

Working group on Consumer Protection

Draft position paper

Consumer Protection Strategy

The task force on Consumer Protection, established by the Groupe in May 2012 is composed of the following members:

Jean Berthon, chair
Socorro Blanco
Ignacio del Barco
Richard Deville
Christoph Krischanitz
Jim Murphy
Piotr Szlenk
Jeroen van den Bosch

We have held four conference calls since the inception of the Working Group. In a first step it has been decided to issue a questionnaire to all member associations. The result of this survey have then been analyzed and used to develop our proposals. Mean while we have examined the issue of the KID for RIP's on which we would like to work with the technical committees concerned.

The purpose of this paper is to report to the officers of the Groupe on the role of actuaries in Consumer Protection and on the strategy and actions to develop, following the terms of reference of the Consumer Protection Task Force.

In preamble, we would like to thank all the member associations that have responded to the questionnaire. We are also very grateful to those that gave us their comments on the issues raised, that we have tried to incorporate in this paper faithfully.

I – Main results of the survey

20 associations¹ have responded, that is 57% of the member associations.

A large majority (85%) consider that actuaries should play a role in consumer protection as evaluator of a product, including fairness of pricing.

Likewise, a majority (65%) of members consider that we have a special responsibility to warn against unfair treatment and toxic products.

¹ Denmark, Estonia, Portugal, Czech Republic, Sweden, Italy, Germany, Switzerland, Poland, Netherlands, France, Croatia, Belgium, Spain, Lithuania, Ireland, United Kingdom, Finland, Norway, Cataluña

In a position slightly contradictory, just a few associations consider that we should play a role in auditing selling processes, disclosures and advice.

85 % of the respondents consider that public and client education is part of consumer protection and 75% of the respondents have the opinion that we have a role to play in this field which should be covered by the Groupe's policy on CP.

Contrary to what one might expect given the previous answers, only a very small number (3 or 15%) of associations have already established a working group or committee responsible for CP and the same small number (3 or 15%) intend to establish one at some stage.

In these associations that have already a group or committee in charge of CP or are planning to create one (6 or 30%), the areas covered are:

- for 67% of the respondents : product design, product suitability, fair treatment of different groups of policy holders in the award of bonuses and on charges, reasonableness and transparency of charges, certification and evaluation of complex products, ethics in all areas where actuaries play a role
- for 50% : evaluation of the toxicity of a product, fairness of use of discretion
- and for only 33% : communication and selling practices

Finally, in 90% of the countries the supervisor plays a special role in CP. In only one country this topic is a subject of specific training within the actuarial syllabus but 55% of the member associations that have answered to the questionnaire think that it should be a subject covered by the Groupe syllabus.

Before proposing elements of a Groupe policy, it may be useful to comment on some of the issues addressed in the questionnaire.

II – Role of the actuarial profession and the individual actuary

There is a need to differentiate the role of the profession and the role of the individual actuary, not only because the profession has a role in establishing standards of practice that will be applied by the individual actuary, but also because the associations are the only ones that are in the capacity of making official statements. When a product is mis-sold or when a product is unfairly structured, it should be the role of the actuary to denounce it inside the company but it will be impossible for him or her to denounce it publicly. Only the actuarial association or any consumer organization (and then the actuaries that are working inside it) are in a position to do so.

Likewise, when dealing with the role of evaluator of a product, it is important to define more precisely what we understand under the term "evaluation". There are two kinds of evaluation : one is linked to the calculations that are made in order to price a product (valuation): for example in finance, structured products very frequently incorporate derivatives that have to be priced using mathematical models or algorithms and are based on some parameters that have to be estimated historically or forecasted. Here the role of the actuarial profession is to establish standards of practice and guidance notes while the role of the actuary is to make the calculations. The other one (appreciation) consists in evaluating the product in terms of its usefulness for customers or its toxicity. It is important to note that some products may be very interesting for one type of customers

but very dangerous for another type, so the toxicity of a product is a relative feature. Here the role of the actuary is to use its scientific skills to understand the features of a product and identify the dangers it poses to the subscriber or to the system. As the actuary alone may not be in a good position to warn against the toxicity of a product, it might be helpful if the actuarial profession intervenes publicly to issue this kind of warning.

There is also a need of distinguishing between a function that will be the sole responsibility of the actuary and a function where the actuary would play only a support role. For example, specific auditing of disclosure processes and selling processes and advice could be carried out by a specific compliance function but with the support from an actuarial function.

III – Recommendation

All of the responses to the survey show clearly that Consumer Protection is an issue that we must consider because we have a special responsibility in this area, as pointed out, on the other hand, by EIOPA and the European Commission (see the request made orally on KID by Gabriel Bernardino).

This is recognized in some countries, but it appears that it is not the case everywhere. In addition, even in countries where this is the case, it does not seem to be always a high priority.

We believe that this is an extraordinary opportunity for the actuarial profession to expand its scope to a field of public interest where we can play a major role in accordance with our values.

In addition, it is a subject that is at the heart of the action of Commissioner Barnier and of EIOPA, and must be addressed at the European level by the Groupe.

In order to move forward, we would like to recommend that :

- the Groupe confirms that this topic is very important and urges the member associations to take up this topic
- a permanent Working Group be established with representatives of member associations and of each technical committee.

The role of this PWG would be:

- to define the role of the European actuarial profession in the field of Consumer Protection and to see whether to seek an official statutory role of the actuary in this area
- to propose adjustments, if necessary, to the Code of conduct on these new responsibilities
- to deal with matters within its competence in relation with the technical committees concerned and to prepare with these committees the official positions of the Group
- to monitor the activities of the member associations in this field, if necessary
- to represent the Groupe at European level with all the stakeholders for matters related to Consumer Protection.

Annexes

Terms of Reference - Consumer Protection Task Force

To report to the Officers of the Groupe on the following

1. Explore what roles European actuaries currently play and in the future could/should or should not play in providing professional advice in the field of Consumer Protection (CP) focusing on the areas that are traditionally covered by the actuarial profession (insurance and pensions) but also considering banking and finance
2. Make appropriate recommendations to the Officers for implementing a strategy and actions including
 - a. positioning the role of actuaries in the field of CP
 - b. advices to the member associations on how to deal with our responsibility in the field of CP
 - c. developing communication to and relations with the stakeholders concerned with CP, including industry, authorities and CP bodies, to enhance the level of recognition of the profession in the field of CP

Survey on Consumer Protection

Questionnaire for the members of the Groupe Consultatif

- What should in your view be the role of actuaries and of the actuarial profession in consumer protection, besides their role in risk management and capital adequacy?
 - A role as evaluator of a product, including fairness of pricing
 - A role of warning against unfair treatment or toxic products,
 - A role in auditing selling processes, disclosures and advice?
- Is public or client education part of consumer protection?
- Do actuaries have a role to play in this particular field and should this be covered in the Groupe's policy on consumer protection?
- Do you have in your association a working group or committee responsible for consumer protection or some aspects of consumer protection such as those mentioned above in the preamble?
- If not, are you considering creating one at some stage and if so covering what areas?
- If yes, in what areas is your working group or committee most involved?
 - Product design
 - Product suitability
 - Evaluation of the toxicity of a product
 - Fair treatment of different groups of policyholders in the award of bonus (and other aspects of policies whether the company has discretion, such as on charges)
 - Fairness of use of discretion
 - Reasonableness and transparency of charges
 - Certification and evaluation of complex products
 - Communication and selling practices
 - Promotion of a high level of ethics in all areas where actuaries play a role, including trading and portfolio management
 - Financial Education
- How is consumer protection in financial products implemented in your country?
 - Does the supervisor play a special role in this area?
 - Is this topic the object of specific training within the actuarial syllabus?
 - If not, do you think it should be a subject covered in the syllabus?

NB of RESPONSES	%
20	57%
17	85%
13	65%
6	30%
17	85%
15	75%
3	15%
3	15%
4	67%
4	67%
3	50%
4	67%
3	50%
4	67%
4	67%
2	33%
4	67%
4	67%
18	90%
1	5%
11	55%