

GFIA response to the OECD draft report “The role of public policy in encouraging clarity in cyber insurance coverage.”

GFIA appreciates the opportunity to comment on the Organisation for Economic Co-operation and Development’s (OECD) draft report, “The role of public policy in encouraging clarity in cyber insurance coverage” (Draft Report). Overall, the Draft Report is well researched and provides good contextual information.

One general observation is that the Draft Report uses the terms “normally” or “significant” in some areas. For instance, on page 7, the Draft Report states “whether coverage is provided will normally depend on the specific policy language.” As a contractual transaction, the policy language will always dictate what coverage is provided and “normally” should be removed. Additionally, page 5 states, “A number of reports and surveys have suggested that the expectation for coverage for cyber risks in traditional policies is a significant reason for low levels of take-up of stand-alone cyber insurance...” This sentence may overemphasize the role of a consumer’s understanding of the traditional policy as a reason for take-up rates and does not reflect other important impacts such as consumer risk awareness. GFIA respectfully recommends a review of the Draft Report to ensure that it does not have the unintended consequence of overstating outcomes and suggesting conclusions.

GFIA also believes it is important to reinforce our view that regulatory intervention in the standardisation of products may impede market development and competition. The paper correctly identifies market driven activities to develop appropriate contract language, which demonstrates that, as with any emerging risk, harmonization/standardisation will occur organically as the product evolves and the product becomes more widely available. There are many different factors that influence contract language, to include: the insurer’s own risk tolerance; legal requirements; the rapidly changing risk; and market competition. These factors all encourage insurers to bring innovative products to market allowing for enhanced consumer choice, pre- and post add-on services, and price benefits for the consumer.

Further, while alignment in terminology of risks may be beneficial to help customers better understand cyber insurance, the context of those efforts matter and should not be an opportunity for government regulators to “write the product” or force standardization.

To be certain, coverage clarity is essential and a key component of achieving consumer education. Consistent with the first recommendation in Box 3.4, insurance regulators and supervisors should consider partnering in consumer education opportunities rather than encouraging harmonisation through regulatory pronouncements or exercising unnecessary and overly burdensome regulatory tools. Industry trade associations may have a role in fostering these public-private partnerships and identifying helpful resources or voluntary guidance within the bounds of anti-trust laws, without forcing standardization. Nevertheless, the main objective is education. To that end, GFIA is exploring global cyber insurance consumer education efforts with an objective of helping support individual national trades and market participants in promoting consumer education and awareness.



Finally, GFIA has concerns with the final sentence of the third recommendation in Box 3.4, which states, “Insurance companies’ implementation of international sanctions in the context of cyber-extortion claims should be subject to supervisory review.” Insurers have robust sanctions compliance programs in place consistent with their supervisory expectations. While cyber-extortion is an emerging threat, insurers have a long history of complying with sanction laws in the context of claims payments and ransomware payments. The government solution should not be pre-approval of implementation efforts, but rather helpful guidance that insurers can leverage, as noted in the first sentence. Respectfully, we recommend that the final sentence be removed.

Thank you again for your thoughtful and collaborative interest in the cyber insurance market. We appreciate your consideration of our observations and are happy to answer any questions you may have.

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About GFIA

Through its 40 member associations and 1 observer association, the Global Federation of Insurance Associations (GFIA) represents the interests of insurers and reinsurers in 64 countries. These companies account for around 89% of total insurance premiums worldwide. GFIA is incorporated in Switzerland and its secretariat is based in Brussels.