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**7<sup>th</sup> May 2009**

**Charter of Policyholder Protection Principles - Update**  
**jointly adopted by the Association of International Life Offices (“AILO”) and the**  
***Fédération Européenne des Conseils et Intermédiaires Financiers (“FECIF”)***

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**Introduction**

The Association of International Life Offices (“AILO”) and the *Fédération Européenne des Conseils et Intermédiaires Financiers* (“FECIF”) exist to serve consumers by ensuring access to a broad range of insurance services<sup>1</sup>. Our members comprise properly authorised and regulated insurers and intermediaries which help private individuals to meet their insurance needs, whether through protection insurance (term, accident, disability, etc.), or through savings-orientated products (pensions, annuities, unit-linked and traditional life products, capitalisation contracts, etc.).

The fair treatment of customers is central to the way in which our members regulate themselves and their businesses. We therefore share joint objectives:

- Customers must be confident that they are dealing with insurance companies and intermediaries where the fair treatment of customers and a compliant approach is central to the corporate culture.
- The products and services marketed and sold in the retail market are designed to meet the needs of identified groups and are targeted accordingly.
- Customers must receive clear and appropriate information about the product, the insurer and the intermediary, before, during and after the point of sale.
- Where customers receive advice, it must be suitable and take account of their circumstances.
- Insurance contracts must perform as insurance companies and intermediaries have led customers to expect, and the associated service must be of the expected high standard.

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<sup>1</sup> Since AILO and FECIF represent life insurance companies and insurance intermediaries and since life insurance contracts meet different needs and function differently from retail investments generally, this charter refers to “customers”, “policyholders” and “insurance contracts”, rather than “retail investors” and “retail investments”. This Charter applies solely to AILO members which are life insurers incorporated in a Member State of the European Economic Area.

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- Customers should not face unreasonable post-sale barriers imposed by insurance companies and intermediaries when they wish to change product, insurer or intermediary, or to submit a claim or make a complaint.

### **The European Commission's work on packaged retail investment products "PRIPS"**

Our organisations have closely followed the previous work of the European Commission regarding PRIPS, including participation in Commission workshops and responses to questionnaires. We both endorse the comments made in speeches by Commissioner Kuneva and Commissioner McCreevy<sup>2</sup> that adequate disclosure and sales processes are critical to enabling informed investment decisions by clients.

We have, in particular, focused on the Commission's work on principles of investor protection during the distribution and sales cycle (advertising and marketing; conduct of business; product disclosure; and conflicts of interest)<sup>3</sup>.

### **The Scope of AILO's and FECIF's Charter**

Life insurers and intermediaries are subject to the disclosure obligations of the Consolidated Life Directive and the Insurance Mediation Directive respectively as implemented into local legislation. In order to promote self-regulatory solutions over and above these to the pan-European objective of effective customer protection and as an expression of support to the Commission, AILO and FECIF have jointly adopted this Charter of Client Protection Principles. The Charter only applies to life insurance companies incorporated in the European Economic Area carrying on business with private, individual customers and policyholders resident in the European Economic Area. It does not apply to the corporate market.

In the event of variation between the principles set out in this Charter and local public policy, law and practice, the latter shall prevail.

### **Principles of Client Protection**

#### **Principle 1: "Advertising and Marketing should be fair, clear and not misleading."**

All advertising and marketing communications – whether carried out by the insurer or the insurance intermediary and, in the latter case, whether with or without the insurer's approval – should be fair, clear and not misleading. They should be clearly identified as commercial communications and must not be confused with pre-contractual disclosures.

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<sup>2</sup> Speech/09/198; speech09/206

<sup>3</sup> We are grateful to the Commission for its work in preparing sample principles, in particular as set out in Annex 2 to the Minutes of the Industry Workshop on Retail Investment Products, 22 May 2008. We note from the Communication COM(2009) 204 that it is the intention to introduce legislation at Community level. In the meantime the principles set out in Annex 2 remain a sound basis to work from.

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They should also be consistent with pre-contractual disclosures made to the policyholder. Whenever practicable, they should indicate where pre-contractual disclosures can be found.

**Principle 2: “In their conduct of business, life insurers and insurance intermediaries should treat policyholders honestly, fairly and professionally.”**

Distributors of life insurance contracts – whether life insurers themselves or insurance intermediaries – should treat policyholders honestly, fairly and professionally. Irrespective of the distribution channel (including distance marketing and internet-based sales) or the legal obligations under the contract, distributors should use their best endeavours to fulfil a duty of care towards, and act in the best interests of, policyholders.

When life insurance contracts are sold on the basis of advice from insurance intermediaries, insurance intermediaries should ensure that: (i) they understand the contracts they distribute and take all appropriate steps to inform the client of their provisions (including thorough pre-contractual disclosures); (ii) they “know the client” through the collection and analysis of all relevant information about the client; and (iii) the main features of the contract are consistent with the client’s profile (including attitude towards investment risk) and insurance needs.

When contracts are sold without advice, insurance intermediaries should take all necessary steps to ensure that the contract is appropriate for the policyholder to whom it is being sold.

Life insurance is a long-term commitment, so life insurers and insurance intermediaries must ensure proper servicing of the contract during its term and prompt and complete payment of claims and benefits on occurrence of the insured risk or at maturity.

These principles should apply both to the distribution of third-party products and to direct distribution by life insurers.

**Principle 3: “Policyholders must be able to take decisions on an informed basis.”**

Policyholders must be able to take decisions about an insurance contract on an informed basis. To achieve this, the policyholder must receive directly from the life insurer or through the intermediary pre-contractual disclosures that are:

- accurate, fair, clear, not misleading and contain, or provide access to, all information that is material to the policyholder’s decisions;
- timely, i.e. provided before a contract is entered into; and
- as far as is reasonably possible, provided in a user-friendly format that facilitates comparison of the features of different insurance propositions.

While the precise form and content may vary according to the nature of the specific insurance contract, the disclosures should include, where relevant and so far as practical, information on the following:

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- the main contractual features (that may vary according to contract type), including the terms of a capital guarantee (if any);
- investment and other financial risks<sup>4</sup>;
- performance indicators<sup>5</sup>; and
- direct and indirect charges, whether internal or external, borne by the policyholder.

The life insurer is responsible for ensuring that appropriate information is prepared for and provided to the policyholder<sup>6</sup>. The intermediary may assist in this task.

The insurance intermediary is responsible for ensuring that this information is provided to the policyholder before the sale. If so required, the insurance intermediary should supplement the insurance contract disclosure with additional disclosure on:

- costs added by the insurance intermediary;
- the service the insurance intermediary provides to the policyholder before, during and after the sales process; and
- potential conflicts of interest (ownership links, monetary and non-monetary inducements).

The life insurer is also responsible, either directly or via the intermediary, for making relevant post-contractual information available on a regular basis, in order to: (i) notify any material changes in the features of the contract; and (ii) enable the policyholder to track the value of the contract.

**Principle 4: “Life insurers and insurance intermediaries must minimise conflicts of interest.”**

The client’s interest is paramount. Life insurers and insurance intermediaries may not therefore place their interests above those of their clients. Conflicts of interest in the

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<sup>4</sup> For “open architecture” products, the policyholder and his adviser typically select the underlying assets independently of the life insurer. In such cases, the life insurer may not be able to provide full pre-contractual information (but may subsequently do so on request) and, furthermore, should not be expected to replicate information that is publicly available from fund houses, stock markets and other sources. The life insurer can assist in facilitating access, as can the advising intermediary and other parties, such as the asset manager. Accordingly, when recommending particular assets, the policyholder’s adviser should provide the detailed investment information directly or through the asset manager.

<sup>5</sup> In some cases, such indicators may be provided through links to, or copies of, public information made available by the underlying asset provider.

<sup>6</sup> But subject to footnote 4 above.



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advertising, marketing, distribution and sale of insurance contracts should be avoided whenever possible.

Where the risk of conflict does arise, life insurers and insurance intermediaries should manage conflicts so as to minimise the risk of harm to the policyholder and other persons with an interest in the contract. Life insurers and insurance intermediaries should, as a minimum, avoid any bias driven by financial considerations in the choice of underlying investments.

Insurance intermediaries should disclose potential conflicts of interest to clients. Insofar as required by local law and practice, disclosure should include all factors which could influence the advice given by the intermediary, including, for example, ownership links with life insurers and all incentives whatever their source relevant to the advice being given.

When a product is distributed directly by a life insurer, exclusively or in parallel with distribution by an insurance intermediary, this should be transparent to the client.

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This Charter of Policyholder Protection Principles is a first step in the continuous process of ensuring that European consumers of insurance products are well served. Our organisations will continue to meet regularly to determine the relevance and effectiveness of the Charter, which is intended to be a living document subject to change when and where appropriate.

Alan Morgan-Moodie, Chairman  
AILO

Vincent J. Derudder, Secretary General  
FECIF

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### **Background information**

The Association of International Life Offices (“AILO”) represents the interests of a number of EU/EEA and other life insurance companies which are members of internationally recognised groups<sup>7</sup>. These companies market life insurance contracts in the EU/EEA and in other regions of the world. The customer base encompasses residents in EU/EEA States, international and European expatriates and also the international business community.

In 2008, AILO’s member companies received premiums within the EEA in excess of €26 billion. AILO estimates that its members have over 6.0 million policyholders comprising EU nationals either in their home country or working in another Member State. AILO is a unique organisation and many of its members exist only to develop true cross border operations as enshrined in the 2002 EU Life Assurance Directive.

The *Fédération Européenne des Conseils et Intermédiaires Financiers* (“FECIF”<sup>8</sup>) was chartered in 1999 by a Royal Decree of the Belgian Government for the purpose of defending and promoting the role of financial advisers and intermediaries in Europe. The founders were three distribution networks and three trade associations from France, Luxembourg and the UK. FECIF is today the only trade body representing European financial advisers and intermediaries in Europe. The European financial adviser and intermediary community includes more than 600,000 individuals who exercise this profession as a main occupation (representing approximately 26,000 legal entities), of whom approximately 300,000 are members of FECIF through their national trade associations (56 at today’s count).

In addition, FECIF estimates at 430,000 the number of other professionals (accountants, lawyers, tax advisors, etc.) who may from time to time offer financial services to their existing clients. The industry counts also 750,000 tied agents and 2,500,000 front and back office employees. The number of consumers who are using the services of advisers or intermediaries is estimated at 90,000,000 throughout Europe.

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<sup>7</sup> Full details can be found at: [www.ailo.org](http://www.ailo.org).

<sup>8</sup> Full details can be found at: [www.fecif.org](http://www.fecif.org).