



Secretariat of the Joint Forum
Bank for International Settlements
CH-4002
Basel, Switzerland

Dear Secretariat of the Joint Forum,

The Global Federation of Insurance Associations (GFIA), through its 35 member associations, represents insurers that account for 87% of total insurance premiums worldwide. On behalf of GFIA, I am responding to your request for comments on your consultative document on "Point of Sale disclosure in the insurance, banking and securities sectors."

We very much appreciate the opportunity to provide input.

General Comments

We support the overall objective of the Joint Forum's paper. Clear disclosure about key characteristics of products, received prior to the sale, is important to consumers in helping them make informed decisions. The paper quite rightly observes that significant differences in products and in regulatory approaches may not facilitate comparison across products, and therefore, what is important is "*the outcome, not necessarily the method by which the outcome is achieved*". Many of our specific comments relate to the importance of retaining that awareness so that consumers are provided with relevant information.

We understand that this paper is not intended to be binding on any jurisdiction, but rather to set out recommendations that could be considered in developing or modifying POS disclosure regimes. It is important to keep in mind that various jurisdictions are in the throes of developing, revising or implementing a regime¹, and there may well be inconsistencies and contradictions between these and the Joint Forum recommendations. It may be worthwhile to reinforce the point that the recommendations should be viewed as a resource or "inspiration tool". As well, in order to avoid any misinterpretation that the recommendations are intended to impose requirements, consideration should be given to making the language in the paper less prescriptive, e.g. use "may" instead of "should".

We would also observe that the mandate of the Joint Forum in developing this paper is related to point-of-sale disclosure for specific products [*"... to identify and assess differences and gaps in regulatory approaches to POS disclosure in relation to investment or savings products... (and to) identify whether regulatory approaches to POS disclosure need to be further aligned across sectors, keeping in mind that differences in regulatory approaches can arise from legitimate differences in sectoral regulatory objectives as well as from differences in product features"*]. From time to time, however, the paper demonstrates some "scope creep". For instance, page 5 mentions disclosure at other times in the product life cycle, as well as advice requirements. We would suggest that this is not only out of scope but the latter risks disenfranchising consumers who make an active decision to purchase through non-advice channels. Also, a comment on page 8 suggests that the approach set out in the paper could be applied to a broader range of products. We would suggest that comments outside the scope of the paper be removed.

¹ The EU, South Africa and Australia are three such examples. For instance, the European Commission put forward proposals on pre-contractual disclosures under its packaged retail investment products initiative in July 2012. Objectives are very similar to those outlined in the Joint Forum. It is expected that these will be adopted into regulation in 2014.

Specific Comments

Recommendation 1 states that "*jurisdictions should consider implementing a concise written or electronic POS disclosure document for the product sample identified in this report*". It is not clear if this recommendation suggests that jurisdictions require concise written disclosure at point of sale, or that jurisdiction prescribe the particular document to be used at point of sale. The former supports a principles-based regulatory regime which sets out expected outcomes. The latter supports more of a rules-based, "tick-box" regime which allows for less flexibility in adapting consumer information needs to the particulars of the product. We would suggest that the principles-based approach demands more and allows for appropriate tailoring so that the consumer is sufficiently informed to make a purchase decision.

Recommendation 5 states that "*POS disclosures should include the same type of information to facilitate comparison of competing products*". This statement is out of step with the paper's recognition of the significant differences, objectives, product specificities and regulatory regimes that led to the conclusion, on page 3, that "*what is important is the outcome, not necessarily the method by which the outcome is achieved*". Specific concerns with this recommendation include:

- While the objective of facilitating comparison is theoretically admirable, it is not always practical and, in fact, sometimes involves the comparison of two entirely different animals. This is confusing and misleading for consumers.
- If similar disclosures are made across product lines, the unique elements of some products may not be adequately disclosed. The objective of having consumers sufficiently well-informed to make a purchase decision will not be properly met.
- Standardizing terminology for cross-sector disclosures is very difficult. In some jurisdictions, the default language for such cross-sector disclosures is securities language. This is an inappropriate fit for insurance products.
- Experience has shown that "one-size-fits-all" doesn't work well when there are fundamental differences in product. In Australia, this approach was introduced ten years ago, and continual amendments have needed to be made to tailor the disclosures to their particular products and sectors. In Canada, a two-page "Fund Facts" document used for segregated funds and mutual funds needs to be supplemented by another two-page "Key Facts" document that provides insurance-specific details
- Some products are not only different in structure but in objective. Individual pension products have a longer-term duration, protection against income loss in retirement, no or difficult access to savings before retirement. Should they be presented on the same comparison basis as a CIS with a shorter savings horizon? Could doing so be misleading to the consumer?

We would suggest that recommendation 5 should read that where products are sufficiently similar in objectives, characteristics and product specificities, effort should be made to provide similar types of POS information for those products. It could also contain the warning that where these similarities do not exist,



trying to use the same basis of information for comparison can have the unintended consequence of misinforming consumers.

This paper is restricted to CIS products, and insurance contracts with a strong investment component as defined on page 9, as well as certificates and structured deposits, also defined on page 9. The concerns we have outlined above with recommendation 5 would be magnified tremendously if, in the future, this recommendation were to be applied more broadly to other products.

Jurisdiction-specific references

We have included, under Appendix A, corrections and suggested additions to various jurisdiction-specific references in the paper.

Conclusion

We wish to reiterate how much we appreciate the opportunity to provide input. We would be pleased to discuss any of the matters raised in this submission at your convenience.

Sincerely,

Frank Swedlove
Chair, Global Federation of Insurance Associations

GFIA CONTACT:

Leslie Byrnes, Chair GFIA Market Conduct Working Group, lbyrnes@clhia.ca

Appendix A

Jurisdiction-specific references: corrections and suggested additions

Canada

On page 11, under the discussion of the mapping exercise, it states that Quebec requires "a summary information document (named "Fund Facts") for insurance and...". Quebec and Canada require an "information folder" at or before POS for segregated fund contracts (i.e. variable annuities). Within that, there are two relatively new prescribed summary documents -- one that provides a summary about the insurance contract called "Key Facts" (not Fund Facts as noted on page 11), and a second that provides a summary about the investment options called "Fund Facts".²

Insurance Europe

Footnote 13 refers to the four EU directives. It incorrectly states that the Insurance Mediation Directive (IMD) is currently "undergoing a review intended to enlarge its scope to include sales of insurance products". The existing IMD already addresses the sales of insurance products; hence, the phrase "intended to enlarge its scope to include sales of insurance products" should be deleted.

Footnote 13 might also want to make note of Directive 2009/138/EC of the European Parliament and of the Council (Nov. 25, 2009) on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), which includes provisions on information for policyholders.

United States

Annex 3 (Selected recent and upcoming national or international initiatives on consumer protection) is incomplete in its coverage of U.S. initiatives. It could also include the following:

- State/NAIC Disclosure Rules:
 - NAIC Annuity Disclosure Model Regulation
 - NAIC Variable Life Insurance Model Regulation
- Federal proposals
 - FINRA Rule 2330 (2008) governing suitability and supervision in sale of variable contracts.

² These grew out of a regulatory harmonization effort between insurance and securities regulators for segregated fund contracts and mutual funds that was to require similar disclosure information at or before the point of sale. The insurance regulators and industry adopted this several years before the securities regulators and industry did. The securities regulators have not yet mandated that it be provided at or before point of sale and have since made content changes to their document. So, although this started as a harmonization effort, it is not truly harmonized.

- Required broker-dealer to deliver meaningful, succinct point of sale disclosure (allows consumers to make informed purchasing decisions re individual VAs) broker dealer or issuers for whom they distribute make the disclosure
- Department of Labour “interim” final regulations for new disclosure requirements related under ERISA for certain service providers to retirement plans. Section 408(b)(2) imposes detailed compensation disclosure obligations on certain enumerated types of service providers that reasonably expect to receive \$1000 or more in compensation in exchange for providing services to a covered plan. (Covered service providers include ERISA fiduciaries, registered investment advisers, certain record keepers and brokers that make available investment options in connection with recordkeeping and brokerage services to individual account plans.)