

September 24, 2024

Mr. Shigeru Ariizumi
Chair, Executive Committee
Mr. Jonathan Dixon
Secretary General
International Association of Insurance Supervisors (IAIS)
Bank for International Settlements
CH-4002 Basel
Switzerland



Re: IAIS Draft Application Paper on How to Achieve Fair Treatment for Diverse Customers

Dear Messrs. Ariizumi and Dixon:

The IIF and its insurance members appreciate the opportunity to comment on the IAIS Draft Application Paper on how to achieve fair treatment for diverse customers (Draft Application Paper or Paper). The IIF has previously submitted views on related topics in its response to the IAIS Draft Application Paper on Supervising Diversity, Equity and Inclusion (DEI).¹

We support the IAIS's interest in achieving fair treatment for diverse retail consumers. A commitment to serving diverse retail consumers can have many positive impacts on customer outcomes and overall insurance market development and stability. In this letter, we offer some suggestions as to how the IAIS could reflect these important interests in a proportionate and context-dependent manner that also advances the important interests of insurers' commercial freedom and their ability to price products and services based on risk.

Our comments on the Draft Application Paper focus primarily on the following themes:

- The importance of limiting the scope of any final Application Paper to insurers serving a retail customer base
- Support for a principles-based approach that allows supervisors to reflect the local context of their markets
- The importance of protecting insurers' ability to price for risk
- The rigorous retail consumer protection rules currently in place in major insurance markets
- Insurers' incentives to expand their customer bases to include diverse customers
- The role of supervisors in advancing fair treatment of customers, including diverse customers

Overarching Comments

The scope of any final Application Paper should be limited to retail insurers. We ask the IAIS to clarify in any final Application Paper that the scope of application is limited to insurers serving the retail insurance market. This distinction is crucial, as wholesale business-to-business (re)insurers do not directly serve diverse customers, as defined in the Draft Application Paper. Moreover, applying retail fairness standards to the commercial (re)insurance sector could lead to serious market inefficiencies and a reduction in the availability and affordability of commercial insurance

¹ [https://www.iif.com/portals/0/Files/content/Regulatory/32370132_iif_response_to_iais_draft_application_paper_on_dei_final_06.14.24%20\(1\).pdf](https://www.iif.com/portals/0/Files/content/Regulatory/32370132_iif_response_to_iais_draft_application_paper_on_dei_final_06.14.24%20(1).pdf)

products and services. We encourage the IAIS to unambiguously reflect this distinction throughout any final Application Paper, with consistent references to "retail insurance" and "retail consumers."

We support the development of a principles-based approach to the fair treatment of customers that allows supervisors to reflect the local market context. As acknowledged by the IAIS, the concept of "diverse consumers" can vary significantly across different cultural, social, and economic contexts. What constitutes a diverse consumer may be different across jurisdictions.

A flexible, principles-based approach to the fair treatment of consumers, including diverse consumers, can be adapted to local markets and would reflect the fact that business practices are closely linked to the traditions, culture, legal regime and degree of development of the insurance sector in a particular jurisdiction.² We encourage IAIS member supervisors to engage with insurers, intermediaries, and industry and consumer associations in their jurisdictions to better understand the needs and preferences of diverse consumer segments and to promote fair treatment of diverse consumers in a manner that reflects local markets. This collaborative approach can lead to more effective and sustainable market solutions for a particular jurisdiction.

Given differences in local approaches, the IAIS should refrain from suggesting a 'one-size-fits-all' approach to the treatment of diverse consumers. There is not a single 'good' policy for serving retail consumers, including diverse consumers, but rather a range of policies and actions that can promote fair treatment while taking into consideration the local context and the insurer's specific customer base.

The IAIS should encourage supervisors not to take a punitive approach when addressing concerns related to the fair treatment of diverse customers, absent clear evidence of legally prohibited discriminatory practices. Rather, it should support the industry and supervisors as they explore how best to incorporate considerations of customer diversity into their policies and practices.

Principles-based supervisory guidance can promote inclusivity in a manner that supports risk-based pricing. We appreciate the IAIS's recognition in Section 2.2 of the Draft Application Paper of the need for insurers' autonomy when determining product ranges and target markets based on their business models, risk appetites, and market considerations. It is crucial that insurance regulations allow for legitimate differentiation based on demonstrable risk factors, recognizing that accurate risk assessment and pricing are essential for a healthy, competitive insurance market.

Risk-based pricing is a concept that is fundamental to insurance. It allows insurers to price risk accurately and to offer the lowest premiums to policyholders with risk factors that are reliable predictors of insurance losses and that directly affect the insured risk. Risk-based pricing allows insurers to expand their product offerings in a manner that supports consumers and the solvency of the insurance market.

Risk-based pricing need not be incompatible with the development of new retail insurance products that address the needs and preferences of diverse consumer groups. Proactive engagement with consumers can facilitate the creation of products that meet specific population needs while effectively balancing accurate risk assessment and pricing. However, in a risk-based pricing model, some consumers will not be offered the products and services they wish to obtain at a price that they are willing to pay; this is not inappropriate discrimination absent legally prohibited practices.

Prescriptive pricing limits can hinder the development of innovative products that meet both insurers' and consumers' needs and lead to adverse selection and, ultimately, higher premiums for

² See ICP 19.0.3 and Paragraph 11 of the Draft Application Paper.

all consumers. Limits on risk-based pricing can have negative impacts on insurance market competition. Market competition is a catalyst for the provision of new coverage and pricing options that appeal to a range of consumers and can facilitate the inclusion of options that particularly appeal to diverse consumers.

Importantly, impeding insurers' ability to price for risk distorts market signals, potentially leading to moral hazard and undermining the insurance industry's role in promoting risk mitigation and prevention. We encourage the IAIS to engage with its members on the potential negative consequences for both insurers and consumers of inappropriate restraints on the pricing of insurance products and services.

Insurance supervisors generally impose rigorous consumer protection standards on retail insurers. The fair treatment of retail insurance consumers, including diverse consumers, has long been a focus of insurance supervisors, most of which have adopted comprehensive consumer protection rules in their respective jurisdictions in accordance with local laws. The Draft Application Paper should be understood within the broader context of existing regulatory and supervisory frameworks, which are designed to safeguard consumers, ensure financial stability, and maintain public trust in the insurance system.³

Insurance regulations in major insurance markets expressly prohibit unfair or biased underwriting practices. Market conduct measures are also an integral feature of insurance regulation. These measures include strict solvency standards to ensure insurers can meet their financial obligations to policyholders, transparent disclosure of pricing and policy terms and conditions, and fair claims handling practices.

Consumer protections that are intended to prevent unfair or arbitrarily biased underwriting or pricing practices should also recognize the necessity of evaluating consumers based on relevant risk factors and pricing products based on risk. Risk-based pricing helps to ensure that all retail consumers are treated fairly and equitably and allows insurers to maintain the actuarial integrity of their products, in the interests of fair and financial sustainable retail insurance markets.

Expanding insurance products to serve a more diverse customer base is a strategic priority of many retail insurers. By broadening their customer base to include underserved or overlooked demographic groups, retail insurers can diversify their risk pools, tap into new revenue streams and drive market growth with more stable and predictable loss ratios. Further, the greater ability of diverse and underrepresented populations to access insurance products contributes to greater financial security and resilience across society and can reduce the financial and societal costs of uninsured losses.

Insurers' interest in catering to a broad customer base, including diverse and vulnerable consumers, has led to deliberate efforts to improve the transparency and understandability of insurance policies, to expand accessibility through website design, mobile insurance platforms, multilingual documents and inclusive forms, as well as to innovate and develop more flexible, tailored insurance solutions to appeal to a wider demographic. Ultimately, it is in retail insurers' economic interest to embrace the diversity of their customer base, thereby fostering a more robust, dynamic, and

³ Indeed, the IAIS may wish consider carefully whether it is more appropriate for its members to develop guidance that is reflective of their local markets as an alternative to a final Application Paper.

sustainable insurance market that is better equipped to meet the evolving needs of a rapidly changing global population.

The role of supervisors in advancing fair treatment of customers, including diverse customers.

Insurance supervisors have a unique opportunity to advance the fair treatment of customers, including diverse customers, through their stakeholder outreach, engagement and collaboration. They can also play a critical role in advancing financial literacy about the need for and availability of insurance products and services. Finally, the IAIS can support their members through supervisory information sharing and flexible guidance that can be adapted to an IAIS member's local context.

Specific Comments

Section 1: Introduction

Section 1.4 Scope of this Application Paper

As noted in our overarching comments, the final Application Paper would benefit from a clear statement in Section 1.4 that the guidance in the Paper is intended to apply only to the retail insurance market and does not apply to the commercial (re)insurance sector. Limiting the scope of the Paper to retail insurance is consistent with the clear focus on retail customers in ICP 19. Further, clarifying that the scope of the Paper is limited to the retail insurance market allows for more targeted and effective guidance that acknowledges the distinct characteristics and needs of individual consumers.

Section 2: Risk-Based Pricing and Insurer Autonomy

Section 2.1 Risk-Based Pricing and DEI

We appreciate the IAIS's acknowledgement in Paragraph 18 that the application of DEI-related concepts to the fair treatment of retail consumers is not inconsistent with risk-based pricing.

While we support efforts to enhance fairness in pricing, we would strike the reference to "the right for certain previous medical diagnoses to be forgotten after five years" in Paragraph 18. We understand that this reference reflects regulatory language adopted by a specific jurisdiction. As such, it does not reflect regulatory standards more broadly and may not be necessarily indicative of sound or best practice more generally.

We remain concerned that jurisdiction-specific examples could be interpreted by other supervisors as best practice that should be adopted more broadly. At a minimum, the IAIS should clarify that these examples are not intended to be read as best practices that need to be applied more broadly.

Section 3: Risk of Unfair Treatment of Diverse Consumers

Section 3.1 What we mean by diverse consumers

As noted in our overarching comments, maintaining a flexible approach to the definition of "diverse consumers" is important in order to accommodate different cultural, social, and economic contexts across jurisdictions. Encouraging the supervisory sharing of best practices and lessons learned across different jurisdictions could foster a more robust and evolving understanding of how insurance supervisors can facilitate an increasing awareness of the needs of diverse consumer groups, consistent with the local context.

Section 3.2 How unfair treatment arises

The insurance industry has long recognized that serving diverse consumers effectively requires a proactive approach to avoiding and correcting unfair treatment, such as those described in Section 3.2 of the Paper. As such, we support the inclusion of Graphic 2 regarding how to implement ICP 19 to promote the fair treatment of diverse consumers.

Section 4: Implementation of ICP 19 to drive fair treatment of diverse consumers

We agree with the statement in Paragraph 29 that there is no requirement under ICP 19 that every diverse customer will always find an insurance product that meets all of their needs.

Section 4.1 Embedding fair treatment of diverse consumers into the business culture

Section 4.1 should explicitly acknowledge that the development of an appropriate organizational culture is the responsibility of the insurer and will necessarily reflect the insurer's business model, retail customer base (if applicable), and the local context, including local laws and regulations.

Section 4.1.1 Identifying whether there are diverse consumers within the targeted consumers

The final Application Paper should acknowledge the potential challenges insurers' face in identifying and defining diverse consumer groups due to jurisdictional privacy rules governing the collection of personally identifying data. Moreover, the ability of an insurer to use personal data when identifying whether there are diverse consumers within the target market depends on an individual's willingness to self-identify as a diverse consumer.

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

We appreciate the emphasis on qualitative data and assessments, such as those gathered from product testing and the qualitative outputs from scenario analysis. We strongly recommend prioritizing qualitative assessments over quantitative diversity targets, as the ability or inability of an insurer to meet a quantitative target may reflect societal or economic factors that are out of the control of the insurer and that do not reflect on the insurers' interest in or commitment to meeting the needs of diverse consumers.

Qualitative assessments, which may include evaluating business culture attributes such as those outlined in Section 4.1, can provide a more nuanced and comprehensive understanding of an insurer's commitment to the fair treatment of diverse consumers. Further, by emphasizing qualitative factors, insurers are encouraged to focus on substantive improvements in their products and practices, rather than focusing on meeting numerical quotas.

In any final Application Paper, the IAIS should acknowledge the advantages of qualitative assessments over quantitative diversity metrics. However, it is important to note that even when evaluating qualitative factors, care should be taken not to automatically link a shortcoming in any factor to poor consumer outcomes without a clear demonstration of cause and effect. The IAIS should emphasize to supervisors that any supervisory actions to 'correct' the perceived unfair treatment of diverse customers should avoid unintended consequences that could have adverse effects, including adverse impacts on risk-based pricing.

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

Supervisors should rely in the first instance on dialogue with insurers before taking action to 'correct' consumer issues that may not be the result of unlawful conduct on the part of the insurer. In terms of supervisory approaches, we advocate for the use of soft powers, such as dialogue and

information sharing, as the primary means of addressing any supervisory concerns. Punitive measures should be reserved for situations in which there is clear evidence of unlawful and intentional discriminatory conduct that continues to go uncorrected.

Section 4.5.2 Facilitating market development

Supervisors can play a crucial role in empowering diverse consumers with knowledge about the importance of retail insurance products and services in protecting consumers and society. We appreciate the Draft Application Paper's focus on collaborative approaches to promoting inclusive insurance initiatives. The emphasis on supervisors engaging with a wide range of stakeholders to create a supportive retail insurance ecosystem is commendable. A multi-stakeholder approach can indeed be highly effective in addressing the complex challenges of serving diverse consumers.

The Paper's suggestions for collaboration initiatives, such as developing targeted financial literacy campaigns, are valuable. These efforts, which could involve collaboration among insurers, insurance supervisors, and industry and consumer advocates, can facilitate a common understanding of the insurance needs of diverse consumer groups and help to explore appropriate approaches to reach diverse consumers in a particular market.

We are particularly supportive of the recommendation to develop sandboxes for testing new insurance products, services and distribution networks tailored to the specific needs of diverse consumers. Supervisors should incentivize the broadening of the retail insurance pool through support for innovative insurance products, services and distribution channels. We agree with the recommendation that supervisors support alternative distribution channels, such as community development financial institutions and mobile money platforms. Determining what works best is an iterative process, and we encourage the IAIS to support experimentation and learning by both supervisors and insurers.

As the Paper notes, new technologies such as artificial intelligence (AI), can play a role in reaching diverse consumers. We believe that supervisors should take a balanced and positive approach to innovation and consider ways that new technologies and innovative products can help expand access and promote consumer protection. Regulatory and supervisory frameworks should be principles-based and technology-agnostic.

Conclusion

The IIF appreciates the IAIS's efforts to promote fair treatment of retail consumers, recognizing that a commitment to serving these consumers can positively impact customer outcomes and insurance market development and stability.

We thank you again for the opportunity to contribute to this important consultation. The IIF would be happy to discuss any aspects in more detail or provide additional perspectives. Please contact Mary Frances Monroe (mmonroe@iif.com) or Melanie Idler (midler@iif.com) with any questions or to discuss any points raised in this response.

Respectfully submitted,



Mary Frances Monroe
Director, Insurance Regulation and Policy