INTERNATIONAL ASSOCIATION OF INSURANCE SUPERVISORS

PUBLIC

INSURANCE CORE PRINCIPLES, STANDARDS, GUIDANCE AND ASSESSMENT METHODOLOGY

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ICP 19

ICP 19 Conduct of Business

The supervisor requires that insurers and intermediaries, in their conduct of insurance business, 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.

Introductory Guidance

19.0.1 Requirements for the conduct of insurance business help to:

- strengthen public trust and consumer confidence in the insurance sector;
- minimise the risk of insurers and intermediaries following business models that are unsustainable or pose reputational risk, thereby complementing the risk management framework of a solvency regime and contributing to overall financial stability;
- support a sound and resilient insurance sector by creating level playing fields in terms of the basis on which insurers and intermediaries can compete while maintaining acceptable business practices with respect to the fair treatment of customers; and
- promote fair consumer outcomes.

19.0.2 Fair treatment of customers encompasses achieving outcomes such as:

- developing, marketing and selling products in a way that pays due regard to the interests of customers;
- providing customers with information before, during and after the point of sale that is accurate, clear, and not misleading;
- minimising the risk of sales which are not appropriate to customers' needs;
- ensuring that any advice given is of a high quality;
- dealing with customer claims, complaints and disputes in a fair and timely manner; and
- protecting the privacy of information obtained from customers.

19.0.3 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, regulatory 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.

19.0.4 Requirements for the conduct of insurance business may differ depending on the nature of the customer with whom an insurer or intermediary interacts and the type of insurance provided. The scope of requirements for conduct of insurance business should reflect the risk of unfair treatment of customers, taking into account the nature of the customer and the type of insurance provided.

19.0.5 As part of assessing the fulfilment of requirements for conduct of insurance business, the supervisor should consider the consumer outcomes that are being achieved under these requirements. This includes consumer outcomes that arise due to industry-wide – as well as firm-specific – factors.

19.0.6 Supervisors may wish to issue guidelines or rules on their expectations to help insurers and intermediaries achieve fair treatment of customers.

19.0.7 Detailed conduct of business rules may not be appropriate for reinsurance transactions (where benefits under a policy are not affected by the reinsurance arrangements). Nonetheless, this does not relieve insurers and reinsurers of their duty to provide each other with complete and accurate information (see ICP 13 Reinsurance and Other Forms of Risk Transfer).

Respective responsibilities

19.0.8 The insurer has a responsibility for good conduct throughout the insurance life-cycle, as it is the insurer that is the ultimate risk carrier. However, where more than one party is involved in the design, marketing, distribution and policy servicing of insurance products, the good conduct in respect of the relevant service(s) is a shared responsibility of those involved.

19.0.9 Intermediaries typically play a significant role in insurance distribution but may also be involved in other areas. Their interface between customers and insurers gives them a key role, and their good conduct in performing the services in which they are involved

is critical in building and justifying public trust and confidence in the insurance sector.

19.0.10 Insurers sometimes outsource specific processes, such as claims handling, to third parties (including intermediaries). Where an insurer outsources processes, the insurer should only deal with third parties whose policies, procedures and processes are expected to result in fair customer outcomes; the insurer retains ultimately responsibility for those functions.

Cross-border and group considerations

19.0.11 Legislation should provide requirements with which insurers and intermediaries must comply, including foreign insurers and intermediaries selling products on a cross-border basis.

19.0.12 Effective assessment of the quality of conduct of insurance business requires, to a large extent, supervisory consideration of strategies, policies, processes, procedures and controls that apply to the provision of insurance products and services to customers, and which are more easily assessed through supervision at the insurance legal entity, rather than group, level.

19.0.13 Where insurance legal entities are part of an insurance group, the application of appropriate policies and procedures on conduct of business across the group should result in the fair treatment of customers on a group-wide basis, even if legal requirements in some jurisdictions are potentially lower than those used by the group. In addition, there are a number of other group-related aspects that are relevant to the supervision of conduct of business by insurers and intermediaries, such as:

- public disclosure by the supervisor of the regulatory requirements in respect of the offering of cross-border insurance;
- disclosure to customers of the group to which an underwriter belongs; and
- the potential risks from group entities that could affect policies being sold or administered.

The supervisor should consider the implications arising from group structures in applying the Standards of this ICP.

Supervisory cooperation

19.0.14 Supervisors should be aware of the conduct of business requirements set by the regulators of other financial services sectors with a view to minimising unnecessary inconsistencies, possible duplication and the potential for regulatory arbitrage.

19.0.15 In some jurisdictions responsibility for the supervision of insurers or intermediaries is shared between more than one authority, or between different departments within a single authority, with different authorities or departments responsible for conduct and prudential supervision. Where this is the case, the relevant authorities or departments should communicate, and cooperate where possible, to ensure that there is an understanding of all the relevant risks.

19.0.16 The supervisor should also consider having in place adequate coordination arrangements to deal with conduct of business issues arising in cross-border business.

Fair treatment of customers

19.1 The supervisor requires insurers and intermediaries to act with due skill, care and diligence when dealing with customers.

19.1.1 The supervisor should require insurers and intermediaries to have policies and procedures in place to achieve this outcome, including taking appropriate measures to ensure that their employees and agents meet high standards of ethics and integrity.

19.2 The supervisor requires insurers and intermediaries to establish and implement policies and procedures on the fair treatment of customers, as an integral part of their business culture.

19.2.1 Supervisors should require insurers and intermediaries to have policies and procedures in place to achieve the fair treatment of customers and should monitor whether such policies and procedures are adhered to.

19.2.2 Proper policies and procedures dealing with the fair treatment of customers are likely to be particularly important with respect to retail customers, because of the greater asymmetry of information that tends to exist between the insurer or intermediary and the individual retail customer.

19.2.3 Supervisory requirements with respect to fair treatment of customers may vary depending on the legal framework in place in a particular jurisdiction. The desired outcome of fair treatment of customers may be achieved through a variety of approaches, with some jurisdictions favouring a principles-based set of requirements,

some favouring a rules-based approach, and others following some combination of approaches.

19.2.4 Ensuring the achievement of fair outcomes for customers will tend to require that insurers and intermediaries adopt the fair treatment of customers as an integral part of their business culture and that policies and procedures to support this objective are properly embedded in the organisation. Embedding the fair treatment of customers in the culture of the insurer or intermediary may include the following:

- Strategy: Fair treatment of customers should be an objective taken into consideration in the design of the business strategy, product design, product distribution, and product performance.
- Leadership: Overall responsibility for fair treatment of customers should be at the level of the Board and Senior Management, who should design, implement, and monitor adherence to, policies and procedures aimed at ensuring that customers are treated fairly. This sets the tone for the business.
- Decision making: All decisions that impact on customers should be subject to particular scrutiny in terms of whether they support the fair treatment of customers.
- Internal controls: Monitoring the fair treatment of customers requires relevant management information to be identified, collected and evaluated. Internal reports should include the most useful information and indicators to allow the Board and Senior Management to measure the insurer's or intermediary's performance with respect to fair treatment of customers. Mechanisms and controls should be established to ensure that departures from policies and procedures as well as other situations that jeopardise the interests of customers, are promptly remedied.
- Performance management: Appropriate attention should be paid to the recruitment of staff and agents who meet high standards of ethics and integrity. Relevant staff should be trained to deliver appropriate outcomes in terms of fair treatment of customers. Evaluation of performance should include the contribution made to achieving these outcomes. There should be appropriate performance management consequences for staff who fail to meet these standards.
- Reward: Remuneration and reward strategies should take account of fair customer outcomes. Reward structures need to reflect quality issues and not encourage or reward the unfair treatment of customers. Remuneration structures that

create conflicts of interest may lead to poor customer outcomes.

19.2.5 Insurers' and intermediaries' strategies, policies and procedures dealing with the fair treatment of customers should be made available to the supervisor. The supervisor should encourage insurers and intermediaries to make relevant policies and procedures publicly available as good practice, in particular their claims handling, complaints handling and dispute resolution policies and procedures.

19.3 The supervisor requires insurers to have arrangements in place in dealing with intermediaries to ensure the fair treatment of customers.

19.3.1 The supervisor should require insurers to conduct business only with intermediaries that are licensed, and to verify that the intermediaries under such arrangements have the appropriate knowledge and ability with which to conduct such business.

19.3.2 The supervisor may require insurers to report any significant issues of which they become aware and have transparent mechanisms to handle complaints against intermediaries. This might include identifying whether particular intermediaries or particular matters are the subject of regular or frequent complaints. Documentation on this will enable insurers to report recurring issues to the supervisor where the matters identified may be relevant to the supervisor's assessment of the intermediaries concerned.

19.3.3 Supervisory measures to prevent or respond to a breach of regulatory requirements by an intermediary may include action against insurers in the case of direct sales or where an insurer knowingly cooperates with an intermediary that is in breach of its regulatory requirements.

19.3.4 Insurers should ensure that written agreements are established in respect of their business dealings with intermediaries, to clarify their respective roles and promote the fair treatment of customers. Such agreements would include, where relevant, respective responsibilities on matters such as:

- product development;
- product promotion;
- the provision of pre-contractual and point of sale information to customers;
- post-sale policy servicing;
- claims notification and handling;
- complaints notification and handling;

- management information and other documentation required by the insurer;
- remedial measures; and
- other matters related to the relationship with customers.

Product development and pre-contractual stage

19.4 The supervisor requires insurers to take into account the interests of different types of consumers when developing and distributing insurance products.

19.4.1 This can be achieved through a product approval approach, a "principles-based" approach or a combination of both. In a product approval approach, the supervisor requires insurers to submit insurance product proposals for supervisory review and approval prior to product launch. In a "principles-based" approach, onus is placed on the insurer's Board and Senior Management to ensure that products and distribution strategies are developed in accordance with the principles.

19.4.2 In some cases, product development is undertaken by intermediaries on behalf of insurers for whom they act. In such cases, the intermediaries involved are responsible for taking customers' interests into account in performing this work. Nevertheless, the insurer should retain oversight of, and remains accountable for, the development of its products and its distribution strategies.

Product approval approach

19.4.3 Where supervisors have the power to approve contract conditions or pricing, the approval process should balance the protection of customers against the potential benefits to customers of innovation and choice in insurance products. For example, supervisory approval of contract conditions or pricing is likely to be more appropriate in certain circumstances, such as where the insurer is dealing with less financially-capable or vulnerable customers, where products are new to the market or complex, or insurance contracts that are required by law such as automobile liability insurance or health insurance.

19.4.4 In such situations the supervisor may review products for compliance with things such as:

- mandated policy limits;
- coverage of specified risks, procedures or conditions;

- absence of prohibited exclusions; and
- compliance with specifically required policy language.

Principles-based approach

19.4.5 Where supervisors follow a more principles-based approach, supervisors may issue guidance in terms of what is expected of insurers and intermediaries. This may include the following:

- Development of products and distribution strategies should include the use of adequate information to assess the needs of different consumer groups.
- Product development (including a product originating from a third party) should provide for a thorough assessment of the main characteristics of a new product and of the related disclosure documents by every appropriate department of the insurer.
- Before bringing a product or service to the market, the insurer should carry out a diligent review and testing of the product in relation to its business model, the existing rules and regulations and its risk management approach. In particular, the policies, procedures and controls put into place should enable the insurer to:
    - offer a product that delivers the reasonably expected benefits;
    - target the consumers for whose needs the product is likely to be appropriate, while preventing, or limiting, access by consumers for whom the product is likely to be inappropriate;
    - ensure that distribution methods are suitable for the product, particularly in light of the legislation in force and whether or not advice should be provided;
    - assess the risks resulting from the product by considering, among other things, changes associated with the environment or stemming from the insurer's policies that could harm customers; and
    - monitor a product after its launch to ensure it still meets the needs of target customers, assess the performance of the various methods of distribution used with respect to sound commercial practices and, if necessary, take the necessary remedial action.

- Insurers should provide relevant information to intermediaries to ensure that they understand the target market (and thus reduce the risk of mis-selling), such as information related to the target market itself, as well as the characteristics of the product.
- The intermediary should, in return, provide information to the insurer on the types of customers to whom the product is sold and whether the product meets the needs of that target market, in order to enable the insurer to assess whether its target market is appropriate and to revise its distribution strategy for the product, or the product itself, when needed

19.4.6 Supervisors may require insurers to submit specific information relating to the manner in which the development of insurance products complies with the legislated principles at any time, including prior to the launch of the product (pre-notification), for ongoing supervisory review purposes.

19.5 The supervisor requires insurers and intermediaries to promote products and services in a manner that is clear, fair and not misleading.

19.5.1 The insurer should be responsible for providing promotional material that is accurate, clear and not misleading not only to customers but also to intermediaries who may rely on such information.

19.5.2 Before an insurer or intermediary promotes an insurance product, it should take reasonable steps to ensure that the information provided is accurate, clear and not misleading. Procedures should provide for an independent review of promotional material intended for customers other than by the person or organisation that prepared or designed it. For example, where promotional material is developed by an intermediary on behalf of an insurer, the insurer should verify the accuracy of promotional material before it is used.

19.5.3 If an insurer or intermediary becomes aware that the promotional material is not accurate and clear or is misleading, it should inform the insurer or intermediary responsible for that material.

19.5.4 If an insurer or intermediary becomes aware that promotional material provided is not accurate and clear or is misleading, it should withdraw the material and notify any person that it knows to be relying on the information as soon as reasonably practicable.

19.5.5 In addition, to promote products in a fair manner, the information provided should:

- be easily understandable;

- be consistent with the coverage offered;
- be consistent with the result reasonably expected to be achieved by the customers of that product;
- state prominently the basis for any claimed benefits and any significant limitations; and
- not hide, diminish or obscure important statements or warnings.

19.6 The supervisor requires insurers and intermediaries to provide timely, clear and adequate pre-contractual and contractual information to customers.

19.6.1 The insurer or intermediary should take reasonable steps to ensure that a customer is given appropriate information about a product in order that the customer can make an informed decision about the arrangements proposed. Such information is also useful in helping customers understand their rights and obligations after sale.

19.6.2 Where insurers use intermediaries for the distribution of insurance policies, the insurer should be satisfied that the policies and procedures of the intermediaries involved are sufficiently robust to result in information being provided to customers in such a manner.

Timing of the provision of information to customers

19.6.3 Customers should be appropriately informed before and at the point of sale. Information should enable an informed decision to be made by the customer before entering into a contract. In determining what is "timely", an insurer or intermediary should consider the importance of the information to the customer's decision-making process and the point at which the information may be most useful.

Clear delivery of information to customers

19.6.4 Information should be provided in a way that is clear, fair and not misleading. Wherever possible, attempts should be made to use plain language that can easily be understood by the customer.

19.6.5 Mandatory information should be prepared in written format, on paper or in a durable and accessible medium (electronic, for instance).

19.6.6 Focus should be on the quality rather than quantity of information, as there is a risk that if the disclosure becomes too voluminous then the customer may be less likely to read the information.

19.6.7 The quality of disclosure may also be improved by the introduction of a standardised format for disclosure (such as a product information sheet), which will aid comparability across competing products and allow for a more informed choice. Standard formats should be tested to ensure that they help understandability.

19.6.8 There is likely to be an enhanced need for clear and simple disclosure for more complex or "bundled" products, which are difficult for consumers to understand, such as packaged retail insurance-based investment products (PRIIPS), particularly regarding the costs, risks involved and performance.

19.6.9 Insurers and intermediaries should be able to demonstrate to the supervisor that customers have received information necessary to understand the product.

Adequacy of information provided to customers

19.6.10 The information provided should be sufficient to enable customers to understand the characteristics of the product they are buying and help them understand whether and why it may meet their requirements.

19.6.11 The level of information required will tend to vary according to matters such as:

- the knowledge and experience of a typical customer for the policy in question;
- the policy terms and conditions, including its main benefits, exclusions, limitations, conditions and its duration;
- the policy's overall complexity;
- whether the policy is bought in connection with other goods and services; and
- whether the same information has been provided to the customer previously and, if so, when.

Disclosure of product features

19.6.12 While the level of product information required may vary, it should include information on key features, such as:

- the name of the insurer, its legal form and, where relevant, the group to which it belongs;
- the type of insurance contract on offer, including the policy benefits;

- a description of the risk insured by the contract and of the excluded risks;
- the level of the premium, the due-date and the period for which the premium is payable, the consequences of late or non-payment, and provisions for premium reviews. Where a policy is bought in connection with other goods or services (a bundled product) good practice would be to disclose premiums for each benefit (both main benefits and supplementary benefits) separately from any other prices and whether buying the policy is compulsory;
- the type and level of charges to be deducted from or added to the quoted premium, and any charges to be paid directly by the customer;
- when the insurance cover begins and ends; and
- prominent and clear information on significant or unusual exclusions or limitations. A significant exclusion or limitation is one that would tend to affect the decision of consumers generally to buy. An unusual exclusion or limitation is one that is not normally found in comparable contracts. In determining what exclusions or limitations are significant, an insurer or intermediary should, in particular, consider the exclusions or limitations that relate to the significant features and benefits of a policy and factors which may have an adverse effect on the benefit payable under it. Examples of significant or unusual exclusions or limitations may include:
    - deferred payment periods;
    - exclusion of certain conditions, diseases or pre-existing medical conditions;
    - moratorium periods;
    - limits on the amounts of cover;
    - limits on the period for which benefits will be paid;
    - restrictions on eligibility to claim such as age, residence or employment; and
    - excesses.

19.6.13 For investment-based insurance products, information on investment performance is generally provided. Where this includes an indication of past, simulated or future performance, the information should include any limits on upside or downside potential and a prominent warning that past performance is not a reliable indicator of future performance.

19.6.14 A helpful means to ensure that accurate and comprehensible information is provided to the customer is a product information sheet containing information on key product features that are of particular significance to the conclusion or performance of the insurance contract. The product information sheet should be clearly identified as such and it should be pointed out to the customer that the information is not exhaustive. Insofar as the information concerns the content of the contract, reference should be made as appropriate to the relevant provisions of the contract or to the general policy conditions underlying the contract. Insurers, and intermediaries where they are involved, should consider the use of evaluation by third parties, such as consumer testing, in developing product information sheets in order to ensure their understandability.

Disclosure of rights and obligations

19.6.15 Retail customers, in particular, often have only limited knowledge about the legal rights and obligations arising from an insurance contract. Before an insurance contract is concluded, the insurer or intermediary, should inform a retail customer on matters such as:

- General provisions – including the legislation applicable to the contract;
- Obligation to disclose material facts – including prominent and clear information on the obligation on the customer to truthfully disclose material facts. Ways of ensuring a customer knows what he or she must disclose include explaining the duty to disclose all circumstances material to a policy and what needs to be disclosed, and explaining the consequences of any failure to make such a disclosure. Alternatively, rather than an obligation of disclosure, the customer may be asked clear questions about any matter material to the insurer;
- Obligations to be complied with when a contract is concluded and during its lifetime, as well as the consequences of non-compliance;
- Obligation to monitor cover – including a statement, where relevant, that the customer may need to review and update the cover periodically to ensure it remains adequate;
- Right to cancel – including the existence, duration and conditions relating to the right to cancel. If there are any charges related to the early cancellation or switching of a policy, this should be prominently disclosed;

- Right to claim benefits – including conditions under which the policyholder can claim and the contact details to notify a claim;
- Obligations on the customer in the event of a claim;
- Right to complain – including the arrangements for handling policyholders' complaints, which might include an insurer's internal claims dispute mechanism or the existence of an independent dispute resolution mechanism.

19.6.16 Where applicable, the customer may also be provided with information on any policyholder protection scheme or compensation scheme in the case of an insurer not being able to meet its liabilities and any limitations on such a scheme.

19.6.17 If the insurance undertaking is a foreign insurer, the insurer or intermediary should be required to inform the customer, before any commitment is entered into, of details such as:

- the home authority responsible for the supervision of the insurer;
- the jurisdiction in which the head office or, where appropriate, the branch with which the contract is to be concluded is situated; and
- the relevant provisions for making complaints or independent dispute resolution arrangements.

Disclosure specific to internet sales or sales through other digital means

19.6.18 Insurers and intermediaries are increasingly using digital distribution channels to market and sell insurance products, including internet and mobile phone solutions

19.6.19 It may be more difficult for consumers to understand from which location the insurer or intermediary is operating, their identity, and by whom and where they are licensed. This may especially be the case where more than one actor is involved in the distribution chain.

19.6.20 In conducting insurance business through digital channels, insurers and intermediaries should take into account the specificities of the medium used, and use appropriate tools to ensure that customers receive timely, clear and adequate information that helps their understanding of the terms on which the business is conducted.

19.6.21 The supervisors should require that insurers and intermediaries which offer insurance products through digital means disclose

relevant business and contact information (eg on their website), such as:

- the address of the insurer's head office and the contact details of the supervisor responsible for the supervision of the head office;
- contact details of the insurer, branch or intermediary, and of the supervisor responsible for the supervision of the business, if different from the above;
- the jurisdictions in which the insurer or intermediary is legally permitted to provide insurance;
- procedures for the submission of claims and a description of the claims handling procedures; and
- contact information on the authority or organisation dealing with dispute resolution and/or consumer complaints.

19.6.22 The supervisor should apply to digital insurance activities requirements on transparency and disclosure so as to provide an equivalent level of protection to customers as those applied to insurance business conducted through non-digital means.

19.7 Where customers receive advice before concluding an insurance contract the supervisor requires that the advice provided by insurers and intermediaries takes into account the customer's disclosed circumstances.

19.7.1 Advice goes beyond the provision of product information and relates specifically to the provision of a personalised recommendation on a product in relation to the disclosed needs of the customer.

19.7.2 Insurers and intermediaries should seek the information from their customers that is appropriate for assessing their insurance demands and needs, before giving advice. This information may differ depending on the type of product and may, for example, include information on the customer's:

- financial knowledge and experience;
- needs, priorities and circumstances;
- ability to afford the product; and
- risk profile.

19.7.3 In cases where advice would normally be expected and the customer chooses not to receive advice, it is advisable that the customer is required to sign an acknowledgment to this effect.

19.7.4 The supervisor may also wish to specify particular types of policies or customers for which advice is not required to be given. Typically, this may include simple to understand products, products sold to customer groups that have expert knowledge of the type of product or, where relevant, mandated coverage for which there are no options. Even if no advice is given the supervisor may require the insurer or intermediary to take into account the nature of the product and the customer's disclosed circumstances and demands and needs.

19.7.5 The basis on which a recommendation is made should be explained and documented, particularly in the case of complex products and products with an investment element. All advice should be communicated in a clear and accurate manner, comprehensible to the customer. Where advice is provided, this should be communicated to the customer in written format, on paper or in a durable and accessible medium, and a record kept in a "client file".

19.7.6 The insurer and intermediary should retain sufficient documentation to demonstrate that the advice provided was appropriate, taking into account the customer's disclosed circumstances.

19.7.7 In addition, the insurer should review its agents' "client files" to exercise independent control after the fact on the quality of the advice given by its agents, take any necessary remedial measures with respect to the delivery of advice and, if applicable, be in a position to examine fairly any complaints submitted to it.

19.7.8 There should be a responsibility on the insurer and the intermediary to promote quality advice. In order to ensure the delivery of quality advice, the insurer and intermediary should, in particular, establish continuous training programmes that allow the persons giving advice to:

- keep abreast of market trends, economic conditions, innovations and modifications made to the products and services;
- maintain an appropriate level of knowledge about their industry segment, including the characteristics and risks of the products and services;
- know the applicable legal and regulatory requirements;
- know the requirements for the communication of information regarding the products and services and for appropriate disclosure of any situation liable to compromise the impartiality of the advice given or limit such advice; and

- be familiar with the documentation regarding the products and services and answer reasonably foreseeable questions.

This could include insurers providing training to their sales staff and to intermediaries in respect of specific products.

19.8 The supervisor requires insurers and intermediaries to avoid or properly manage any potential conflicts of interest, before concluding an insurance contract.

19.8.1 In their dealings either with each other or with customers, insurers and intermediaries may encounter conflicts of interest.

19.8.2 Where conflicting interests compete with duties of care owed to customers, they can create risks that insurers and intermediaries will not act in customers' best interests. Conflicts of interest can arise from compensation structures as well as other financial and non-financial incentives.

19.8.3 Where compensation structures do not align the interests of the insurer and intermediary, including those of the individuals carrying out intermediation activity, with the interests of the customer, they can encourage behaviour that results in unsuitable sales or other breach of the insurer's or intermediary's duty of care towards the customer.

19.8.4 Other incentives include performance targets or performance management criteria that are insufficiently linked to customer outcomes. They also include the soliciting or accepting of inducements where this would conflict with the insurer's or intermediary's duties to its customers.

19.8.5 An inducement can be defined as a benefit offered to an insurer or intermediary, or any person acting on its behalf, incentivising that firm/person to adopt a particular course of action. This can include, but is not limited to, cash, cash equivalents, commission, goods and hospitality. Where intermediaries who represent the interests of customers receive inducements from insurers, this could result in a conflict of interest that could affect the independence of advice given by them.

19.8.6 Generally, the payment or acceptance of an inducement or any non-monetary benefit, to or from a third party, may be considered to create a conflict of interest. In some jurisdictions, this is deemed not to be problematic if the payment or receipt does not impair compliance with the insurer's or intermediary's duty to act in the customer's best interests where such a duty exists. Ultimately, the payment or receipt of an inducement should not be accepted if it leads to customer detriment.

19.8.7 As an insurance intermediary interacts with both the customer and the insurer, an intermediary is more likely than an insurer to encounter conflicts of interest. For an insurance intermediary, examples of where a conflict of interest may occur include:

- where the intermediary owes a duty to two or more customers in respect of the same or related matters – the intermediary may be unable to act in the best interests of one without adversely affecting the interests of the other;
- where the relationship with a party other than the customer influences the advice given to the customer;
- where the intermediary is likely to make a financial gain, or avoid a financial loss, at the expense of the customer;
- where the intermediary has an interest in the outcome of a service provided to, or a transaction carried out on behalf of, a customer which is distinct from the customer's interest;
- where the intermediary has significant influence over the customer's decision (such as in an employment relationship) and the intermediary's interest is distinct from that of the customer;
- where the intermediary receives an inducement to provide a service to a customer other than the standard or "flat" fee or commission for that service; and
- where the intermediary has an indirect interest in the outcome of a service provided to, or a transaction carried out on behalf of, a customer due to an association with the party that directly benefits (such as soliciting insurance products which are sold together with other financial services in a bancassurance relationship) and where such indirect interest is distinct from the customer's interest (such as the cross-selling or self-placement of business).

19.8.8 The supervisor should require that insurers and intermediaries take all reasonable steps to identify and avoid or manage conflicts of interest, and communicate these through appropriate policies and procedures.

19.8.9 Appropriate disclosure can provide an indication of potential conflicts of interests, enabling the customer to determine whether the sale may be influenced by financial or non-financial incentives. It can thus help in managing conflicts of interest where it empowers consumers to identify and challenge or avoid potentially poor advice or selling that may arise through the conflict of interest. However, managing conflicts of interest through disclosure or obtaining informed consent from customers, have limitations, and could be seen to place unreasonable onus on the customer.

19.8.10 Where conflicts of interest cannot be managed satisfactorily, this should result in the insurer or intermediary declining to act. In cases where the supervisor may have concerns about the ability of insurers and intermediaries to manage conflicts of interest adequately, the supervisor may consider requiring other measures. Examples from some jurisdictions include:

- prohibitions on certain types of financial interest; and
- structural changes to the retail distribution model, such as by prohibiting the payment or receipt of commission on investment products in favour of a fee-based approach.

Policy servicing

19.9 The supervisor requires insurers to:

- **service policies appropriately through to the point at which all obligations under the policy have been satisfied;**
- **disclose to the policyholder information on any contractual changes during the life of the contract; and**
- **disclose to the policyholder further relevant information depending on the type of insurance product.**

19.9.1 For the purposes of this standard, "policyholder" refers only to the party to whom a contract of insurance is issued by an insurer (as opposed to the broader IAIS definition).

19.9.2 Supervisors should require insurers to satisfy obligations under a policy in an appropriate manner and in accordance with the contractually agreed terms and legal provisions. This should include fair treatment in the case of switching between products or early cancellation of a policy. To enable them to do so, insurers should maintain a relationship with the customer throughout the policy lifecycle.

19.9.3 Although ongoing policy servicing is traditionally seen as primarily the responsibility of the insurer, intermediaries are often involved, particularly where there is an ongoing relationship between the customer and the intermediary. The insurer should remain ultimately responsible for servicing policies throughout their life-cycle, and ensuring that intermediaries have appropriate policies and procedures in place in respect of the policy servicing activities that they perform on the insurer's behalf.

19.9.4 Policy servicing includes the provision of relevant information to customers throughout the life of the policy.

Information on the insurer

19.9.5 Information to be disclosed about the insurer includes:

- any change in the name of the insurer, its legal form or the address of its head office and any other offices as appropriate;
- any acquisition by another undertaking resulting in organisational changes as far as the policyholder is concerned; and
- where applicable, information on a portfolio transfer (including policyholders' rights in this regard).

Information on terms and conditions

19.9.6 Insurers should provide evidence of cover (including policy inclusions and exclusions) promptly after inception of a policy.

19.9.7 Information to be provided on an ongoing basis, including changes in policy terms and conditions or amendments to the legislation applicable to the policy, will vary by type of policy and may cover for example:

- main features of the insurance benefits, in particular details on the nature, scope and due-dates of benefits payable by the insurer;
- the total cost of the policy, expressed appropriately for the type of policy, including all taxes and other cost components; premiums should be stated individually if the insurance relationship comprises several independent insurance contracts or, if the exact cost cannot be provided, information provided on its basis of calculation to enable the policyholder to verify the cost;
- any changes to the cost structure, if applicable, stating the total amount payable and any possible additional taxes, fees and costs not levied via or charged by the insurer, as well as any costs incurred by the policyholder for the use of communication methods if such additional costs are chargeable;
- duration of the contract, terms and conditions for (early) termination of the contract and contractual consequences;
- means of payment of premiums and duration of payments;
- premiums for each benefit, both main benefits and supplementary benefits;

- information to the policyholder about the need to report depreciation/appreciation;
- information to the policyholder about other unique circumstances related to the contract;
- information on the impact of a switch option of an insurance contract;
- information on a renewal of the contract; and
- information on the ongoing suitability of the product, if such a service is provided by the insurer or intermediary.

19.9.8 Additional information regarding products with an investment element should at a minimum include:

- participation rights in surplus funds;
- the basis of calculation and state of bonuses;
- the current surrender value;
- premiums paid to date; and
- for unit-linked life insurance, a report from the investment firm (including performance of underlying funds, changes of investments, investment strategy, number and value of the units and movements during the past year, administration fees, taxes, charges and current status of the account of the contract).

19.9.9 Where there are changes in terms and conditions, the insurer should notify the policyholder of their rights and obligations regarding such changes and obtain the policyholder's consent as appropriate.

19.10 The supervisor requires insurers to handle claims in a timely, fair and transparent manner.

19.10.1 Supervisors should require that insurers have fair and transparent claims handling and claims dispute resolution policies and procedures in place, that also avoid potential conflicts of interest.

Claims handling

19.10.2 Insurers should maintain written documentation on their claims handling procedures, which include all steps from the claim being raised to its settlement. Such documentation may include expected timeframes for these steps, which might be extended in exceptional cases.

19.10.3 Claimants should be informed about procedures, formalities and common timeframes for claims settlement.

19.10.4 Claimants should be given information about the status of their claim in a timely and fair manner.

19.10.5 Claim-determinative factors such as depreciations, discounting or negligence should be illustrated and explained in comprehensive language. The same applies where claims are denied in whole or in part.

19.10.6 Sometimes intermediaries serve as an initial contact for claimants, which may be in the common interest of the policyholder, intermediary and insurer.

19.10.7 A fair claims assessment process requires appropriate competence, as well as ongoing training, of the staff involved.

19.10.8 Competence requirements for claims assessment differ depending on the type of insurance policy and generally include technical and legal expertise.

Claims disputes

19.10.9 In the course of claims settlement, a dispute may arise between the claimant and the insurer on the claims settlement amount, or coverage. Staff handling claims disputes should be experienced in claims handling and be appropriately qualified.

19.10.10 Dispute resolution procedures should follow a balanced and impartial approach, bearing in mind the legitimate interests of all parties involved. Procedures should avoid being overly complicated, such as having burdensome paperwork requirements. Decisions should include the reasoning in clear language relating closely to the specific disputable issues.

19.10.11 Supervisors may encourage insurers to have mechanisms in place to review claims disputes within the insurer to promote fair play and objectivity in the decisions.

Outsourcing

19.10.12 If any of the claims handling processes are outsourced in part or in full, then supervisors should require insurers to maintain close oversight and ultimate responsibility for the provision of fair and transparent claims handling and claims dispute resolution.

19.11 The supervisor requires insurers and intermediaries to handle complaints in a timely and fair manner.

19.11.1 A complaint can be defined as an expression of dissatisfaction about the service or product provided by an insurer or intermediary. It may involve, but should be differentiated from, a claim and does not include a pure request for information.

19.11.2 Insurers and intermediaries should establish written policies and procedures, agreed at the Senior Management level, to deal in a fair manner with complaints which they receive. These should include keeping a record of each complaint and the measures taken for its resolution.

19.11.3 Insurers and intermediaries should make their policies and procedures on complaints handling available to customers.

19.11.4 Insurers and intermediaries should respond to complaints without unnecessary delay; complainants should be kept informed about the handling of their complaints.

19.11.5 Insurers and intermediaries should analyse the complaints they receive to identify trends and recurring risks. Analysis of what leads to individual complaints can help them to identify, and enable them to correct, common root causes.

19.11.6 Insurers should analyse complaints that they receive against intermediaries in respect of products that the intermediaries have distributed on their behalf, to enable them to assess the complete customer experience and identify any issues that need to be addressed.

19.11.7 Supervisors may choose to have their own complaints monitoring systems in place in order to benefit from the findings resulting from policyholder complaints.

19.11.8 Some insurers and intermediaries may decide to establish a mechanism to review complaints, in order to ensure respective policies on complaint handling are in place.

Independent dispute resolution mechanisms

19.11.9 It is important that there are simple, affordable, easily accessible and equitable mechanisms in place, independent of insurers and intermediaries, to resolve disputes that have not been resolved by the insurer or intermediary. Such mechanisms, collectively referred to here as Independent Dispute Resolution ("IDR") mechanisms, may vary across jurisdictions and may include mediation, an

independent review organisation, or an ombudsman. These are out of court mechanisms.

19.11.10 IDR mechanisms often operate on the basis of a code of procedure, or in some cases legislative rules, and may be restricted to retail policyholders. They are sometimes free of charge for such policyholders. Decisions are non-binding for the policyholder but may be binding for the insurer or intermediary within certain limits. As consumers may still avail themselves of court processes if the dispute is not satisfactorily resolved, it is usually agreed that the period of limitation is suspended during an IDR procedure.

19.11.11 Mediators serving IDR mechanisms should meet high standards of professional knowledge, integrity and competence. This would be evidenced, for example, where the mediator is qualified to exercise the functions of a judge and is well grounded in the field of insurance law. Although IDR mechanisms are usually financed by insurers and/or intermediaries, their mediators must be independent from them. Doubts over independence might be expected if the mediator:

- is subject to instructions from insurers/intermediaries;
- is a former employee of an insurer/intermediary; or
- simultaneously performs other functions which could affect their independence.

19.12 The supervisor requires insurers and intermediaries to have policies and procedures for the protection and use of information on customers.

19.12.1 Insurers and intermediaries collect, hold, use or communicate to third parties information on their customers in the course of their business. It is important that they have in place policies and procedures on the appropriate use and, in the case of personal information, the privacy of such data.

Protecting the privacy of personal information

19.12.2 Significant amounts of the information collected, held or processed represent customers' financial, medical and other personal information. Security over such information is extremely important, regardless of the format of the information (eg whether physical or electronic). Hence safeguarding personal information on customers is one of the key responsibilities of the financial services industry.

19.12.3 Legislation identifies the provisions relating to privacy protection under which insurers and intermediaries are allowed to collect, hold, use or communicate personal information on customers to third parties.

19.12.4 Although data protection laws vary from jurisdiction to jurisdiction, insurers and intermediaries should have a clear responsibility to provide their customers with a level of comfort regarding the security of their personal information.

19.12.5 In view of the sensitivity of private information and the risks to consumers and to the insurance sector in the event of failures to protect the privacy of such information, the supervisor should be satisfied that insurers and intermediaries have sufficient safeguards in place to protect the privacy of personal information on customers. To achieve this the supervisor should require insurers and intermediaries to have appropriate policies and procedures in place. Such policies and procedures should seek to embed the importance of protecting the privacy of personal information within the organisation, as well as provide appropriate management of the risks. Examples of areas that might be covered include:

- ensuring that the Board and Senior Management are aware of the challenges relating to protecting the privacy of personal information on customers;
- demonstrating that privacy protection is part of the organisation's culture and strategy, through measures such as training to employees that promotes awareness of internal and external requirements on this subject;
- implementing policies, procedures and internal control mechanisms that support the objectives of protecting the privacy of personal information on customers and assess the risks associated with potential failure to protect the privacy of personal information;
- assessing the potential impact of new and emerging risks that could threaten the privacy of personal information, such as the risk of cyber attacks, and taking appropriate steps to mitigate these through measures such as internal controls, technology and training; and
- determining the response measures that may be needed where a failure to protect the privacy of personal information occurs, including matters such as timely notification to affected customers and supervisors.

Protection against the misuse of customer information

19.12.6 Insurers and intermediaries use personal and other information on customers for a variety of purposes within the course of business that include, amongst other things, product development, marketing, product pricing, and claims management.

19.12.7 The supervisor should require that insurers and intermediaries do not use the customer information that they collect and hold in a manner that results in unfair treatment. The measures that the supervisor should expect insurers and intermediaries to take might include, but are not limited to:

- ensuring that the appropriate technology is available and in place to manage adequately the personal and other information an insurer or intermediary is holding on a customer;
- implementing policies and procedures relating to the use of data, ensuring that the data collected is used in a fair manner including when processed through algorithms or other technologies;
- ensuring that such policies and procedures provide that customer data will not be abused to circumvent rules on prohibitions on aggressive marketing practices or discrimination;
- ensuring that customers have a right to access and, if needed, to correct data collected and used by insurers and intermediaries; and
- ensuring that group structures are not abused to circumvent prohibitions on the sharing of personal information.

Outsourcing

19.12.8 Insurers and intermediaries should be aware of outsourcing risk, especially when the outsourcing agreement is reached with firms in another jurisdiction. Insurers and intermediaries should ensure that the firms to which they outsource processes have adequate policies and procedures in place for the protection and use of private information on customers they have in their records.

Data access in the event of reorganisation

19.12.9 All the necessary data required in the event of restructuring, resolution and liquidation should, subject to data protection requirements, be accessible and readable at the insurer's or intermediary's domicile at any time. This includes all customer-related data, such as claims and policy data.

19.13 The supervisor publicly discloses information that supports the fair treatment of customers.

19.13.1 The supervisor should publish the policyholder protection arrangements that are in place for insurance contracts sold within its jurisdiction and insurers subject to its supervision, and confirm

the position of policyholders dealing with insurers and intermediaries not subject to oversight or supervision within its jurisdiction.

19.13.2 The supervisor should give information to the public about whether and how local legislation applies to the cross-border offering of insurance, such as through digital channels.

19.13.3 The supervisor should issue warning notices to consumers when necessary in order to avoid transactions with insurers or intermediaries that are unlicensed or subject to a suspended or revoked licence.

19.13.4 The supervisor should publish information that promotes consumers' understanding of insurance contracts as well as steps that consumers can take to protect themselves and make informed decisions.

19.13.5 The supervisor should have requirements regarding the public disclosure by insurers of information on their business activities, performance and financial position, in order to enhance market discipline, consumer awareness, and understanding of the risks to which insurers are exposed (see ICP 20 Public Disclosure).