licensing frameworks for specific situations, such as where insurance is sold on an ancillary basis, is a good example of applying the principle of proportionality while also supporting basic consumer protection objectives.

Para 118 outlines information that an intermediary should disclose to the customer before entering into a contract, and includes "basis of remuneration". There is no differentiation between different types of intermediaries and situations. ICP 18.5 requires such information "where a potential conflict of interest exists". ICP 19.7.1 states that where intermediaries who represent the interest of customers receive inducements from insurers, this could

result in a conflict of interest. Depending upon the nature of the intermediary structure and compensation system (e.g., salaried employee, career agent), possible conflicts may not arise. Thus, we would suggest that paragraph 118 add that where intermediaries who represent the interests of customers receive inducements from insurers, they should disclose the basis of remuneration.

Para 119 discusses disclosure of information on the product charging structure, particularly with respect to investment-related products. We believe that any such disclosure should be brief and clear and focus on understandability. This reinforces that disclosure for the sake of disclosure is not necessarily in the best interests of customers and it aligns with paragraph 159 that states that disclosure shouldn't be unnecessarily long and detailed.

Para 119 states that "fees and costs can undermine some insurance products' return". We agree that fees and costs reduce the total funds that are invested, but believe that more neutral language could be used. "Undermine" implies subversion or stealth. Why not say simply: "fees and costs can reduce the total funds that are invested and thus affect the return on investments".

Para 124 suggests postponing or staggering remuneration payments as a means of managing conflicts of interest. We would point out that supervisors and industry have available to them a wide range of tools to align intermediary and customer interests, including codes of conduct that apply regardless of the timing of remuneration payments and charge-back policies where the intermediary repays a proportionate part of his commission if the customer does not retain the product for a certain period of time.

Para 129. We appreciate the addition of this para that suggests that supervisors need to be aware of potential unintended consequences of placing restrictions on remuneration -- like restricting access to advice and other services. As noted in previous papers, insurance is a product that is sold rather than bought and, given the social value of having a well-insured population, a commission-based system is generally supported with appropriate consumer-focused safeguards. Hence, it is very important that supervisory changes are not undertaken lightly.

Para 133 suggests that supervisors should not only be able to take action against intermediaries where conflicts of interest have not been managed, but also to apply indirect sanctions through the insurer. We would like to stress the importance of clear responsibility of an entity for its actions. Where an intermediary fails to meet standards set by the laws or regulations of that jurisdiction, sanctions should be applied according to those rules. For example, the IDD is offering rules on sanctions for European markets. We would caution against blurring these new rules by application of indirect sanctions outside of the IDD scheme.

Para 148 states that the principles of transparency and disclosure should be applied equally to all business models (traditional, internet, telephonic, other digital insurance activities). We would suggest that, if the principles of proportionality and flexibility are considered, the elements of disclosure need not be identical.

Paras 157 and 158 discuss the importance of customers receiving information about a policy "in good time", that is "before or at the time of sale" . We would recommend a slight rewording to "before or at the time of sale". Otherwise, the interpretation that could be drawn is that all sales would have to be done in a two-stage process,

that the customer would first have to receive the information, have time to consider it, then meet again to re-receive the information and complete the sale. While some sales do happen over two or more visits, it is not uncommon for customers to want to move forward with a purchase at the same time that they receive information about the products, and we don't believe that they should be prevented from doing so.

Finally, there is an example box following **para 38**. For the sake of clarity and accuracy, we would recommend that it be expanded as follows:

Example: United States

Insurance intermediaries are categorized as business entities or individuals, and insurance intermediary licenses are issued for the following lines of business: Variable Life/Variable Annuity; Life Accident & Health; Property; Casualty; and Personal Lines. The licensing by lines of business ensures a minimum level of knowledge for a particular type of insurance product.

With respect to variable products of life insurers that have an investment-related element, intermediaries must comply with State and Federal laws and rules that promote customer trust and protect consumers' interests in the insurance distribution system and a strong, competitive marketplace. These laws and rules also protect consumer interests by combatting fraud and money laundering/terrorist financing. They extend from product development to advertising to sale.

With State-level supervision of variable products, each State has a comprehensive set of laws and regulations to protect consumers and the safety and soundness of life insurers. These laws and regulations include, but are not limited to, company and agent licensing requirements, rules for the suitability of individual sales, market conduct and financial examinations, as well as product approval procedures that companies and agents must follow.

Consumers must be given a buyer's guide developed by the National Association of Insurance Commissioners, a standard setting body of state insurance regulators. The buyer's guide includes basic information, written in plain language, that consumers should understand about variable products such as how money is invested, fees, and benefits.

Variable products of life insurers and their sale are also subject to consumer protection regulation at the Federal level. Disclosure rules of the Securities and Exchange Commission (SEC) require that consumers receive a prospectus with important information that includes risks and fees. Rules from the Financial Industry Regulatory Authority (FINRA) govern the conduct of variable products salespersons. A variable product can only be sold by a registered representative of a broker-dealer that is a member of FINRA. The representative must also be licensed by the State to sell variable products.

The SEC and FINRA have rules that strictly govern the activity of variable products salespersons, and impose detailed standards concerning advertising, supervision, and suitability of individual sales. Variable product advertising must be pre-approved by FINRA.

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About GFIA

Through its 41 member associations, the Global Federation of Insurance Associations (GFIA) represents the interests of insurers and reinsurers in 60 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.