

GFIA response to IAIS Application Paper on how to achieve fair treatment for diverse consumers

General comments

GFIA firmly believes that all customers in the financial sector, no matter their age, job, income, gender, or race, should experience fair and equitable treatment as defined by regulatory frameworks, demographics, legal systems, and local consumer needs. Meeting the needs of diverse and vulnerable customers is a shared goal and all customers can best be served where there is a solvent, competitive and innovative insurance market.

As evidence of GFIA's commitment to, and support of, practical and effective DEI efforts, we reference our adopted DEI principles. The principles may be found ([here](#)).

The paper contains many recommendations on the role of insurers to achieve the fair treatment of diverse consumers and how the concept of risk-based pricing can co-exist with DEI considerations.

GFIA supports these objectives, and also urges the IAIS to more broadly consider the role supervisors have to play in achieving these objectives. Some of the recommendations can only be achieved with supervisory support and approval. For example, designing products differently, providing multilingual materials, and developing new technologies, all of which require supervisory support before the industry can move forward on these objectives.

GFIA also recommends the IAIS consider encouraging supervisors to monitor local regulations and conditions, such as extensive mandated coverages, that may inhibit insurers from offering products to certain market segments, including low-income diverse customers. The IAIS could encourage insurance supervisors to, where possible, take steps to address social factors/determinants that might make it harder to make insurance more available.

When formulating an approach for inclusion, the IAIS should keep in mind that preventing unfair discrimination is relevant across the economy. In many countries, human rights legislation already prohibits a wide range of discrimination. The existing legislation should be borne in mind in formulating an approach for dealing with diverse customers.

A further factor to consider is that insurers have to use differentiating particulars in risk-based underwriting, which enables insurers to provide customised insurance solutions that better meet the needs of each individual customer, including those from diverse backgrounds. Insurance pricing, insofar as this is not prohibited by local regulation, requires actuaries to apply risk-based differentiation while avoiding unfair discrimination.

Insurers want to expand their market, grow their customer base and provide access to insurance to as many people as possible. Insurers are accordingly driven to find ways to offer insurance coverage to individuals, regardless of their race, colour, sex, gender, identity or expression, medical condition, etc. to serve a diverse and inclusive customer base. For example, medical advances are continuously monitored to determine if certain conditions that historically were not able to be covered are now an acceptable risk.

GFIA members are concerned that the guidance could have unintended consequences and inadvertently harm the availability of innovative products, which is not the desired outcome. With that in mind, although GFIA strongly supports the general principles behind diversity, equality and inclusion, GFIA favours the development of voluntary DEI policies, governed by anti-trust laws, based on global best practice examples. Any DEI policies should assure proportionality and confidentiality.

GFIA recommends a less detailed, more principles-based approach, which we believe would promote adoption of the guidance. The paper, as currently written, contains a degree of detail that makes potential application difficult, and potentially impossible, in many markets. A more principles-based approach would accommodate the varying regulatory frameworks, demographics, legal systems and local consumer needs – which can all differ significantly between jurisdictions.

The highly prescriptive recommendations include extensive new behavioural resources, testing and other requirements that are both unreasonably resource intensive and counterproductive to affordability. This raises the risk that the paper, as currently written, will disserve those very consumers it attempts to serve by jeopardising the affordability and availability of insurance.

In addition, the collection and use of information relating to diversity and vulnerabilities is something that will have to be considered carefully in the context of data protection laws. Insurers must comply with all relevant jurisdictional data protection requirements regarding their dealings with the personal information of customers.

Information relating to diversity and vulnerability will often constitute special/sensitive personal data (e.g. data revealing race or ethnic origin, religious or philosophical beliefs, biometric data and data concerning health) which needs more protection. This type of data often requires meeting additional conditions prior to processing (e.g. explicit consent). Sensitive personal data can be legally subject to use restrictions: for example, in some jurisdictions insurers can lawfully use health information for underwriting purposes, but it may not use it for any other purpose unless there are lawful grounds expressly permitting such processing.

1. Introduction

1.1. Context and objective

GFIA asks the IAIS to consider whether it is necessary to define “fair”, given its use throughout the application paper and how subjective “fair”, “unfair”, and “fairness” can be. Since fair is subjective, it should be noted by the IAIS that “fair” can have different meanings to different people, companies, and supervisors. It should be clearly stated that the definition of “fair” and “fairness” is governed by local laws.

“Diverse consumers/customers”: It should be noted that some countries are multicultural societies that are characterised by their diversity. As an example, South Africa is known for its cultural and ethnic diversity (called by some the “rainbow” nation). This will make it more complex to identify diverse consumers. The fair treatment of customers should not necessarily require that insurers should always cater to diverse customers (who fall outside the mainstream consumer profile) or that diversity should always have to be taken into account when dealing with a customer, specifically bearing in mind that products are designed for specific target markets (e.g. (a) par 61 that requires insurers to take diversity into account even if the diverse customer profile was not originally targeted or anticipated), (b) the recommendations under par 4.4.1 which require that tailored communications and assistance are provided to diverse customers, (c) par 69 that requires that the interests of diverse customers are considered when developing financial products), (d) the recommendations under par 4.4.2 which require insurers to conduct independent audits to evaluate risk management controls vis-à-vis the fair treatment of diverse customers and (e) the recommendations under par 4.4.4 which require that complaints policies/processes are as inclusive “as far as possible” to diverse characteristics and preferences (bearing in mind that “diversity” is defined as including “ways of thinking”).

“Diversity”: GFIA believes that the definition may be too broad for this context, more specifically having to cater to different “ways of thinking”. This part of the definition is more appropriate for defining the term from a diversity and inclusion perspective in the workplace.

“Vulnerable consumers”: The terms “personal characteristics and/or external circumstances” appear to exclude people who have personal circumstances or conditions (e.g. a physical disability or a mental illness). A mental illness, for example, is not ordinarily regarded as a “characteristic”.

The definition of a vulnerable consumer is now much broader and relates to consumers in a wide variety of vulnerable circumstances, which is much more fluid and difficult to take account of. Here especially, the law of local jurisdictions should be emphasised.

In order to appropriately support affected consumers, a high degree of flexibility is needed in supervision.

1.3 Proportionality and jurisdictional specificities

GFIA welcomes the emphasis given by the IAIS on proportionality for the consideration of local circumstances, tradition, culture, legal regime, and appropriate nuances. This offers a better balance that can yield better outcomes than a disproportionately subjective approach.

In this connection, GFIA specifically wishes to emphasise its strong support for paragraphs 10 and 11. However, the extensive recommendations in the paper often not reflected in most jurisdictions’ laws and regulation, run counter to those basic principles.

1.4 Scope of this application paper

“The ICPs are a globally accepted framework for insurance supervision that seeks to encourage the maintenance of consistently high supervisory standards in IAIS member jurisdictions. ICP 19 sets the standards for supervisors to require insurers and intermediaries, in their conduct of insurance business, to treat customers fairly both before a contract is entered into and through to the point at which all obligations under a contract have been satisfied.”

GFIA suggests that there be an amendment to the last sentence to read... “to treat customers fairly both before a contract is entered into and through to the point at which all obligations under a contract are satisfied”. GFIA members are of the view that the phrase “have been” gives the sense of the past while TCF should apply to contracts in the present and future.

2. Risk-based pricing and insurer autonomy

2.1 Risk-based pricing and DEI

The paper contains many recommendations on the role of insurers to achieve the fair treatment of diverse consumers and how the concept of risk-based pricing can co-exist with DEI considerations. GFIA supports efforts to promote this co-existence, but these initiatives should be coupled with an understanding about the role underwriting plays in the provision of affordable insurance products and its critical role in assuring solvency and supporting competition and availability of insurance.

A key to insurance products is grouping individuals into “pools” of people with similar risks, to share the financial risks presented by premature death, disability, or long-term care. Grouping people together makes affordable protection against financial loss possible. The price people pay for coverage is based on many factors, such as age, sex, health, family medical history and smoking status.

Insurers typically do not make decisions based on any one factor in a risk-based pricing model. They group together people with similar characteristics and calculate a premium based on that group’s level of risk.

People with similar risks pay comparable premiums. Non-smokers typically pay a lower premium than smokers, for instance. The use of relevant information prevents an applicant with low risk being unfairly grouped with people who may have higher risks, which ensures fair pricing for all. Insurers base their decisions on data, which in many jurisdictions must be accurate, complete and appropriate for use. Seen from this perspective, initiatives like “right to be forgotten” are potentially problematic, because it could cause the pools to have more heterogenous risk profiles than planned, potentially resulting in increased premiums, unavailability of insurance products and adverse selection. If jurisdictions wish to retain risk-based pricing, this is an issue that must be addressed prior to implementing reforms that may prevent insurers from using relevant information for underwriting.

Prohibiting access to complete medical information (including historic information), for example, creates the risk of an actuarial “loss spiral” that can occur when healthy people are driven out of the market by higher costs that insurers must charge if lower risk pools are eliminated, and risks are combined, which tends to lead to higher prices. Individuals with greater risk of future illness are more likely to retain cover – even if the product becomes more expensive – which further concentrates the percentage of higher risk individuals in pools as healthier individuals decline to purchase or retain cover– contributing to higher losses. High coverage mandates can prevent persons with lower incomes from having access to insurance coverage.

GFIA also agrees on the need to ensure that the evolving technology does not unfairly discriminate against consumers. (Para. 18) In the U.S., EU and elsewhere, regulators have taken steps to address these issues, including the National Association of Insurance Commissioners (NAIC) model bulletin on artificial intelligence, which acknowledges the transformative effect AI techniques can have across all stages of the insurance life cycle, but also emphasises the need to ensure that the technology is accurate and does not unfairly discriminate. To this end, the Bulletin makes clear that insurers are expected to adopt practices - including rigorous governance frameworks, risk management protocols and documentation. The Bulletin promotes accountability and consumer protection, while also preserving insurers’ ability to leverage new technology that can help close the protection gap by increasing access to products and reducing friction in the life insurance sales process.

GFIA agrees that underwriting standards should evolve to reflect advances in medical care and improvements in mortality rates. However, GFIA cautions against the assumption that it is always appropriate to ignore diagnoses that impact mortality and morbidity when underwriting long-term products. Individual life insurance policies are typically only underwritten at application, making it critical that insurers understand the amount of risk being transferred to the company. If a diagnosis is strongly correlated with a higher degree of mortality risk, it is appropriate to consider that risk within the context of the applicant’s current health status and medical history, whether the diagnosis is 1 year old or 5 years old.

Premiums must be rational and reasonably connect to risk, based on differing characteristics.

In order to be prudentially viable, insurance of differing risks cannot be equally priced. Some personal characteristics that may meet the IAIS definition, do indicate a higher-level risk that needs to be accounted for in pricing. Even when promoting diversity and inclusion, one needs to still consider risk in a way that ensures prudential sustainability and guards against moral hazard and adverse selection. Preventing moral hazard and adverse selection can feel inherently exclusionary. However, such pricing is necessary to sustain the pooled funds that support the payment of claims and ultimately protect insured people against risk.

Consider the following assessment of when a discriminatory practice is reasonable, for the provision of insurance, from *Zurich Insurance Co. v. Ontario* (Human Rights Commission), [1992] 2 S.C.R. 321:

- “A discriminatory practice is “reasonable” within the meaning of s. 21 of the Code (a) if it is based on a sound and accepted insurance practice, and (b) if there is no practical alternative. Practice is sound if it is desirable to adopt it for the purpose of achieving the legitimate business objective of charging premiums that are commensurate with risk. The availability of a practical alternative is a

question of fact to be determined having regard to all the facts of the case. The practice, to meet the test of "bona fides", must be adopted honestly, in the interests of sound and accepted business practice and not for the purpose of defeating the rights protected under the Code."

- In the context of insurance, discrimination can occur on bona fide grounds if discrimination is competed subjectively in good faith to offer insurance, and that there is objectively a sufficient rational connection between the discrimination, the risk, and the subsequent pricing.

"Ensuring that evolving technology avoids undesired outcomes for diverse customers (e.g. the increasing use of AI systems by insurers to underwrite, price and service their products may, amongst other things, embed bias)." (Par. 18)

GFIA suggests the first line be changed to read "Ensuring that evolving technology avoids undesired outcomes for diverse customers (e.g., the increasing use of automated decision-making tools and AI systems by insurers...)"

Insurance pricing is difficult, because premiums are based on the ability of the insurer to accurately forecast its future losses, forecasts that rely on time-tested past data that has proven useful in predicting future losses. The use of data analytics, e.g., telematics, offers the opportunity to improve the accuracy of pricing as well as reducing discrimination across gender, age, location, medical conditions, etc.

Paragraph 18 specifically calls out postal or zip codes, which is not appropriate in that those factors have been widely debated and ruled to be risk-based and legally acceptable in many jurisdictions.

Risk-based pricing formulas cannot be devoid of differentiation, and insurers should still be able to differentiate between policyholders with respect to features that do not amount to unfair discrimination.

2.2 Insurer's autonomy to decide the scope of its business and DEI

GFIA welcomes the IAIS statements on the importance of insurers having autonomy with regard to their business models, operations and distribution channels. Insurers must be able to operate financially and competitively while still complying with legal obligations in the jurisdictions in which they operate. The paper contains many recommendations on the role of insurers to achieve the fair treatment of diverse consumers and how the concept of risk-based pricing can co-exist with DEI considerations. As noted above, GFIA encourages the IAIS to more broadly consider the role supervisors have to play in achieving these objectives. In some jurisdictions, designing products differently, providing multilingual materials, alternative disclosures, and developing new technologies all require regulatory approval before the industry can move forward on these objectives. GFIA encourages regulators to support innovation and technologies that are part of the solution by driving expanded consumer access and consumer affordability in the middle market and underserved communities. GFIA welcomes the opportunity to continue to partner with supervisors on these important initiatives.

"Insurers and intermediaries catering to diverse consumers already within the customer pool by taking measures such as designing their websites suitably, providing policy documents in multiple languages, using clear language, accepting less common names and genders on forms, offering a wide range of products to meet different needs and demonstrating a fair response to mental health concerns;"

Catering for multiple languages may not always be easy. In the South African context, the most commonly used legal language is English. However, there are 11 official languages. Whilst the benefits of providing documents in multiple languages is appreciated, it will be challenging to cater to everybody. Current practice is to provide a summary/explanation of policy terms and conditions in languages that customers prefer, if requested. This may be provided verbally to the customer at the office of the insurer or through a call centre,

rather than in writing. Our suggested approach is to use plain language for the common spoken language for business.

Paragraph 20 critically ignores the law in some jurisdictions where the collection and use of demographic information is severely limited or prohibited. It also ignores the reality that there is often a need, as mentioned above, to have one official language to govern legal issues that may arise.

3. Risk of unfair treatment of diverse consumers

3.1 What we mean by diverse consumers

GFIA agrees with the IAIS observations that local context should play a role in helping supervisors, insurers, and others to determine whether different treatment is needed for certain consumers with diverse characteristics.

““Diverse consumers” in this paper refers to people who are not part of the normative or mainstream consumer profile that insurers and intermediaries most often anticipate and cater to. Diverse consumers are not one homogeneous group. Instead, the focus of the concept is that there are people – due to their diversity characteristics and/or circumstances of vulnerability – who have needs that differ compared with the needs of the normative or mainstream consumer profile.” (Par. 21)

GFIA suggests adding the word “conditions” into the sentence, so it reads: “due to their diversity characteristics, conditions and/or circumstances of vulnerability ...”.

“Characteristics that make these consumers different may include, but are not limited to, age, disability, medical conditions/history, ethnicity, gender, national origin, language, religion, sexual orientation and cultural, educational or socio-economic background. Consumers may also differ from each other in their ways of thinking, including, but not limited to, having different ways of reasoning, processing information and making decisions. Which characteristics constitute a diverse consumer versus a typical mainstream or normative consumer depend upon the local context and particular situation.” (Par. 22)

GFIA suggests the removal of the word “characteristics” at the start of the paragraph and recommend that the paragraph should read as “Consumers’ differences may include, but are not limited to, age, disability...”.

Further, the last sentence should also be changed to “the constitution of a diverse consumer versus a typical mainstream consumer...”.

“This paper does not designate a certain “diverse consumer” profile that must be treated in a defined way, nor does it aim to exhaustively define all possible characteristics of diverse consumers. Local context (including legal, cultural and political) will play a role in helping supervisors, insurers and intermediaries to determine whether different treatment is needed for certain consumers with diverse characteristics in order to secure their fair treatment in accordance with ICP 19. Furthermore, changes over time or changes in circumstances may create new classes of diverse consumers or change the treatment necessary to achieve a fair outcome.” (Par. 23)

GFIA suggests the removal of the word “characteristics” from the second line and change the sentence to read “... define all types of diverse consumers.”

GFIA further suggests the removal of the word “characteristics” from line 5 to change the sentence to read “... certain diverse consumers in order to secure...”.

““Vulnerable consumers” are people especially susceptible to harm due to personal characteristics and/or external circumstances. Their risk of harm is elevated when a financial institution fails to act with the appropriate level of care, including considering the causes and extent of a customer’s vulnerability. Although

everyone is at risk of becoming vulnerable at some point in their life (e.g. survivor of a natural disaster or someone experiencing a distressing life event), diversity characteristics or situational circumstances can increase this risk. In recent years, some supervisors have established different expectations for the fair treatment of vulnerable consumers.” (Par.24)

GFIA suggests adding the word “conditions” in the second line after the word “characteristics” so that the sentence reads “characteristics, conditions and/or external circumstances.”

“Depending on local specificities applicable to these terms, diversity and vulnerability may frequently intersect and, in some jurisdictions, all vulnerable consumers may be considered to be diverse insofar as their needs are different from the normative or mainstream consumer profile.” (Par. 25)

As an example, in South Africa, the concept of financial “resilience” is closely related to vulnerability as a large majority of customers could be classified as “financially vulnerable” and financially uneducated. This would mean that most customers could be classified as vulnerable to some extent. The needs of the majority of customers would accordingly in many cases are not different to the mainstream consumer profile.

The unrealistic aspects of the paper are epitomised by its language in paragraph 22 on “ways of thinking” and paragraph 24 on “causes and extent of customer’s vulnerability.”

3.2 How unfair treatment arises

Paragraph 26 highlights the need to close the protection gap by providing improved access to coverage. GFIA agrees with the premise – closing the protection gap is a priority for the industry.

GFIA agrees that consumers deserve to have coverage that is generally suitable for their needs and circumstances.

Financial literacy is an important aspect and consideration to make sure the consumer understands what they are signing up to and what is included in simple terms within their contractual terms. It is acknowledged that improving financial literacy will go a long way in accelerating financial inclusion and accessible insurance. In a country like South Africa, where financial literacy is a challenge, many initiatives are underway to address this issue.

Increasing amounts of regulation are causing additional disclosure requirements which can result in information overload for consumers and have a detrimental impact on levels of financial literacy, considering the sheer volume of documentation that consumers now need to review as part of commencement/new business, renewal (if applicable) and ongoing communications.

There is also a persistent challenge in relation to overlap of regulations at both domestic and international levels, including in the EU, which can result in duplication of requirements or even contradictory standards. For example, the upcoming revisions to the Distance Marketing Directive will again pose this risk when local requirements within CPC are considered. All our members are subject to a number of differing regulations and requirements relating to the provision of services to customers, such as: charges, disclosures, remuneration, durable medium, marketing, cooling off periods, unfair contract terms, complaints and claims handling, etc. These services are covered by a plethora of regulations, some sector specific such as PRIIPS and the Health Insurance Acts but others such as Insurance Distribution Directive, Consumer Insurance Contracts Act, Direct marketing regulations, and the FSPO Act, which all have universal applicability. The overlapping and layering of regulation are an impediment to the effectiveness of information disclosure to consumers.

Information should be clear and concise and not require the customer to search through numerous documents to determine all the information they require in order for them to be ‘informed effectively’.



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Driven by legal and regulatory requirements, there are a number of documents that have to be provided to consumers at new business/inception of an insurance policy and renewal of the policy as well as pensions. It is questionable that all this information helps consumers understand their policies. A more streamlined documentation pack, including all key and important information, may help to strengthen a customer's product and policy comprehension. The provision of information and disclosure requirements should be proportionate to how complex the product is and should also serve to complement the consumer's level of literacy both digitally and financially.

Additionally, video, and interactive online content has improved greatly in recent years, and GFIA feels that this technology could be harnessed to the benefit of customers. Firms could use video to explain product offerings, provide disclosure information, etc. to customers in an approachable, digestible manner.

COMMENTS ON BOX 2

In Box 2, the paper again calls out postal or zip codes without a recognition that they are entirely lawful in many jurisdictions. As such, GFIA recommends deleting the references.

In Box 2, the current language regarding life insurance and gender is biased toward a particular legal framework and culture and does not sufficiently recognise legitimate differences in jurisdictions' culture, legal regimes and underwriting practices. As such, it is inconsistent with ICP 19.03, which notes that this diversity in legal frameworks and cultures should be taken into consideration, in order to achieve the outcome for fair treatment of customers.

GFIA encourages the IAIS to consider revising or eliminating the reference to life insurance in recognition of the fact that supervisory approaches to the conduct of business can vary and it is appropriate to take that into consideration when drafting ICP 19 related guidance.

4. Implementation of ICP 19 to drive fair treatment of diverse consumers.

GFIA agrees that unfair discrimination based on racial or ethnic status, sexual orientation or gender identity is always unacceptable. Meeting the needs of an evolving workforce is critical. GFIA encourages policymakers to review current rules, and as appropriate, update legislative and regulatory frameworks to ensure that gig workers can access retirement savings plans and financial protection products.

GFIA agrees that the topic of DEI is evolving, and GFIA supports the paper's goals of promoting a proactive dialogue among market participants and supervisors and encouraging coordination between supervisors and stakeholders.

While insurers strive to meet every customer's unique needs, GFIA strongly supports the language in paragraph 29 that there is no requirement that every consumer will always find a product that suits all of their needs.

As regards paragraph 30, it has to be borne in mind that intermediaries do not always act as agent/service provider to the insurer. They may also act in their capacity as agent for the customer.

In the paper, the potential for unfair treatment of diverse consumers arises due to some of the following factors:

- Product Design - Products may not meet the needs of diverse consumers or may inadvertently discriminate against them due to factors like coverage exclusions and pricing mechanisms.
- Distribution and Sales - Inappropriate marketing, deceptive advertising, complex disclosures or unsuitable distribution channels may lead to unfair outcomes, especially for vulnerable consumers.

- After-Sale Services - Claims procedures and complaint handling processes that are not inclusive may disadvantage diverse consumers, particularly those with language barriers, disabilities, or limited digital access.
- Business Culture - Insurers and intermediaries are encouraged to embed fair treatment of diverse consumers into their business culture through leadership commitment, solid compliance and risk functions, constructive feedback mechanisms and training.
- Product Design - Insurers should identify and consider the needs of diverse consumers during product development, avoid biases and discrimination, and proper product testing.
- Distribution and Sales - Marketing communications and disclosures should be accessible and understandable to diverse consumers, and distribution strategies should be inclusive.
- After-Sales - Insurers should provide tailored communication, monitor product performance for negative impacts, and have inclusive claims and complaints procedures.

4.1 Embedding fair treatment of diverse consumers into the business culture

The use of “ensure” throughout the paper is typically adequate, but at times adding the word “help” before “ensure” would clarify that insurers’ policies and procedures can’t always guarantee results.

For example, in paragraph 37, in relation to having a strong compliance/risk function, GFIA recommends adding the word “help” before “ensure”. The sentence would read “compliance policies and internal controls can help ensure that instances of unfair treatment of diverse customers are prevented, detected and adequately and promptly addressed.”

Under recommendations, GFIA would like to add the word “help” before “ensure” under the first bullet point for similar reasons.

4.2 Ensuring the fair treatment of diverse consumers in product design

Insurers want to provide as much choice for consumers as possible in the protection market and at affordable rates to the extent solvency and legitimate business realities are satisfied.

The paper contains many recommendations on the role of insurers to achieve the fair treatment of diverse consumers in product design. While GFIA supports these objectives, GFIA encourages the IAIS to more broadly consider the role supervisors can play in achieving these objectives. In some jurisdictions, designing products differently, providing multilingual materials, alternative disclosures, and developing new technologies all require regulatory approval before the industry can move forward on these objectives.

“The product may offer lower value to some consumers within the identified targeted consumers, because of their diverse traits and characteristics.” (Par. 41)

GFIA suggests adding the word “conditions” so the last sentence reads “traits, characteristics and conditions”.

The experience of our members has demonstrated that a one size fits all approach to the insurance market does not account for the unique nature of health, property casualty and life insurance markets within the wider market. When regulation for a line of insurance is adapted from or developed from sectors or products other than that line of insurance, it will not fully account for the intricacies and scope of the target insurance products.



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While GFIA generally agrees with paragraph 41, the three bulleted subparagraphs go too far in suggesting a product and its distribution should take into account the changing environments and less value due to a consumer's "diverse traits and characteristics".

4.2.1 Identifying whether there are diverse consumers within the targeted consumers

GFIA agrees that having staff with diverse backgrounds can improve outcomes. However, the related recommendation should encompass the proportionality principle – recognizing that size and geographic location may impact an insurer's ability to recruit staff.

Under the second bullet point under the recommendations, GFIA recommends adding "to the extent possible" after "backgrounds." The sentence would read "It is also good practice for the staff themselves to be from sufficiently diverse backgrounds to the extent possible, because diversity...".

"If the needs of these diverse consumers are not sufficiently considered, they are at higher risk of unfair treatment. This is because, due to their diverse characteristics, they:"

GFIA suggests deleting the word "characteristics" so that the last sentence reads: ... "This is because, due to their diversity, they:"

Paragraph 45 in particular raises concerns with its apparent requirement that insurers take into account how consumers may process information.

Recommendations

GFIA suggests that the second line should read: "... take into account their needs, circumstances, conditions and characteristics in the product design."

4.2.2 Determining whether the coverage, benefits, disclosures and pricing are aligned to the needs of the diverse consumers amongst the target group

GFIA agrees on the need to ensure that the evolving technologies does not unfairly discriminate. There are a variety of tools available that can help insurers ensure that new technology is accurate and does not unfairly discriminate. This might include creating governance frameworks, risk management processes, and documenting results.

"Once it has been determined that diverse consumers are reasonably within the targeted group of consumers, it is important to ensure that the product characteristics (such as coverage and exclusions, pricing, disclosures, etc.) also align with the needs and characteristics of diverse consumers within the targeted group of consumers." (Par. 46)

GFIA suggests that the latter part of the paragraph should be changed to "also align with the needs, circumstances, conditions and characteristics of diverse consumers within the targeted group of consumers."

One of the suggested methods to prevent unfair discrimination on price or exclusions for insurance products is "Using current information instead of outdated data". The reality, however, is that accurate and reliable data for diverse customers is often not readily available. Furthermore, some diverse customers may not have access to the latest technology to assist with improving risk-based pricing for their unique circumstances.

While GFIA members are in general agreement with the application of DEI principles in risk-based pricing, there are many practical reasons for the difficulties being experienced by insurers in this regard for the IAIS to consider.

Recommendations

GFIA agrees that partnering with diverse organisations and/or diverse communities is a good way to better understand the needs and preferences of diverse consumers.

The Covid-19 pandemic and increased investment in technology has seen accelerated development of digitalisation of insurance products and services, as well as a crystallisation of risks such as the ‘expectation gap’ – the gap between the product that insurers have sold and the product the consumer has purchased. This highlights the importance of relevant, meaningful, concise, and timely information and GFIA believes that this is key to ensuring effective consumer understanding and informed decision making.

Paragraph 46 does not take adequate account of the reality that legislation, regulation, and the courts often determine the language and substance of insurance contracts.

4.2.3 Designing appropriate product distribution methods

GFIA sees the value in promoting inclusivity and access to insurance by all. GFIA would like to note that some of these proposals, such as modifying distribution channels to include both online and physical copies, may necessitate regulatory changes in addition to possible adjustments made by insurers.

“In the product design and development phase, the insurer should determine the distribution channels and also the information which they share with intermediaries for training and for marketing/sales to consumers. Unless there are clear processes and procedures to ensure that the needs and characteristics of diverse consumers are taken into account during this design phase, there is a risk that the selected distribution channels may not be appropriate and/or that the insurer may not provide the intermediary with sufficient information to ensure that the product is distributed in a way which takes into account the needs and characteristics of diverse consumers.” (Par. 48)

GFIA suggests that the last sentence to be amended to read...“which takes into account the needs, circumstances, conditions and characteristics of diverse consumers”.

GFIA further suggests that all paragraphs which read “needs and characteristics” be updated, as per suggestion above.

Insurers appropriately have the right to select distribution models that are appropriate for their business models and markets. They should not be required to use a particular distribution channel or channels.

Increasing amounts of regulation are causing additional disclosure requirements which can result in information overload for consumers and have a detrimental consumer impact, considering the sheer volume of documentation that consumers now need to review as part of commencement/new business, renewal (if applicable) and ongoing communications.

The use of traditional communications such as paper via the postal system is no longer considered to be a ‘sustainable’ delivery method. The use of more modern technology methods is considered a more climate-change friendly and sustainable method of informing effectively.

Box 4 fails to adequately include the importance of risk-based pricing and the many benefits of using enhanced data and technology for better risk assessment, information for mitigation and more rapid claims settlement.

Recommendations

In the last bullet in recommendations around forms and the importance of including inclusive options, GFIA would recommend also including sex at birth: male, female and intersex vs gender options only.

4.3 Securing appropriate sales and distribution to diverse consumers

There must be a balance between what key information the diverse consumer needs to know to make informed decisions and the information that must be provided to comply with contractual and regulatory

requirements. It would be helpful if the supervisor could emphasise what key documentation should be explained and presented to consumers per sector to ensure practical understanding of the products and services and for firms to meet the requirement of securing diverse customers' interests by informing effectively.

GFIA believes that there is a role for supervisors, perhaps through a stakeholder forum, to explore how the financial services industry can best leverage new ways of informing effectively, while still providing sufficient diverse consumer protection to mitigate diverse consumer detriment while complying with the relevant regulatory obligations. This would include identifying what regulatory and legislative requirements inadvertently cause a barrier to this outcome and to hear from financial service firms on successful initiatives to increase financial literacy.

4.3.1 Marketing communications and disclosures that account for diverse consumers

GFIA notes that many jurisdictions tightly regulate disclosure content. Modifying disclosure content, formatting, and presentation might necessitate regulatory changes alongside possible adjustments made by insurers.

The aim should be to inform customers effectively as opposed to providing vast amounts of information to customers in a tick-box manner. There is a need to explain what a product is in a short, easy to understand format and allow a customer to layer onto this additional information which they may require. The medium through which this is conveyed should not be set or dictated but should lean away from printed documents given the environmental impact of printing. The aim should be to inform to allow diverse customers to take decisions in their best interests. Key consideration needs to be given to vulnerable customers when developing marketing materials. This could include providing information in alternative formats e.g. large print, audio etc. and ensuring that customers have access to multiple channels for communication.

Recommendations

Again, the reference to “how diverse consumers receive and process information” implies a nearly impossible burden on insurers and supervisors and should be deleted.

4.3.3 Advice and suitability for diverse consumers

“Where advice is provided, if the specific characteristics and needs of diverse consumers are not taken into account (ICP 19.8.6), then the advice will not be fit for purpose and will not achieve the desired objective of informing the diverse consumer.”

GFIA suggests adding the words “conditions and circumstances” to the first line (as per suggestions above).

Recommendations

GFIA suggests amending the first bullet point to also include the words “conditions and circumstances”.

4.4 After-sale servicing, product monitoring and review

Paragraph 61 is confusing and might suggest ongoing interactions that are impractical. GFIA believes this paragraph should be deleted.

4.4.1 Communication and assistance that account for diverse customers

Paragraphs 66 and 67 would impose a very resource intensive communication process that might be more efficiently addressed at the supervisory level, perhaps through a series of roundtables. GFIA suggests these paragraphs be deleted.

4.4.2 Product monitoring and review that detects and addresses unfair treatment of diverse

In total, this section implies an extremely burdensome mandate to engage in on-going evaluations of things far beyond the normal fair treatment, such as “macroeconomic conditions affecting the product value proposition for some consumers.”

4.4.3 Claims procedures that are inclusive

Each vulnerable circumstance differs, and this means that training, policies and procedures, along with ability to flex these, are the most appropriate ways of ensuring a positive consumer outcome here, not forcing consumers to accept whether or not they are ‘vulnerable’/in vulnerable circumstance or being categorised in that manner. GFIA understands the supervisory desire that consumers would not have to explain the circumstance every time they interact with financial service providers, however, requiring a system check/classification also triggers other legal requirements, and this may not always be in the best interests of the consumer to have to deal with at that time.

GFIA suggests that supervisors increase thematic feedback from supervisory activity in vulnerable circumstances, setting out anonymous examples of good and poor practice it has seen across the financial services industry. For example, Insurance Ireland, as the insurance trade body, intends to host workshops for members in terms of sharing good practice and practical issues that arise in this area, and would look to share this with the Regulator through regular engagements. This approach allows for the flexibility that is needed to support diverse consumers in vulnerable circumstances.

4.4.4 Complaints procedures that are inclusive

Recommendations

The testing requirement could add significant new burdens that would be counterproductive in terms of affordability.

4.5 Working towards greater inclusion of diverse consumers across the insurance sector

GFIA agrees that access to insurance is a cornerstone to society and that mandates are sometimes necessary to achieve supervisory objectives. In paragraph 77, GFIA recommends adding “to the extent they are necessary” after “mandates”. The sentence would read “It is important to note that mandates, to the extent they are necessary, can influence the range of actions taken and the tools adopted by the supervisor to support action.

Paragraphs 75-78 do not take adequate account of the importance of risk-based pricing to competition, product viability and even more importantly, to solvency.

4.5.1 Shaping the supervisory landscape

GFIA supports efforts made by supervisors to try and seek a more inclusive and accessible insurance environment, consistent with the realities of maintaining a strong, competitive and innovative insurance market.

4.5.2 Facilitating market development

Educating consumers is a shared responsibility. Regulators can play a key role along with insurers, so a collaborative approach should be encouraged.

In interactions with members of retirement funds over many years, a recurring theme when conducting member education presentations and seminars/webinars is the level of understanding of the concept of



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insurance and how it works. To illustrate the point questions are often posed by members during these explanation sessions on their retirement fund benefits on issues such as the following:

- Death benefits (Group life assurance)
- PHI (Personal health insurance)
- Lump sum benefits for illness.

Based on this, it is fair to assume that many members do not grasp the basic premise of insurance, which is to cover specific risk events, such as death, and if that risk does not arise, no benefit is payable. Premiums are typically paid on a regular basis and are required to maintain the insurance policy's active status. Failure to pay the insurance premium may result in the cancellation of the policy, leaving the policyholder without coverage.

Furthermore, the terminology used when explaining insurance cover can be confusing for many people, especially those who do not have English as a first language and very basic explanations of the concepts will benefit consumers of insurance products as well as practical examples which further explain what is meant and how these concepts work and how premiums are derived for these products.

The point GFIA members are driving at is that the basic relationship between the parties to the insurance contract and the nature of insurance cover may not be fully understood. It is our view that very basic explanations of concepts and terminology and less financial jargon will go a long way to achieving fair treatment for diverse consumers.

GFIA strongly supports paragraph 80 as a good statement on how to approach these issues so as to have the most cost/effective outcomes for diverse consumers that are consistent with the fundamental risk-based nature of insurance.

5. Conclusion

The inadequately defined concepts of “diversity” and “fairness” are overly broad which is likely to result in overlapping and even contradictory requirements. Concepts of accessibility, vulnerability, fair treatment, and risks from exclusion should be compartmentalised to avoid duplication of policy initiatives as follows:

- Vulnerable consumers are more specifically people who due to particular personal circumstances or characteristics are especially susceptible to harm, particularly when a firm is not acting with the appropriate levels of care under the law of the jurisdiction. While there are differences in how different jurisdictions define customer vulnerability, the definitions generally consider the following three elements:
 - Individual characteristics - such as age, sex, disability, ethnicity, socio-economic status, etc.;
 - Individual circumstances - including changes in family structures, grief, divorce, loss of job, etc.;
 - and
 - External conditions - including distribution of resources, inequality, discrimination, lack of access to services such as health care, retail services, education, or affordable housing.
- The concept of fair treatment is a regulatory and supervisory approach designed to ensure that regulated financial institutions deliver specific, clearly set out fairness outcomes for financial customers during the product life cycle. This is not limited to but includes vulnerable and diverse customers.
- Accessibility (financial inclusion) means that consumers have access to useful and affordable financial products and services that generally meet their needs, including diverse and vulnerable customers. Although financial inclusion may be a core priority for many governments (e.g. as an important tool for inclusive economic growth in a country, and a necessary component towards reducing economic inequality), it is not necessarily driven through regulatory frameworks.



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- Diversity pertains to specifically identified groups that face a higher likelihood of unfair treatment because of their diverse characteristics or circumstances.

Making these distinctions would be more advantageous to consumers as different policies and procedures are needed to address the distinct risks within each of these categories.

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About GFIA

The Global Federation of Insurance Associations (GFIA), established in October 2012, represents through its 42 member associations and 1 observer association the interests of insurers and reinsurers in 68 countries. These companies account for 89% of total insurance premiums worldwide, amounting to more than \$4 trillion. GFIA is incorporated in Switzerland and its secretariat is based in Brussels.