

IAIS public consultation on the draft application paper on climate risk market conduct issues in the insurance sector

1. General comments on the application paper on climate risk market conduct issues in the insurance sector (“Paper”)

GFIA welcomes the opportunity to comment on the Paper. Insurers fully understand the challenges posed by climate risk and are working cooperatively with supervisors around the world to disclose relevant information, provide useful coverage and, even more importantly, to assist societies to become more resilient by mitigating and adapting to their climate risk. These actions also significantly assist in achieving the Paper’s stated goals of affordability and access. GFIA believes that some parts could be refined and clarified. GFIA and its members commit to a constructive dialogue on such important issues such as greenwashing and natural catastrophes (NatCat).

For clarity and coherence, GFIA believes that its general comments should be done in two parts: firstly, greenwashing and secondly NatCat.

Greenwashing

GFIA is concerned that by setting forth the strictest, most comprehensive supervision without regard to cost or cost effectiveness, the Paper works against its primary objectives of encouraging full and accurate climate disclosures, understandable insurance contracts, and affordable and accessible insurance. Since this topic is rather new in the regulatory landscape, GFIA assumes a vast majority of actors around the world act in good faith. GFIA believes a general presumption of widespread greenwashing should be avoided.

Firstly, at a high level, GFIA is concerned that insurance regulators are taking a one-size fits all approach to climate risk. The property and casualty insurance (P&C) industry experience (with few exceptions) is vastly different from the life industry experience and regulating with a broad approach such as suggested in the Paper could lead to a confusing and unworkable landscape with the risk of overlapping regulations. The International Association of Insurance Supervisors (IAIS) and other regulators must be clear around their regulation of the life insurance industry versus the P&C industry in papers such as this.

Secondly, concerning the authority of regulators, many of the requirements IAIS lays out (e.g. advertising rules) are often not in the mandate of insurance regulators everywhere and this should be indicated in the Paper. Furthermore, the Paper’s many suggested mandates including for example, extensive testing and hiring of behavioural experts will increase costs and work against the principle of proportionality, as smaller companies will struggle to achieve anything near compliance.

In addition, while this application Paper focuses on market conduct related to climate change, it is GFIA's understanding that most jurisdictions already have regulations in place to protect consumers and appropriate supervision based on these regulations. Conduct regulations generally prohibit the misrepresentation of products and services to consumers which would include greenwashing practices. Therefore, a new supervisory and regulatory framework is not needed for climate risk market conduct, which is essentially within the scope of existing regulations and supervision for consumer protection. Unnecessary regulatory burdens, that may lead to increases in the price of products, should be avoided.

Overall, some of the underlying assumptions in the Paper seem not to be accurate, such as implying that sustainability-oriented customers have greater inherent rights or should be treated with greater care than other customers. Reporting on sustainability is a new practice in many jurisdictions. Those that do report do so acting in good faith and in ways consistent with their own jurisdiction's legal framework. Reporting on sustainability should be supported and encouraged. In our view, it would be better for the IAIS to identify specific examples of what it considers to be greenwashing to illustrate and educate.

In the absence of a proper definition of "sustainability", and having regard to the diversity of jurisdictions, GFIA does not support the binding and far-reaching recommendations the IAIS proposes in matters of greenwashing which are, to our mind, based on negative and inaccurate perceptions about the insurance industry without presuming the good faith of insurers. In this regard, GFIA suggests that the IAIS includes a section which outlines whether there is in fact a perceived issue with greenwashing in the insurance industry, supported by quantitative evidence where possible.

NatCat

Around the world, there is a large variety of NatCat coverage from literally no cover to a broad cover. For this reason, it is difficult to comment generally on one or the other scenario. This variety is a function of choices made by policymakers, insurers, insureds and other stakeholders. GFIA believes that the Paper should focus on situations where a lack of resilience is observed and on the unmanageable losses that result in insurance affordability and availability issues.

GFIA and part of its membership have extensive experience in NatCat events and the GFIA WP has regular exchanges regarding best practices and best approaches. GFIA believes that it could in a separate exercise share its experience with the IAIS and its members

2. Comments on section 1 Introduction

N/A

3. Comments on section 1.1 Context and objective

Supervisors must provide a clear and transparent taxonomy that will apply to the assessment of greenwashing claims.

Paragraph 2.

- Lays out the basic concerns relating to greenwashing, which while important, fail to recognise the much greater climate-related challenges faced by insurers and the public. (e.g., the impact of extreme and severe climate events, the loss of lives, increased economic loss, and insurance losses, and protection gaps).

Paragraph 3: GFIA believes that disproportionate statements about NatCat cover are made in this paragraph.

- This paragraph appears to GFIA to indicate that the entire increase in costs resulting from climate change are limited to NatCat. The reality is that climate change generally is likely to have a high impact or an extremely high impact on coverage availability and underwriting assumptions. Furthermore, climate-related costs and insurance issues are driven not just by extreme weather events but by patterns of development in vulnerable areas, recent inflation in insured goods and services, supervisory failure to allow for adequate rates, unnecessary additional costs created by litigation and the society-wide failure to achieve resilience.
- There should also be acknowledgement of the doctrine of proximate cause particularly with the rise of the incident of secondary perils, e.g. landslips occurring due to rain and whether a landslip in river flows is included as flood damage or landslip damage. It does not seem relevant to refer to claim processing delays when a catastrophe occurs – they are inevitable when there is a sudden, unexpected surge in claims and resource shortages or even access to damaged areas is limited. The existence of delays under these circumstances cannot be assumed to be the result of poor conduct. The focus should rather be on how to prioritise the most vulnerable customers.

Paragraph 4.

- This paragraph attempts to impose a one-size-fits-all approach. As GFIA's general comments above indicate, some of the issues covered are not within the supervisors' mandates or conflict with existing laws and best practices. An example is advertising, or commercial free speech that is protected against such regulation in some jurisdictions.
- Furthermore, finding a balance between ensuring affordability and availability and managing financial stability is extremely challenging.

Paragraph.5.

The application of the supervisory restrictions and mandates proposed in the Paper may lead to a lack of innovation and, consequently, in fewer new products in the market.

4. Comments on section 1.2 Related work by the IAIS

GFIA expresses no objection to this.

5. Comments on section 1.3 Proportionality

GFIA agrees that it is important to consider the proportionality principle in insurance supervision with respect to market conduct issues, and that flexibility must be ensured so that each jurisdiction can respond to its unique market conditions.

This principle must ensure that the measures taken by IAIS are not excessive or disproportionate to the situation at hand and that there is a correct balance between the restriction imposed by the proposed corrective measures and the severity of the nature of the prohibited conduct. In addition, among consumers, individuals (retail), small businesses, and large businesses, will inevitably differ in their level of knowledge and awareness. This difference should be taken into account in supervision.

GFIA is concerned that the definition in the footnote fails to state that regulation should reflect “the nature, scale and complexity” of the insurance operation.

6. Comments on section 1.4 Scope

GFIA agrees that ICP 19 should be most in scope. In the current situation where we are in emerging regulation, it is difficult at this stage to speak of fraud.

7. Comments on section 2 Greenwashing considerations

Greenwashing is an extremely serious issue for consumer protection and a sound insurance market. Some jurisdictions are actively taking measures to address it, including enhancement of the relevant regulations. However, GFIA believes that it is inaccurate to state that "greenwashing is widely recognised by...society in general" (as stated in paragraph 10). In addition, the detailed definition of greenwashing and the nature and extent of responses to it are likely to vary from jurisdiction to jurisdiction. Therefore, insurance supervisors should be allowed to give due consideration to the laws and regulations and market conditions of their respective jurisdictions.

8. Comments on section 2.1 Introduction on greenwashing

Jurisdictions have differing consumer protection regulations and supervision in place. It is unclear to what extent current insurer risk models are up to the challenge of capturing and testing climate-related risks. Accordingly, GFIA agrees with the approach of first considering how to respond within the framework of existing regulations and supervision, and then examining whether new tools, policies, or regulations are required. For instance, the Canadian Life and Health Insurance Association, (CLHIA), has recently advocated to Canadian supervisors that existing market conduct guidelines and codes of conducts are sufficient to capture climate-related market conduct issues.

Paragraph 9:

- GFIA suggests adding objective facts and data regarding "An increase in consumer appetite for products with sustainability features" to make the statement more persuasive. It should be noted that the degree of any such increase in appetite may differ by region.

Paragraph 10:

- This expansion of the term "greenwashing" is unprecedented and uses the undefined terms "environmental, governance and social" thereby creating a paper of broad and undetermined scope. Social and governance issues are not necessarily the same as climate issues and deserve more focused attention than being included by one paragraph in an environmental greenwashing paper. GFIA suggests greater clarity on terminology and scope used in this proposal.

Paragraph 11:

- Generally speaking, a generic, principle-based approach should be sufficient rather than specific greenwashing tools and regulations.
- ICP 19 (Conduct of Business) and ICP 21 (Countering Fraud in Insurance) are discussed in the Paper as being relevant to the issue of greenwashing (page 6). GFIA supports using these existing principles to manage market conduct issues related to climate. However, ICP 19 should be most in scope given that greenwashing is an emerging field of regulation, and that it is difficult at this stage to speak of fraud.

Paragraphs 12-14.

- These paragraphs set out a subjective list of potential problems without reference to any documented scope and magnitude of such problems in insurance that would justify the measures and regulatory burdens that would be imposed by supervisors implementing the Paper.

Paragraph 14:

- This encourages supervisors to stretch the envelope on fraud enforcement "when relevant and necessary". GFIA would like to recall that it belongs to jurisdictions to define what is relevant and necessary in coherence with proportionality principle.

Paragraph 15

- It states that *"Greenwashing is not a new risk category but rather an element of existing conduct principles and related risks; hence, jurisdictions should consider whether new tools, policies, or regulations are required to address greenwashing or whether existing requirements, such as providing fair and not misleading information or preventing mis-selling, are sufficient to tackle greenwashing in their market."* GFIA supports supervisors using existing tools, policies, and regulations to manage market conduct issues related to greenwashing.

9. Comments on section 2.2 Clear and robust sustainability-related definitions and criteria

GFIA agrees clear and robust definitions are needed, and these should be developed by IAIS in consultation with insurers.

In responding to greenwashing, it would be useful to clarify its definition and characteristics, in an effort to create common criteria to determine if a product has sustainable features, and to describe additional concrete examples. On the other hand, as part of the process, it would be desirable that the legal system and market characteristics of each jurisdiction are taken into account.

GFIA is of the opinion that it would be better to establish a set of high-level principles that define greenwashing, at a global level, allowing each jurisdiction to develop its own definition appropriate to the specific circumstances in that jurisdiction.

In promoting the development of a definition of greenwashing and a list of its common characteristics, it will be necessary to cooperate with other financial and non-financial sectors across industry boundaries than the insurance sector alone. The authorities should also work closely and consult with stakeholders, including the insurance industry, in the development of standards. Consideration should also be given to the possibility that different standards could be set depending on type of insurance product.

That being said, GFIA considers that the concept of greenwashing as described in this paper is not objective nor does it have a concrete definition on which to build a standard across jurisdictions. Therefore, GFIA would like to highlight the following points:

Paragraph 22:

- GFIA recommends that this paragraph be clarified. Indeed, the definition of misleading is not yet aligned with any legal framework or legal terminology which could be the topic of another consultation. As GFIA understands that the Paper is focused on preventing misleading statements, GFIA is concerned by the lack of universal legal definition of greenwashing which should be proportionate.
- Taking the last sentence of the paragraph “One example is a failure to consider the target market sustainability preferences and objectives when offering a product”: GFIA considers the inclusion of the expectation that insurers conduct market research to determine sustainability preferences of the “target market” goes too far. Consumer preferences are wide and variable, even within target markets, continually changing and with differing levels of knowledge on the subject.
- In GFIA’s view, the definition of “misleading” should be: “a demonstrably false statement communicated with the intent to deceive”, meaning to deliberately mislead a consumer”. As it is perfectly possible to mislead someone without intending to deceive them, it is important to highlight that the act of deception is the intention to create the error or false statement.
- The qualification of misleading claims should only be considered in the context of a commercial relationship that may lead to distorted economic behaviours of consumers. As such, a sustainability

claim should only be qualified as misleading if it has been used as a selling point or as a means to gain a competitive advantage.

Paragraph 23:

- GFIA would like to highlight that sustainability benefits like many other benefits, come at a cost. There does not appear to be any consideration of the lengths and costs involved in establishing every sustainability claim. Proportionality should encompass cost-benefit considerations.
- Regarding sustainability drivers, GFIA suggests adding further clarity in this regard and proposes that this section be reframed by the IAIS to incorporate both benefits and challenges.

Paragraph 24:

- As for the three examples of what sustainability representations may portray in a misleading way, the second and third points should be revised in line with the first point, by using expressions such as "deceivably advertising" and "incorrectly highlighting", etc. to clarify that they are misleading.
- Furthermore, GFIA suggests adding the wording "with no supporting information" to the second point. In addition, GFIA suggests deleting the reference to "carbon neutral" in the second point, as it may be misleading.
- "For example, a life insurer may falsely advertise that its policies will only make investments that contribute to the mitigation of climate change." GFIA considers this example is not relevant and regrets that the paper suggests that it is a usual practice for insurers.

Paragraph 27:

- GFIA considers it is not in the mandate of supervisors to define a "benchmark for measuring the level of environmental or social benefit."

Paragraph 28:

- GFIA would like further clarity such as an example to support the following sentence "Particular attention should be paid to sustainability labels as customers often associate labels with specific features."

10. Comments on section 2.3 Offering products with sustainable features that meet certain policyholder requirements

Paragraphs 29-32:

- These paragraphs are a list of potential issues that are not sufficiently documented (frequency of occurrence) to justify the supervisory recommendations in the Paper. GFIA is especially concerned with recommendations relating to monitoring, as insurers may not have sufficient resources or budget for continuously monitoring sustainability.

- GFIA suggests the IAIS provides qualitative and quantitative examples on the potential risks of greenwashing.

Paragraph 31:

- It gives an example of greenwashing if “products with no sustainable features are marketed and sold to consumers with sustainability preferences, using unclear or misleading advertising”. It indicates that this is a violation of ICP 19.5.
- This might be “greenwashing” only if the “misleading advertising” pertains to the sustainability characteristics of the product.
- Finally, even customers with sustainability preferences will have other (and usually more fundamental) financial objectives, and therefore a customer with sustainability preferences will almost certainly balance those preferences with other objectives when purchasing an insurance product, and the customer may even choose to forego those sustainability preferences to fulfil other objectives (e.g. low fees).

Paragraph 33

- It requires that "Supervisors should review whether there is a risk of greenwashing in any stage of the product design process". When regulations and supervision are already appropriately in place to protect consumers, excessive time should not be spent verifying sustainability.

Paragraph 35:

- With paragraphs 34 and 35, GFIA is concerned that these paragraphs contain potential supervisory overreach. In essence they could substitute the view of supervisors for the interactions of customers and insurers competing in the private market. It is the market, not supervisors, which should determine whether the market’s needs, objectives and characteristics are being satisfied. The specific interests that insurers take account of when designing products should be the domain of the competitive market and an insurer-by-insurer approach. It is obvious that insurers will take account of their target customers when designing products and prescriptive regulation of what insurers should consider during this exercise may be overreach.
- It indicates that insurers should “consider policyholders’ sustainability preferences when developing and designing new products”. Customers’ sustainability preferences are different between and within markets and differ going from none to a high appetite and some customers will have different (non-sustainability oriented) value orientations. Hence, insurance supervisors should not require insurers to cater to this market.
- As it is difficult to measure sustainability preferences, GFIA opposes any restrictions on product development and design on this basis. In the first place, insurance companies are required to offer products that meet customer needs, not only from a sustainability perspective, and act in accordance with this principle. In addition, it should be noted that, in commercial lines, insurers may be required to develop products in an agile manner for niche needs, and especially in specialty and

miscellaneous casualty insurance, etc. best practices may not exist in some cases, which could make insurance companies' response difficult.

- In this perspective, the IAIS should define how sustainability preferences could be considered in addition to other consumer preferences to make it clearer that the approach is not to make decisions solely on sustainability considerations, to avoid the risk to segment markets solely based on sustainability preferences that could lead to additional costs for consumers including those who have no preferences. And then there are the additional costs associated with monitoring, etc.
- Supervisors should use existing tools, such as product review/approval, to achieve the recommendations in this section. Those standards are tied to current law and standards that may be objectively observed and applied.
- Furthermore, this paragraph and paragraph 36 assume some level of homogeneity around consumer sustainability preferences which is not the case.
- Considering this, GFIA considers this section should be substantiated and supports the inclusion of a definition of sustainability.

Paragraph 36:

- What "governance" specifically means in the context of this paragraph should be clarified.
- This paragraph illustrates the lack of definition and clarity mentioned above. That might lead to unlimited scope of supervision and uncertainty if there is an impossibility of compliance. GFIA would appreciate the clarification of the terms "to understand any sustainability preferences and objectives that potential policyholders might have."

Paragraph 37:

- It is unclear which products are in scope of paragraph 37, as most P&C products for consumers last 12 months.
- Regarding this sentence: "...the product assessment should ensure that both the sustainability preferences and investment risk appetite are aligned with the target market's needs, objectives, and characteristics. For example, the investment strategy chosen to address the sustainability preferences may impact the overall level of risk of the investments of a product", GFIA would like some precision on whether this description refers to investments in relation to products in separate accounts of life insurance companies and in savings accounts of non-life insurance companies, or whether it refers to investments including general accounts as well. GFIA would also welcome more specific examples to facilitate understanding.
- In addition, GFIA would like to substitute the word "testing" in the beginning of the first sentence by the word "researching" or "developing" as it is more relevant.
- Paragraphs 37 and 40 recommend imposing significant new and ongoing monitoring burdens to comply with standards that are not sufficiently defined. There is no evidence provided that such steps are justified, necessary or productive.

Overall, the contents of "Recommendations" in this section are descriptions of specific products in some jurisdictions, and do not seem to apply to products in general in jurisdictions around the world. Therefore, GFIA suggests clarifying that paragraphs 35 - 41 are aimed at introducing the fact that there are jurisdictions that are taking such measures, by positioning these paragraphs in a column separated from the Recommendations.

11. Comments on section 2.4 Insurers promoting their own sustainability profile to attract clients

GFIA suggests the IAIS provides further detail around how it expects an organisation to monitor information that is made public and where the responsibility of this should lie.

GFIA believes that this is adequately addressed in the existing prohibition on misleading and deceptive behaviour. In addition, ICP 19.0.2 already requires that developing, marketing and selling products must pay due regard to the interests and needs of customers; that customers are provided with accurate and clear information which is not misleading and that the risk of sales which are not appropriate to customers' interests and needs must be minimised.

Paragraph 42:

- GFIA believes that this paragraph needs in-depth clarification because it is so broad that any comment or statement could be misconstrued.

Paragraph 43:

- The paragraph uses the term "misleading" which has the subjective and unclear meaning given to the term by paragraph 22.

Paragraph 44:

- While it encourages insurers to report on progress in meeting their sustainability-related commitments to prevent overstatement of sustainability-related initiatives, such a report itself could induce overstatement to make their initiatives look better.
- Therefore, GFIA suggests revising the sentence, for example, as follows: "...may encourage insurers to report on progress, backed by fact-based supporting information, in meeting their sustainability-related commitments".

12. Comments on section 2.5 Substantiation of sustainability representations presented to policyholders

It is extremely important to explain the rationale for sustainability representations and to provide relevant information in a timely manner so that consumers are not misled about insurance products and insurers' activities with respect to sustainability. To this end, it would be useful to develop a common framework at a global level and standards at the jurisdictional level in which the legal system, regulations, and market characteristics of the jurisdiction in question are fully considered. GFIA agrees that the substantiation of claims is where the focus should be. rather than 2.3.

Paragraph 46:

- GFIA would like to underline the lack of clarity and the use of subjective terms such as “sufficiently and adequately”. In essence it places the supervisor in the position to make decisions that should be made by the market and insurers. GFIA suggests that the IAIS amplify this context section with examples.

Paragraph 49:

- While the Paper provides little if any evidence of the problems it suggests are so significant to justify the extensive and burdensome supervisory recommendations, it demands that insurers provide “adequate and sufficient level of evidence”. Who determines and according to what criteria is evidence “adequate and sufficient”? GFIA suggests the IAIS expands on sufficient levels of evidence required to substantiate sustainability-related information.

In overall, paragraphs 49-55 propose various forms of disclosure that would be required only for sustainability-related information. It seems inappropriate to give customers with a specific value orientation a significantly greater level of disclosure than customers with alternative value orientations. Moreover, a greater disclosure burden for certain types of products would deter insurers from developing and marketing such products.

Paragraph 50:

- Sustainability disclosure requirements for all investment products are included as one of the elements of a common sustainability normative framework. The scope (“all investment products”) is too broad and should be limited to products claiming sustainability.

Paragraph 51:

- Applying the unclear and subjective standards (see comment above) of the Paper to “marketing and promotional” material, the recommendation may lead to supervision overreach.

Paragraph 52:

- It states, “Supervisors should also require that any sustainability-related information is provided”, the scope is too broad. GFIA suggests replacing “any” with “material”.

Paragraph 55:

- It describes information to be included in investment fund brochures related to insurance products, in light of the nature of an application paper, the description is excessively detailed. In addition, it seems to relate to cases in some jurisdictions and is not considered to be applicable to all jurisdictions in the world. Therefore, GFIA suggests revising the second sentence of the paragraph as follows: “Taking each market feature into account, supervisors could require that investment fund brochures include information, which is considered critical for sustainable investment, for example”.

Subsequently, it should be clarified that the following four bullet points are intended to show examples.

13. Comments on section 3 Natural catastrophes considerations

Market conduct expectations related to climate risk differ substantially for life and health insurers and property and casualty insurers. For example, Section 3. Natural Catastrophes considerations (beginning on page 13) is material for P&C insurers; however, it is not material for L&H insurers.

14. Comments on section 3.1 Introduction on NatCat considerations

In this section, some examples are cited as emerging conduct risks for consumers because of NatCat. However, GFIA would like to question the scope of what is considered as market conduct in this section.

- Some emerging conduct risks are thought to be related to low awareness and limited understanding among consumers. GFIA considers that low consumer awareness itself does not necessarily constitute a conduct risk. Consumer education, outside of existing objective standards, is not a market conduct risk that insurers should be told to consider. If there is misrepresentation in the offer of insurance, jurisdictions already have laws in place to handle misrepresentations or unfair and deceptive acts. Improving consumer awareness is extremely important, and the private insurance sector has a great role to play in this, but it is an issue that should be addressed by multiple stakeholders, including the public sector. The linkage between NatCat and market conduct is not strong enough to warrant entirely new standards and rules.
- Sudden price increases due to the increased frequency and scale of NatCat events is also cited as a conduct risk. However, external factors such as the reinsurance market also play a major role, and if the risk is properly reflected, it does not necessarily fall under the category of conduct risk. GFIA recognises that this issue is also one that must be resolved by multiple stakeholders in the public and private sectors.

Paragraphs 74-78:

- These paragraphs recommend the imposition of a new obligation on insurers—behavioural testing, without evidence that is needed or would be cost effective. Any new requirement such as this should be caveated with the phrase “in consultation with insurers and having due regard to cost-effectiveness.”

Finally, GFIA agrees with the list of emerging risks for consumers. In addition, it reiterates that some risks are out of insurers’ control, e.g. government interventions setting expectations for consumers and creating moral hazards. Moreover, price increases can reflect inflationary pressures, which are also out of insurers’ control. Overall, this section fails to recognise that NatCat protection gaps are the result of society-wide failures to pursue resilience and economic conditions that are not created by insurers. Only society-wide actions, with help from insurers in cooperation with supervisors, can close those gaps.

15. Comments on section 3.2 Provide easy to understand products, using plain language

To narrow protection gaps, it is important to improve consumer understanding of insurance products and coverage. To achieve this, it is useful to provide easy-to-understand products using plain language.

Paragraph 64:

- GFIA agrees with paragraphs 62 and 63 but more clarity and understanding are required around paragraph 64. It is common practise after an earthquake for example to put a freeze on accepting new business for prudential and reinsurance reasons. Insurers cannot be expected to accept new business in an area that is suffering periodic and significant aftershocks or where a wildfire is burning out of control. Also, how do insurers deal with “potential customers”?
- The introduction of new exclusions to limit risk exposure is described as “risk”, but controlling exposure is an extremely important function of insurer risk management, and from the standpoint of insurers, the act itself does not constitute risk. Therefore, GFIA suggests revising the first sentence of this paragraph, for example, as follows "At the same time, there are some cases that insurers may...".

GFIA supports the clarity of policy language proposals in paragraphs 65-70.

Paragraph 66:

As what is explained in this paragraph is overly prescriptive, the second and subsequent sentences of the paragraph should be deleted.

Paragraph 67:

- While it states that supervisors should monitor to ensure that vague terms such as "similar events" are not used, in practice, many clauses use wording such as "...and similar thereto" after listing various elements. It is not realistic to mechanically eliminate all of these. It is the responsibility of insurance companies to use terms that are not misleading to consumers. GFIA understands this paragraph to mean that what is done appropriately within the framework of existing consumer protection regulations and supervision should also be done in the context of natural disasters.

16. Comments on section 3.3 Test the understanding of exclusions and promote transparent advice

While testing consumer understanding has its merits, what those who have experienced Nat Cat events find is that each one brings a novel issue to the fore. The example of whether damage is caused by land or flood is relevant if 2m of silt from landslides lands on people's homes when landslip damage is excluded, and flood is included. GFIA underlines that the interpretation of cause of damage is not always clear, especially not pre-event and the rise of secondary perils can complicate matters.

17. Comments on section 3.4 Affordability

GFIA would like to highlight that the Paper should refer to the limitations on what insurers can do alone, and the necessity of multi-stakeholder efforts. Insurers must price to reflect the risk they see and to manage their risk appetite consistent with solvency requirements. Supervisors must prioritise solvency over the affordability of products.

Paragraph 79:

- This paragraph indicates that the expected increase in frequency and intensity of some weather events may lead to products becoming less affordable, disincentivising customers from purchasing insurance for NatCat events. While cost is always a disincentive, the reality of “disaster” provides an incentive to procure insurance, despite the cost (see COVID and life insurance). The paragraph lacks balance.

Paragraphs 79-82:

- These paragraphs fail to support risk-based pricing, which is essential to solvency and a competitive market. GFIA underlines that risk-based pricing actually supports availability and affordability of coverage for well managed risks, as well as providing critical price signals for worse risks to improve, and thereby reduce the pool of losses for everyone.

Paragraph 80:

- Regarding this paragraph, care needs to be taken around insurers increasing price because of identified increased risk or reduced reinsurance capacity and the behaviours referred to. According to GFIA, granular risk-based pricing reflecting risk should not be stopped.

Paragraph 81:

- The broader interventions referenced in this paragraph should be clearly articulated as some may be undesirable and inconsistent with a sustainable insurance market.

Paragraphs 82 and 86:

- They highlight “differential pricing practices.” The Paper never defines this term, and it is unclear how it relates to the remainder of paragraph 82.

Paragraph 83:

- The paragraph should make clear that jurisdictions should only use standards that have been established by law. For example, in the U.S. the standard is “unfair discrimination”, not “non-discriminatory”. This is an important issue as pricing based on risk, which is essential for insurance, might be considered “discriminatory” by some.

Paragraph 85:

- GFIA supports risk mitigation measures for consumers outlined in this paragraph.
- However, the very high requirements underlined by this recommendation could have negative impact and discourage the very activities that supervisors should be encouraging and supporting.

Paragraphs 86 and 87:

- The paragraph states that “Supervisors should monitor and require that there are no differential pricing practices, which are misleading and deceptive or unfair to consumers.” Considering the lack of clarity and precision of the formulation used here, this paragraph could lead to supervision overreach, especially into risk-based pricing which is paramount for a competitive insurance market.

Fundamentally the recommendations of the Paper will result in less, not more, affordability as the additional supervisory costs imposed on insurers would significantly increase and would necessarily be passed on to consumers.

The provision of affordable insurance coverage (affordability) is important to closing protection gaps. However, when the frequency and severity of NatCat events are at high levels, premiums are appropriately set to cater for the conditions. It is also necessary to consider the facts that there are also limits to risk measurements using actuarial models due to uncertainties associated with climate change, and that there is significant impact of the external environment, such as the reinsurance market. In addition, the Paper should also refer to the limitations on what insurers can do alone, and the necessity of multi-stakeholder efforts. For example, if disaster prevention and mitigation efforts by national and local governments, as well as insurance companies can reduce damages, this could result in lower insurance premiums.

18. Comments on section 3.5 Access

As it is important to improve consumer awareness and knowledge so that consumers can access appropriate insurance products, multi-stakeholder efforts, involving supervisors and insurers, are required.

From a consumer protection perspective, it is important for insurers to provide NatCat cover in response to consumer needs. On the other hand, consideration should be given to the fact that there are limits to the exposure that insurers can retain depending on their capital, solvency, and risk profile. Furthermore, conditions in the reinsurance market can also affect the coverage they can provide.

Paragraph 88:

- The paragraph does not take into account the reality that in some circumstances coverage limitations are essential to providing at least some affordable and/or available coverage.

Paragraphs 90-91:

- These paragraphs do not provide enough evidence that additional supervisory actions of the kind recommended are needed.

Paragraphs 91:

- While the second sentence of this paragraph states "Such reviews are regularly carried out without taking into account the different types of consumer needs and objectives", it is unlikely that such regular reviews are conducted generally in jurisdictions across the world. The sentence should be deleted, as it does not reflect the reality of supervision practices.
- In addition, while the first sentence states "insurers are often required to review their terms and conditions to avoid losses due to ambiguous contractual terms", this is also not a general issue in jurisdictions across the world. GFIA suggests changing the phrases to "to avoid further losses due to unintended interpretation of contractual terms" and "insurers may review", etc.

Paragraph 92:

- When supervisors develop and use tools to make it easy to compare insurance products offering NatCat protection, it is necessary to be cautious not to recommend products of specific companies. If an appropriate comparison is not ensured, such tools should not be developed. GFIA considers that development of such tools, in sales of insurance, can lead to intervention of supervisors out of their mandate.

Paragraph 93:

- GFIA warns that the simplification of products may not convey to the consumers their limitations, e.g. excesses, sub-limits, exclusions, etc.

Paragraphs 93-94:

- These paragraphs recommend that supervisors intrude into private markets to an excessive degree, based on unclear and subjective supervisory standards. Supervisors would oversee whether insurers have assessed "which distribution channel may be most aligned to the target market's needs, objectives and characteristics."

Paragraph 95:

- While insurers need to take market needs and other factors into account when developing and reviewing their products, they also need to consider the possibility that certain risks may no longer be insurable under circumstances.

Paragraph 96:

- GFIA strongly agrees with the importance of cooperation for purposes of advancing resilience.

19. Comments on section 3.6 Timely and fair claims handling

"Build Back Better" after a natural disaster is an important initiative to develop a resilient society, and the use of insurance is an option to promote this initiative. This issue is not a matter for the private sector alone, and the involvement of the public sector, including funding arrangements, etc. should also be discussed.

Given that claim payments after a widespread natural disaster are extremely important for insurers, utilisation of the latest technologies, such as digitisation to improve policyholder convenience in making claims, and the use of AI to speed up damage assessment, would be beneficial.

However, GFIA disagrees with paragraph 103 which refers to permanently increasing capacity and resources of insurers to deal with NatCat events. These events occur reasonably rarely, so it would be a waste of resources to scale up permanently waiting for the next one to occur. GFIA is of the view that having surge plans would be more relevant and cost effective. What this section fails to acknowledge, and as explained earlier, other factors can be the cause of delays beyond insurers control regardless of how much capacity is at hand. For instance, remote regions, infrastructure failure, e.g. roads and bridges wiped away and health and safety hazards preventing entry to areas can all impact the pace of recovery. Additionally local authorities may deny insurers' access to vital information that could support the pace of claims settlement or the prioritisation of people and property. Reference to a "timely" manner suggests there is a timeframe that should be met, but each NatCat is so different in terms of the issues it gives rise to.

Paragraph 109:

- GFIA agrees that cooperation and flexibility between insurers and supervisors is critical in NatCat recovery.

20. Does the draft application paper provide sufficient detail to be a useful tool for supervisors and insurers?

While this Paper focuses on market conduct related to climate change, it is GFIA's understanding that each jurisdiction already has regulations in place to protect consumers and appropriate supervision based on these regulations. Therefore, a new supervisory and regulatory framework is not needed for climate risk market conduct, which is essentially within the scope of existing regulations and supervision for consumer protection. In this regard, ICP 19.0.3 specifically provides that *"Conduct of business, including business practices, is closely linked with jurisdictions' tradition, culture, legal regime and the degree of development of the insurance sector. For this reason, supervisory approaches to the conduct of business also tend to vary. Such diversity should be taken into consideration in implementing this ICP, and related standards and guidance material, in order to achieve the outcome of fair treatment of customers. The fair treatment of customers encompasses concepts such as ethical behaviour, acting in good faith and the prohibition of abusive practices"*.

GFIA understands that this AP focuses on market conduct issues and thus emphasises meeting consumer demand. On the other hand, on the premise of compliance with market conduct, insurers also need to conduct appropriate product design (including the setting of exclusions, etc.), pricing, risk management, and capital and solvency management. Consideration in terms of such responses made within the existing prudential framework should also be mentioned in the AP. Protection gaps are a major issue that needs to be resolved

by multiple stakeholders in the public and private sectors and cannot be solved only through the conduct of insurers and insurance intermediaries. This point should also be mentioned in this Paper.

Supervisory activities to address protection gaps :

1. Assessing insurance protection gaps
2. Improving financial literacy and risk awareness
3. Incentivising risk prevention and reduction of insured losses
4. Creating an enabling regulatory and supervisory environment to support availability of insurance and uptake of coverage
5. Advising government and industry on financial inclusion and societal resilience, including on the design and implementation of public-private partnerships or insurance schemes

As written, the Paper will impose new and unproductive burdens on insurers and supervisors and thereby conflict with its goal of supporting greater affordability and access to insurance.

21. Is there any additional work the IAIS should be undertaking in the area of climate risk market conduct issues in the insurance sector?

GFIA believes that "strengthening cooperation with supervisors in industries other than the insurance industry" is also worth considering. If soaring repair costs increase insurance claim payments, which is one of the factors that lead to protection gaps, higher insurance premiums, etc., it is not enough to take measures within the insurance industry. It is necessary to consider measures to reduce insurance claims in conjunction with supervisors in other industries.

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About GFIA

The Global Federation of Insurance Associations (GFIA), established in October 2012, represents through its 42 member associations and 2 observer associations 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.