

MILLIMAN REPORT

Trends in customer treatment regulation

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Introduction

The aim of this research is to gather detailed insights into the regulatory landscape affecting life insurance policyholders across various countries/territories regarding policyholder reasonable expectations (PRE) and treating customers fairly (TCF). The focus is on regulations and guidance impacting policyholder benefits and treatment, excluding solvency-related regulations. Key areas of interest include discretionary elements such as bonuses, charges, investment strategies, customer communications, and customer value and outcomes. We refer to this collectively as 'customer treatment regulations.'

Our objectives are to assess:

- The current state of customer treatment regulations across different territories, considering both the extensiveness and prescriptiveness of regulations
- Sources of wider guidance for insurers
- Attitudes to compliance with customer treatment regulations
- Monitoring of compliance with regulations, including accountability and retrospective reporting
- Regulations specific to with-profits/participating business, and to non-routine activities
- Expected future developments in customer treatment regulation

Milliman consultants from around the globe completed a survey based on their knowledge and experience working in various markets. The territories that participated in this research span several regions, and for the purposes of this paper they have been grouped into the regions set out in the table in Figure 1. This table also sets out the colour coding that has been used for each region within charts throughout this report.

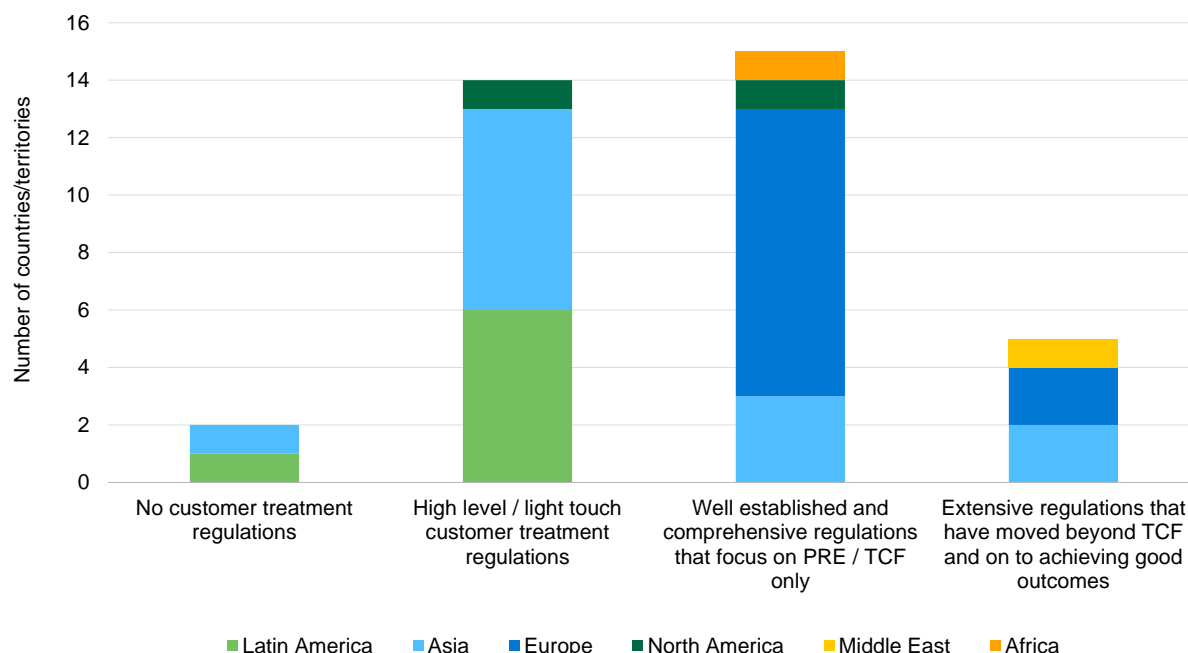
FIGURE 1: RESEARCH PARTICIPANTS

REGION	COUNTRIES	COLOUR CODING
Europe	Austria, Belgium, France, Germany, Isle of Man, Italy, Luxembourg, Poland, Republic of Ireland, Romania, Switzerland, United Kingdom	
Asia	Hong Kong, India, Indonesia, Japan, Malaysia, Philippines, Singapore, South Korea, Sri Lanka, Taiwan, Thailand, Turkey, Vietnam	
Latin America	Argentina, Brazil, Chile, Dominican Republic, Mexico, Panama, Uruguay	
North America	Canada, United States	
Middle East	Israel	
Africa	South Africa	

Overview of customer treatment regulations around the globe

Figure 2 sets out the extent of customer treatment regulation in each region. This graph looks at extensiveness of regulations, i.e., the amount of regulatory focus on customer treatment regulations, and the depth of these regulations. The prescriptiveness of the regulations is considered later in this report.

FIGURE 2: EXTENT OF CUSTOMER TREATMENT REGULATION



Although there are nuances between the regulations in each country/territory, at a high level, countries/territories have been assigned as follows:

- **No customer treatment regulations:** Statutory insurance law provides some protection to policyholders, but there is no specific customer treatment regulation beyond this.
- **High-level/light-touch customer treatment regulations:** Customer treatment regulations may have general reference to 'fairness' but mostly focus on transparency of information to customers buying life insurance policies (fees, terms and conditions, etc.). More standard requirements covering fair sales processes, timeliness of claims payment, complaint handling and data protection may apply, but in general there is little consideration of customer fairness following policy inception.
- **Well-established and comprehensive regulations that focus on PRE/TCF only:** Customer treatment regulations have evolved over time to focus on PRE and TCF throughout the customer journey with their life insurance product. Regulations move beyond transparency and through to tangible actions that affect what payouts customers will receive from their policies. In many cases, customer harm or potential for customer harm has been identified by the regulators and steps have been taken to address this, such as imposing specific constraints on, e.g., charges, types of investments. Specific regulations may be high level, but guidance with examples of good and poor practice typically accompanies these.
- **Extensive regulations that have moved beyond TCF and on to achieving good outcomes:** Regulations no longer simply require fair treatment, but require action with the aim of good outcomes for customers; that is, the focus is more on the outcomes for customers than the actions of the insurer. Examples include ensuring products are fit for purpose for those to whom they are sold (and that they continue to be appropriate over time), consideration of all policyholders and not only the average policyholder, and acting with policyholders' best interests in mind rather than operating purely in line with terms and conditions.

In light of these categories, the current state of customer treatment regulation is covered in more detail by region below.

LATIN AMERICA

Customer treatment regulations appear to be the least developed in Latin America, with the main focus being on establishing foundational transparency and the inclusion of essential information in insurance policies. The depth and detail of these requirements vary between countries; for example, most have rules around inclusion of essential details such as coverage, premiums and exclusions, while others go beyond this in terms of customer communications, such as the requirement in Uruguay for information to be clear, sufficient, truthful and timely. Regulations are being updated over time in terms of transparency, with additions such as clearly stating maximum surrender penalties per year.

There are a few reasons why these regulations may be more light touch:

- The insurance markets in these countries are still in the development phase (relative to those of other countries) and so it is likely that the regulatory frameworks are designed to provide basic protections without being overly restrictive, facilitating market growth and development.
- There may be limited resources and capacity in regulatory bodies, meaning more focus on essential protections rather than comprehensive, detailed regulations.
- While influenced by international standards, these countries may adopt lighter regulations to balance with local market conditions.

Several of the responses from Latin American countries noted that although the primary customer treatment guidance is driven by the relevant insurance regulator, there is significant influence from international insurers in these markets. For example, international insurers operating in these markets have internal policies regarding communications with policyholders (materials to be included in the illustrations, parameters for background projections, etc.) and these have led to similar practices becoming widespread in the market.

The main outlier is the Dominican Republic, where consumer protection is governed by insurance law, with no specific customer treatment regulation in addition to this.

ASIA

The majority of Asia falls into the category of high-level/light-touch customer treatment regulations. For many countries in Asia, there is a strong focus on TCF in the context of sales processes, with focus being similar to that of Latin America. Regulation focuses on transparency, sales processes and mis-selling. Regulations in some Asian countries refer to the need to manage PRE, but for those countries included in the high-level category, these PRE regulations are focussed primarily on point of sale, such as signing an 'acknowledgement of variation' for any participating/variable life product. In some cases, there are regulations around claim handling, but in general, there are little to no regulations in these countries looking at the full lifetime of the product.

Hong Kong, India and Japan exhibit well-established and comprehensive regulations that focus on PRE/TCF only. Areas that distinguish these from the high-level group for the majority of Asia are as follows:

- In Hong Kong, there are both general and product-specific guidelines covering areas such as needing to take account of the fair and equitable treatment of policyholders in areas of discretion and servicing, rules on product design and sales processes, and requirements for gifts not to distract a customer from making an informed decision.
- In India, customer treatment regulations govern expenses that can be charged to policyholder funds, caps on charges, surrender values (for which regulations have been tightened further recently) and limits on equity investments.
- In Japan, the Insurance Business Law and related regulatory policies obligate life companies to understand and confirm a policyholder's intentions/purposes for purchasing a life policy, with the regulator publishing guidance on best practices alongside this.

Malaysia and Singapore have regulations that move beyond TCF and on to good outcomes, and in particular have established fair treatment regulatory frameworks that specify outcomes that regulatory bodies and financial services firms (such as life insurers) should aim to achieve. Guidelines are detailed and include best practice examples. These guidelines and outcomes cover the following areas:

- In Malaysia, fair treatment and policyholder best interests, non-discriminatory practices (fair contract terms etc.), providing clear information, fair dealing with customers, provision of advice, complaint and claims handling, and looking after vulnerable customers.
- In Singapore, fair dealing should be central to corporate culture, products and services should be suitable for target customers, customers should be serviced by competent representatives, information should be clear, relevant and timely to allow informed financial decisions, and customer complaints should be handled independently and promptly.

Similar to the Dominican Republic, Turkey's consumer protection is achieved from statutory law, with no specific customer treatment regulation in addition to this.

EUROPE

Customer treatment regulatory frameworks in Europe are varied, with some countries having detailed regulations and others where the framework and regulation are still evolving. However, there are more countries in Europe with comprehensive customer treatment regulations than observed in the other regions.

Regulation for much of Europe is underpinned by European Union (EU) directives such as the Insurance Distribution Directive (IDD),¹ which sets regulatory standards for the distribution of insurance products, with the aim of ensuring fair competition and enhancing consumer protection. There are general principles for fair treatment such as requiring firms to act honestly, professionally, and in the best interests of their customers, ensuring that they are treated fairly throughout the insurance product lifecycle (and not solely at point of marketing and sale). As well as requiring transparency, this directive emphasises that products should meet the needs of the target market, and suitability should be continually reviewed. Other EU-wide initiatives include the Product Oversight and Governance requirements, which set out further requirements during product design and throughout the lifecycle of a product, and the European Commission's retail investment package, which requires manufacturers and distributors of investment products to ensure that retail investors are provided with value for money.

In addition to this, local specific guidance typically exists in each country covering areas such as fee transparency and benchmarking, customer profiling, suitability of advice, policyholder communications, value for money, and management of PRE and conflicts of interest. The extent of these country-specific regulations varies, but in general these are well-established and continuously updated to address emerging risks and potential sources of customer harm, thereby improving consumer protection. For example, the United Kingdom's financial services conduct regulator, the Financial Conduct Authority (FCA), regularly carries out thematic reviews on topics such as the fair treatment of long-standing customers and the treatment of vulnerable customers, which aim to ensure that regulatory expectations and guidelines remain relevant and keep pace with the evolving market. These reviews typically result in requirements for insurers to take actions.

Within the EU, where insurers are permitted to sell business cross-border without prior regulatory approval, they are required to abide by the same consumer protection rules as domestic companies in the country in which the business is sold. Therefore, policyholders in the EU are covered by the consumer protection rules that exist within the country in which they purchased the policy, even if the policy was sold by an insurer based in another EU country.

1. This and many other EU insurance directives were effectively maintained in United Kingdom law following its exit from the EU.

Two of the countries in the survey (Republic of Ireland and the United Kingdom) have regulations that move beyond TCF and on to good outcomes. Specific aspects of the customer treatment regulatory environment for these two countries include the following:

- In the United Kingdom, the Consumer Duty, which has introduced an explicit step up in customer treatment regulation, came into force for open books in 2023 and for closed books in 2024. The overriding principle for firms is that they 'must act to deliver good outcomes for retail customers,' and this is supported by three cross-cutting rules that require firms to act in good faith towards their customers, avoid causing foreseeable harm to their customers, and enable and support their customers to pursue their financial objectives. It is also accompanied by specific outcomes that firms should achieve for their customers (and not just the 'average' customer), and the FCA has shared examples of good and poor practice to support these outcomes. The FCA is proactively monitoring firms' compliance with the Consumer Duty.
- In the Republic of Ireland, the Central Bank of Ireland (CBI) has introduced various requirements in relation to consumer protection, which has been supplemented in recent years with additional codes of conduct and detailed guidelines with best practice examples. This includes various detailed requirements around ensuring that customers have understood all relevant information (and not solely that they have been told the information), ensuring that there is an understanding of the customer and that products are suitable for them, and considerations throughout the product lifecycle. The CBI's Consumer Protection Risk Assessment Framework is used to instil cultural and governance behaviours encouraging customer-centric behaviours. For example, the CBI introduced, and is actively supervising, a Consumer Protection Risk Assessment Model, which assesses the appropriateness of insurers' risk management frameworks in how they identify, manage and mitigate the risks posed to consumers. The CBI also issues an annual Consumer Protection Outlook Report which assesses the evolving drivers of consumer risk, including factors such as the economic environment and emerging technologies, and sets out how it expects firms to manage these risks.

NORTH AMERICA

In Canada, customer treatment regulations are typically more associated with oversight of risk management and capital sufficiency, as well as being viewed on an exception basis such as avenues for complaints and ombudsman access, rather than focusing upfront on PRE or TCF in anticipation of potential issues. There are some specific regulations pertaining to policyholder disclosure for participating and adjustable insurance products, but general guidance tends to emanate from professional or industry expectations. Life insurers in Canada are seen as doing a reasonable job of self-monitoring in general, so the regulators have not seen a need to intervene.

In the United States, customer treatment regulations are mostly developed at the state level and so it is challenging to generalise, although on the whole these are well-established. There are some regulations applicable at the federal level that focus on TCF, such as minimum surrender amounts, guidance and restriction on non-guaranteed elements, and suitability and fiduciary requirements for agents selling life insurance and annuity products.

ISRAEL

The life insurance market in Israel is highly regulated with significant attention to TCF in many areas. A clear distinction is made between policies that qualify for tax benefits (pension-related savings) and ones that don't, with the former being more regulated than the latter. Much of the guidance focuses on sales practices and claims management, but there are also many rules for the management of policies more widely around management fees, investments and customer communication. The regulators have developed many regulations to drive good outcomes for consumers, such as laws for mobility of funds making it easier to switch from one company to another and removing surrender penalties, regulator-maintained websites and databases allowing consumers to compare products and find information on their existing policies, and instructing companies to reduce premiums on complex, non-transparent products.

Whilst customer treatment regulations in Israel are extensive and move beyond TCF and on to good outcomes, the approach taken to achieve this differs from that taken in the other countries in Asia and Europe. Notably, the approach in Israel appears to focus on enforcing explicit rules to drive good outcomes for customers, compared to a more principles-based approach in other countries which requires companies to determine their own approaches to assessing whether they are delivering good customer outcomes.

SOUTH AFRICA

South Africa has a comprehensive regulatory framework that covers TCF principles well. While there are some gaps, there are also areas where regulations and the regulatory approach go beyond minimal TCF. Primary insurance regulation includes conduct components called 'Policyholder Protection Rules,' which were introduced in 1998 and pre-date many TCF principles globally. South Africa's framework is influenced by international developments, particularly from the United Kingdom and EU, and continues to evolve to address local market conditions and to address gaps. The customer treatment environment in South Africa is generally regarded as market leading for Sub-Saharan Africa.

FACTORS THAT INFLUENCE CUSTOMER TREATMENT REGULATIONS

The maturity and extent of customer treatment regulations in the life insurance sector across the regions included within the survey vary considerably. These appear to be shaped by an interplay of regulatory, economic, market, socio-cultural, technological, and global factors. Some of the key factors identified by the survey in each of these areas are set out below.

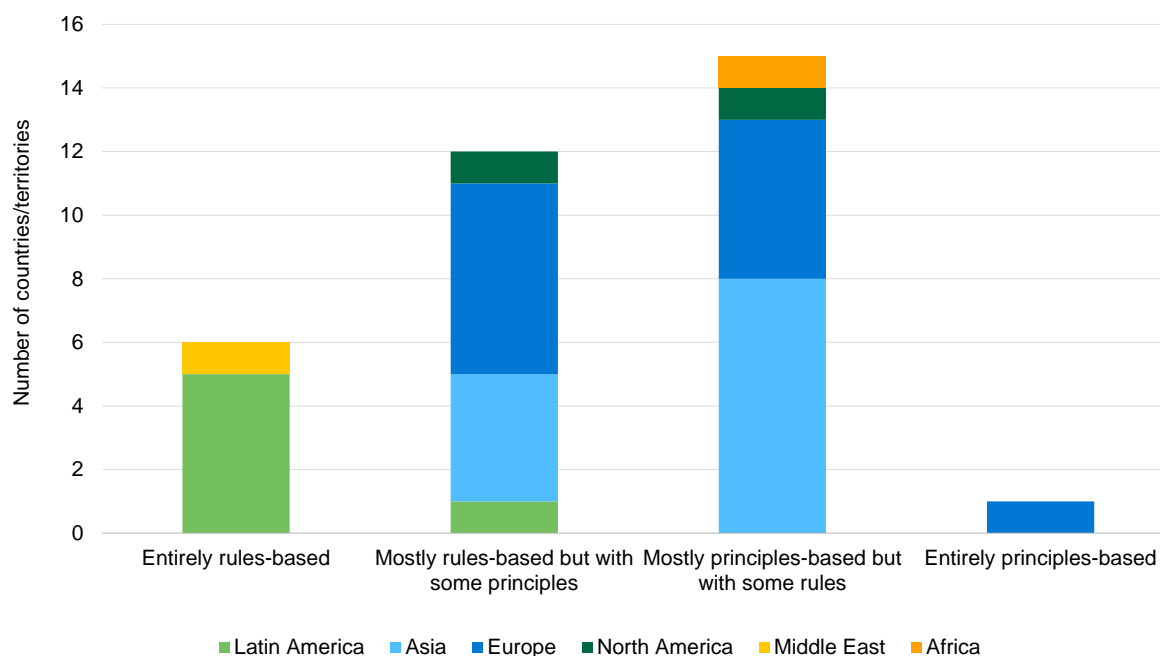
- **Economic development:** More economically developed and stable countries can invest more in regulatory infrastructure, leading to more sophisticated regulatory oversight and enforcement mechanisms.
- **Market size:** Larger insurance markets attract more regulatory scrutiny, and so tend to have more comprehensive regulations to protect policyholders. In some cases, economically developed countries with concentrated insurance industries have only high-level regulations, perhaps owing to regulatory focus on each company being more cost-effective than developing blanket regulation that fits all.
- **Strength and evolution of regulatory frameworks:** The presence of a well-established regulatory framework with clear mandates and authority significantly influences the maturity of specific customer treatment regulations. Countries with well-developed regulatory bodies, and with a longer history of insurance regulation, tend to have more comprehensive and mature customer treatment regulations.
- **Alignment with international standards:** Adoption of international regulatory standards, such as those from the EU or the International Association of Insurance Supervisors, which provide a baseline expectation for insurers, and help harmonise and enhance the maturity of local regulations.
- **Innovation and complexity:** Markets with a high degree of innovation and complex insurance products (e.g., with-profits/participating products, unit-linked products, variable annuities) require more detailed regulations to ensure transparency and fairness.
- **Consumer awareness and advocacy:** High levels of consumer awareness and strong consumer advocacy groups can pressure regulators to develop more robust customer treatment regulations. In many cases, regulations develop from actual or perceived harm to consumers occurring, resulting in regulatory action to reduce or avoid future issues.
- **Globalisation:** The interconnectedness of global financial markets, and presence of global insurance firms, means that practices and regulations in one region can influence others, leading to a convergence of regulatory standards.

Prescriptiveness of customer treatment regulation

OVERVIEW

Figure 3 sets out the prescriptiveness of customer treatment regulation in each region, particularly looking at the extent to which the regulation is principles-based compared with rules-based.

FIGURE 3: PRESCRIPTIVENESS OF CUSTOMER TREATMENT REGULATION



As can be seen from the graph, a mix of principles-based and rules-based approaches is common, with these regulations providing both flexibility and specific areas of strict compliance. The division between the two middle categories (primarily rules-based and primarily principles-based) is subjective and dependent on which regulations are classified as 'rules.' For example, in some regions, these rules are specific policy disclosures, investment limits and charge caps, while in others the rules relate to required governance, which does not lead to the same level of specific policyholder outcome.

Nevertheless, some regional splits can be seen in the graph, and these are explored further below.

LATIN AMERICA

Customer treatment regulation in most of Latin America is entirely rules-based, with specific requirements for disclosures and policy details such as coverage, premiums and surrender charges. The outlier is Chile, for which the same disclosure rules apply but there is additional rules-based and principles-based regulation in the form of the private 'Self-Regulation Council,' which companies may join voluntarily (and most do). This council dictates further standards on advertising, content and formats of contracts or policies, additional material (e.g., illustrations on life insurance), good practice manuals and underwriting processes.

ASIA

In Asia, all countries in the survey have some combination of general principles and specific rules for their regulatory frameworks, with two-thirds of the Asian countries in the survey having more principles-based regulations complemented by some rules, and one-third being predominantly rules-based.

In countries with more principles-based regulation, these principles are reasonably varied. For example, in countries where customer treatment regulations are less extensive, principles may be solely a general requirement for fair treatment (e.g., in sales practices). For countries with more extensive regulations, these principles expand out to consideration of PRE and a focus on customer outcomes. While rules are limited for this group of countries, some do exist and appear to primarily focus on more complex products that are managed with discretion, e.g., investments for unit-linked policies or profit sharing for participating products.

In countries with more rules-based regulation (Hong Kong, India, South Korea, Vietnam), there are overarching principles of fairness to policyholders and transparency. However, it is suggested that the regulators in these countries have a preference for specific rules to which insurers must adhere. Rules in these countries are fairly wide-ranging and cover (across the countries in aggregate, rather than for each country) disclosure, illustrations, charges and charge caps, surrender values, surplus sharing and dividends, and new product design.

EUROPE

All European countries in the survey have principles-based regulations to some extent, which is unsurprising given alignment for most countries to EU directives such as IDD that contain high-level principles for customer treatment. Common principles include fairness, transparency and professional conduct.

Regulations in the Isle of Man are entirely principle-based, with local regulations covering principles for putting the interest of the customer at the centre of product design, managing PRE and provision of information.

For the remaining European countries, whether regulations are primarily principles-based or rules-based appears to be quite subjective in the survey responses, as it is challenging to draw a line between the two. On the whole, the rules in those European countries with regulations in the 'mostly principles-based with some rules' category relate to actions that insurers must take rather than detailed specifications for charges, premiums, disclosures, etc. seen in other regions globally. Therefore, the key takeaway is that for the majority of Europe there is a blend of principles-based and rules-based regulations.

Rules in European countries generally relate to customer communications (content and frequency), investment limits and capital adequacy. There are also rules applying to specific, more complex insurance products, such as minimum profit sharing for with-profits/participating business or specific governance arrangements that must be present if selling/managing these types of business, and rules around permitted investment types for unit-linked business.

NORTH AMERICA

Similar to Asia, North America employs a mix of principles-based and rules-based regulations. As set out earlier, Canada's customer treatment regulations are limited in scope and relate to customer complaints rather than pre-emptive customer treatment; these regulations are more principles-based.

The regulatory environment in the United States is more complex due to the combination of federal and state-level regulations, leading to variations in enforcement and specific requirements. However, in general, customer treatment regulations in the United States are more rules-based, with some of these rules including principle-based components. These rules cover minimum surrender values, setting of non-guaranteed elements (such as interest credited and mortality charges), sales practices and dividends. It is noted, however, that applicability and enforcement of these regulations is typically risk-based.

ISRAEL

Israel is highly regulated and its regulators maintain strict rules-based regulation focusing on fair treatment, transparency and protecting policyholder interests. Israel is therefore somewhat of an outlier in the survey, with very extensive customer treatment regulations but entirely in the form of rules rather than principles. Rules cover charge caps, size of premiums and surrender values, as well as content of customer communications.

SOUTH AFRICA

In South Africa, although the Policyholder Protection Rules are called 'rules,' they mostly contain principles that are supplemented by some specific rules. These rules vary depending on the life insurance product (e.g., microinsurance, credit life, savings) but include premium caps and restrictions on premium increases, maximum commission levels, restrictions on exclusions from coverage, and requirements for differences in benefits and premiums to be actuarially justified.

Sources of wider industry guidance

While for the majority of countries in the survey the primary source of customer treatment requirements guidance is the formal industry regulator, over half of the countries in the survey also have wider advisory bodies that provide input into the regulations as they develop, or other industry and professional bodies which influence regulation and issue additional guidance on customer treatment, reinforcing formal regulations with standards and ethical codes. In some cases, these bodies also help to facilitate the enforcement of the formal regulation.

These sources of wider industry guidance include:

- Independent advisory or regulatory bodies spanning multiple territories, such as the EU-wide European Insurance and Occupational Pensions Authority (EIOPA) or the International Association of Insurance Supervisors
- Country-specific insurance associations and advisory bodies, such as the United Kingdom's Association of British Insurers, the United States' American Insurance Association, and Chile's Self-Regulation Council
- Other professional bodies, such as actuarial associations and working parties run by members of the actuarial profession

The extent and influence of these bodies vary, with most European countries and the majority of Asian countries having secondary industry guidance, as well as South Africa, the United States and Chile. The specific focus and type of guidance provided also differ, reflecting regional regulatory environments and market needs. In general, this wider industry guidance builds on principle-based regulation to provide specific examples of best practice and benchmarking based on industry practice. Particular areas of focus seen across countries and regions are:

- Ethical codes and codes of practice
- Guidance on actuarial methodologies
- Actuarial standards of practice, which provide guidance for carrying out actuarial work, including some specific to life insurance
- Guidance notes on managing more complex products, such as participating/with-profits products, unit-linked, variable annuities and Takaful

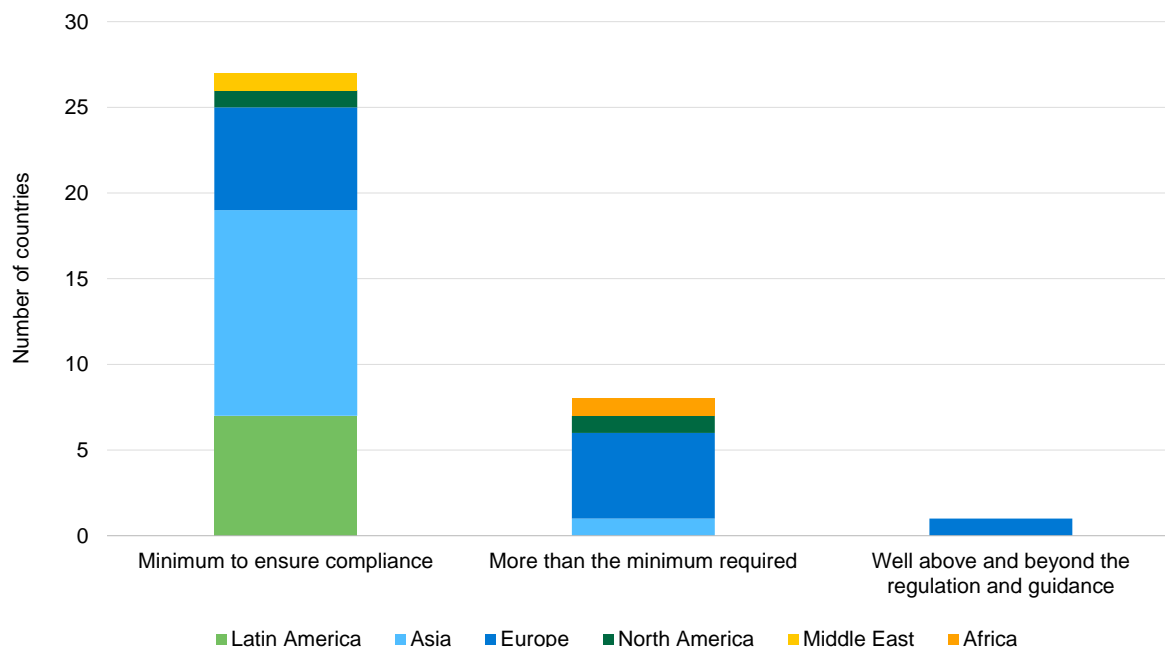
The following countries in the survey do not have any secondary sources of specific customer treatment guidance outside of the formal regulator:

- Argentina, Brazil, Israel, Mexico, Panama, Uruguay: These are the six countries with entirely rules-based customer treatment regulation. Given that regulations are strict and not open to interpretation, secondary guidance is not considered necessary. All of these countries other than Israel also only have high-level customer treatment regulations (covered below).
- South Korea, Philippines, Taiwan, Thailand, Vietnam: All of these countries only have high-level/light-touch customer treatment regulations, and so it appears that customer treatment is not currently considered an area warranting wider industry focus. However, this relationship is not universal, as there are other countries with only high-level regulations and active secondary guidance from industry bodies.
- Dominican Republic, Turkey: Consumer protection in these countries is solely achieved from statutory law, with no further specific regulatory oversight in this regard. It therefore follows that no secondary guidance would be issued.

Attitudes to compliance

Figure 4 sets out our assessment of the attitudes to compliance with customer treatment regulations (or laws in those applicable countries without additional regulations) in each region.

FIGURE 4: COMPLIANCE WITH CUSTOMER TREATMENT REGULATIONS



It should first be noted that in the survey there were two 'minimum compliance' options:

- Insurers generally do the minimum to ensure compliance with regulation and ignore guidance
- Insurers generally do the minimum to ensure compliance with both regulation and wider industry guidance

These two categories have been grouped in the results above because those choosing that wider industry guidance was 'ignored' were those countries for which wider industry guidance on customer treatment did not exist. Therefore, it is interesting to see that insurers tend to pay regard to wider industry guidance where this is available as well as the formal regulations.

That being said, a strong majority of the countries in the survey reported that insurers generally do the minimum to ensure compliance with customer treatment regulations and wider industry guidance. This includes all of Latin America, most of Asia, over half of Europe, the United States and Israel. Particular comments of interest across this group were:

- While there is general attitude of minimum compliance across the industry, this can vary by company, such as those companies within a global insurance company group entity, which tend to do more given the influence from the group, or some companies who make customer relationship one of their key goals.
- Competition in some regions is seen as more of a driver for going above and beyond regulation, rather than this being particularly customer-driven.
- It is not uncommon for compliance to be seen as a box-ticking exercise in some countries.
- Some insurers may even try to get around rules-based regulations by changing methodologies, e.g., the way in which charge caps are assessed.

Considering those countries that do more than the minimum required, the key theme arising is that attitudes to compliance are variable between different insurers, but the balance tips more towards compliance being an outcome of insurer-led initiatives in customer treatment, rather than compliance being the driver. For example, in the United Kingdom it is noted that the main variance is insurer size, which is likely in part driven by more individual regulatory scrutiny for larger companies. Therefore, there are likely to be some companies that go well above and beyond, and some that do the minimum, but this is not universal. Evolving regulations, such as the Consumer Duty, show trends towards more proactive compliance measures, but perhaps because the Consumer Duty requires significant evidencing of activity.

Finally, only Italy selected that generally insurers go above and beyond regulation and guidance, with a strong culture of customer-centric decision making. This is driven by an aim for a good reputation for strong customer relationships, but it is noted that there are still some customer treatment regulations where the minimum will be done as they are not perceived as important to this overarching aim.

Monitoring of compliance

ACCOUNTABILITY FOR COMPLIANCE

In all regions, the board of directors holds the ultimate responsibility for compliance with customer treatment regulations, but it is common for other committees or individuals (such as compliance officers and appointed actuaries) to play significant roles in advising and ensuring adherence to these regulations. Formal industry regulators provide guidelines and conduct inspections to ensure compliance across the board.

In some countries, such as the UK and Republic of Ireland, there is individual accountability for compliance with customer treatment regulations (as well as other regulations); that is, although the board is ultimately responsible, key individuals will be held personally responsible for their actions and decisions. Such frameworks are designed to:

- Ensure that accountability is transparent by clearly defining who is responsible for what within a firm, so that individuals cannot evade responsibility
- Promote better governance practices within firms, as it encourages individuals to focus more on their roles and responsibilities
- Instil a culture of personal responsibility within firms, which is expected to lead to better outcomes for customers
- Deter misconduct and reduce the risk of financial instability caused by poor management decisions

As well as regulations and industry guidance on customer treatment, in some countries there is additional guidance provided for actuaries with responsibilities for particular actions and decisions. For example, in the United Kingdom, the Institute and Faculty of Actuaries has produced detailed competency frameworks for actuaries holding approved roles, setting out skills they must demonstrate to be able to hold such a role. In addition, actuaries holding approved roles in the UK must apply for a certificate of competency so that they can undertake the role, and the certificate must be renewed on a regular basis with evidence of their continued learning, expertise and competency.

RETROSPECTIVE REPORTING

In order to monitor and evidence compliance with customer treatment regulations on an ongoing basis, there are various examples of retrospective reporting requirements across different countries, covering reporting to the regulator, making public disclosures and internal reporting.

In some countries across Europe and in the United States insurers are required to submit periodic reports to the regulator to demonstrate compliance with customer treatment regulations, although this is typically included as part of demonstrating compliance with wider regulations rather than a standalone submission focussed on customer treatment. In Asia, it is common to report policyholder-related key performance indicators to the regulator covering aspects such as policyholder persistency, TCF, and customer financial literacy and inclusion.

In Israel and certain countries in Asia, the regulator conducts regular market monitoring exercises focussing on consumer protection. For example, in Israel the government conducts an annual service survey in which all insurers must participate, and insurers are required to contribute to a publicly available database run by the government covering aspects such as management fees and asset class allocation. Product-specific reporting requirements also exist in certain countries, such as certification of costs and charges for personal retirement savings accounts in the Republic of Ireland, and reporting of the value provided by the product to policyholders in Romania.

A retrospective review of compliance with customer treatment regulations is included in the scope of the internal audit review cycle for certain countries, although this is not an explicit regulatory requirement. In the United Kingdom, following the introduction of the Consumer Duty, a firm is required to assess whether it is acting to deliver good outcomes for its customers at least annually, and this assessment requires review and approval by the board.

Other areas of internal and external retrospective reporting exist specifically in relation to the management of with-profits/participating business, which is discussed further below.

Regulations related to with-profits/participating business

OVERVIEW

The management of with-profits/participating business is amongst the more subjective and judgement-based areas of the routine management of life insurance business, and insurers have a high degree of discretion in choosing how to manage this business. Customer treatment and fairness are therefore particularly relevant in respect of with-profits/participating business.

The size of the market for with-profits/participating business varies substantially across the countries included in our research, and therefore it is unsurprising to observe that the extent of regulation relating to customer fairness in this area varies. The countries which have more extensive regulation are typically those with well-established with-profits markets such as Germany and the United Kingdom in Europe, and Japan and Malaysia in Asia.

Our key observations around the trends in fairness regulations for the management of with-profits/participating business are set out below.

FUND OWNERSHIP

Most countries which have a sizeable with-profits market have rules specifying the minimum percentage of surplus from a with-profits fund which must be allocated to policyholders. Across these countries where minimum percentage rules exist, most countries have a minimum percentage of 90%, with the main exceptions being Italy (85%), Thailand (80%), and Taiwan, the Philippines and Vietnam (70%).

Two exceptions to the above are Hong Kong and Japan, which have sizeable with-profits markets, but do not have any rules specifying a minimum surplus sharing percentage for with-profits funds. Other countries which do not specify a minimum policyholder allocation are those which have a limited with-profits market.

ASSESSING AND DISTRIBUTING THE ESTATE

Insurers are required to assess the size of the estate² of a with-profits fund in line with the local regulations that apply, in order to ensure that there are sufficient funds to meet regulatory capital requirements and to provide financial stability. Aside from this overarching requirement to maintain a minimum level of estate, the vast majority of countries are subject to general requirements to manage the size of the estate prudently whilst protecting policyholders' interests, but do not have prescribed rules around the maximum size of the estate or the distribution of the estate.

Within the United Kingdom, whilst there are no explicit limits on the maximum size of the estate, insurers must assess annually whether the estate is in excess of the amount needed to meet capital requirements and support the new business plans of the fund,³ in which case the excess surplus must be distributed. Similar requirements were introduced in Malaysia in 2023, alongside an annual report on the matter to be submitted to the regulator. This requirement to explicitly assess whether there is excess surplus within the fund on an annual basis is not common amongst other countries.

Another notable difference in relation to the distribution of the estate is Singapore, where insurers are required to allocate all surplus that has arisen in the fund to asset shares,⁴ meaning that no estate can arise.

The general rules around the distribution of the estate tend to be principles-based, with the majority of countries having rules or guidelines which emphasise the need to distribute the estate in a fair manner. This is stated in different ways; for example, many specify that the distribution must be fair and equitable across different classes and generations of policyholders taking into account the contributions and risks associated with each group, whilst others emphasise the need to avoid disproportionately favouring any specific group of policyholder. However, the overriding fairness principle is present across all territories, and requires judgement rather than the application of prescribed rules.

2. The estate is defined as the surplus assets within a with-profits fund which are in excess of the amount needed to meet expected commitments to current policyholders.

3. Generally speaking, using the resources of the estate to support the writing of new business outside of the with-profits fund (i.e., for the sole benefit of the shareholder) is not permitted.

4. An asset share is the policyholder's theoretical share of the with-profits fund's assets, based on contributions, deductions and investment performance.

USES OF THE ESTATE

The permitted uses of the estate of a with-profits fund are generally consistent across all territories and includes smoothing of returns, meeting of minimum guaranteed benefits and maintaining solvency, with the overarching requirement that any use of the estate must be fair, in the best interests of policyholders and must not threaten the financial stability of the fund.

The smoothing or setting of bonuses in most countries is not directly prescribed by the regulator and is instead set by the insurer. Explicit numerical limits are fairly uncommon; however, some examples of numerical limits prescribed by the regulator are as follows:

- In Vietnam, an explicit requirement exists whereby at least 90% of the profits arising within the with-profits fund within an accounting year must be distributed in that year, with 10% permitted to be carried forward as undistributed profit to supplement future years.
- In Malaysia, for business written since 2005, insurers are required to pay out at least 100% of asset share on death and maturity, as well as on surrenders beyond a specific policy term. For business written before 2005 a broader requirement applies, whereby payouts must be between 90% and 100% of asset share on average for a cohort.
- In France, bonuses paid to policyholders must include at least 85% of investment income. In addition, short-term guaranteed bonus rates are strictly capped based on French bond market rates and recent bonus distributions, and long-term guaranteed rates are strictly capped as a percentage of the 10-year government bond rate. These caps aim to avoid (i) short term guarantee with high rates to attract customers that hence would be 'trapped' in low-yielding funds, and (ii) the long-term prudential risks of high rate guarantees.

In terms of writing new business in a with-profits fund, most countries with a developed with-profits market have similar requirements around ensuring the fund has sufficient solvency capital to cover the risks associated with the new business, that the new business is not written on terms which are expected to disadvantage existing policyholders (for example, making sure that the pricing of new business is fair and that the new business will not unduly dilute the potential benefits or increase the risk exposures for existing business), and providing clear and transparent information to policyholders about the terms of new business. Certain countries (such as Austria and Germany) have additional rules which explicitly require the insurer to have an effective risk management system in place to manage the risks associated with new business; however, such a requirement is implicit in the general expectations of managing the risks within a with-profits fund for most countries.

OVERALL FAIRNESS REQUIREMENTS

Overarching the requirements for managing with-profits funds described above, a more general requirement often (but not always) applies, which requires that distribution and use of the estate is fair and equitable across different classes and generations of policyholders. The fact that more prescribed rules around the management of with-profits funds are limited is unsurprising, given the high degree of judgement involved in managing with-profits business and the need to take a range of factors into account.

In order to improve transparency around the management of with-profits business, certain requirements exist in some countries such as:

- The requirement in Austria (amongst other countries) for insurers to provide clear and comprehensive information to policyholders about how the estate is used and distributed (including methodology used and criteria applied).
- The requirement in the United Kingdom and Republic of Ireland to maintain a publicly available document setting out the approach to managing with-profits funds, and to produce an annual report to policyholders confirming compliance with this document.
- The requirement to assess and report the adequacy of declared bonuses and the size of the estate in certain countries in Europe.

Whilst there is inevitably a high degree of judgement involved in determining whether an estate has been managed in a fair and equitable manner, retrospective reporting such as the examples covered above support this aim and help to provide clarity to with-profits customers.

Regulations relating to non-routine activities

In respect of non-routine activity, customer treatment regulation/guidance exists for a range of actions, including portfolio transfers, mergers/restructuring/closure of with-profits or unit-linked funds, implementing product changes, demutualisation and insolvency. The specific activities for which rules exist, as well as the nature and extent of any regulation or guidance, varies by country.

Whilst significant variation does exist, the majority of countries have some form of regulatory approval process in place for non-routine activity. However, the number of countries where additional court approval, or the opinion of an independent expert (typically an actuary) is required is somewhat limited.

Although a number of countries have detailed rules or guidelines that must be followed, there are also a large number of countries whereby general principles are used to guide such activities in place of specific regulation. For one country in our sample (Israel), the regulator governs such activity on a case-by-case basis, and a small number have no specified processes or regulation/guidance in place.

Across countries, the protection of policyholder interests and the fair treatment of policyholders when undertaking these types of activities is a common theme. Many countries mandate communication with policyholders, with some giving policyholders the opportunity to either object to the proposed activity or terminate their policies without penalty (even where termination would not typically be permitted under the standard terms of the policy).

Overall there were no clear observable trends when comparing different regions, with all regions containing some countries with advanced and in-depth processes in place and some countries with little or no formalised processes in place. We expect that a large part of this is driven by how frequent such activities are undertaken in any given market, as well as the level of complexity involved. For example, in the United Kingdom, transfers of business portfolios between different insurers have been regularly used for many years, and so a robust process exists which includes regulator and court approval as well as the opinion of an independent expert and notification to policyholders. In recent years such transfers in the United Kingdom have become increasingly complex; for example, many cross-border transfers arose as a result of Brexit, and in response both the UK's prudential and conduct regulators increased their scrutiny of such transactions and introduced additional guidance. In other jurisdictions where such activities are less common or typically more straightforward, it is unsurprising that the regulatory process for implementing these activities is less developed.

Future developments in customer treatment regulation

OVERVIEW

Expected future developments in customer treatment regulations differ across regions depending on the current maturity of the market and regulatory framework.

In regions with less advanced frameworks, there is a focus on transparency and sales practices, with an expectation that in the longer term more focus may be put on principle-based, customer-centric regulations seen in other regions.

In regions with more advanced frameworks, regulatory focus is moving more towards customers' expectations and financial well-being, sustainability and climate change impacts, and harmonisation with international regulations. In addition, regulators are focussing on technological developments, such as artificial intelligence (AI) and digital platforms for customers, as insurers seek to use these developments as an opportunity while the regulators (as well as insurers themselves) seek to protect customers from potential harm.

These themes are considered further for each region below.

LATIN AMERICA

Regulatory improvements in Latin America currently focus on enhancing transparency and fairness in customer treatment, driven by the perceived poor current value for policyholders. These developments are mainly driven by regulators, with some influence from industry initiatives and customer feedback. Voluntary industry standards and self-regulation also play a significant role in some countries, promoting good practices and ethical conduct.

Over the medium term, there are expected to be improvements in financial reporting standards, including a focus on solvency reporting, rather than specific focus on customer treatment. In the long term, Latin American markets may shift towards more principles-based regulations as they mature, aligning more to other regions around the globe.

ASIA

In Asia, regulatory pressure is a significant driver of regulatory developments, especially due to perceived poor value for policyholders and recent complaints about issues like mis-selling and lack of transparency. Regulators in general are taking active steps to improve customer protection in response. Additionally, technological advancements in the insurance sector require updated regulatory frameworks to ensure that innovations do not compromise customer protection.

New and evolving guidelines for participating business (in markets where it is written) are expected in the short-term, including requirement (for different markets) around fund segregation, minimum asset requirements, the allocation of expenses and charges, and external review. There will also be greater scrutiny on surrender values and the methods of soliciting insurance business.

In the medium term, an increased relevance of customer protection frameworks is expected, driven by complaints and disputes in the insurance sector. As the market matures in some Asian countries, over the long term it is expected that most countries will move towards more principles-based regulations, as well as implementing more explicit requirements for disclosing participating fund performance and profit sharing ratios. In the longer term it is also expected that some of the markets with less mature frameworks such as Thailand will move to align more closely with other Asian markets such as Singapore and Hong Kong.

EUROPE

As well as EU regulations and directives influencing local regulations in European countries, the major drivers of regulatory developments in Europe are:

- The rapid pace of technological change
- Changing customer expectations requiring enhanced transparency, fairness, and greater control over financial services
- Societal pressure for sustainable development and responsible business practices, influenced by climate change and social inequality

In the short term, many European countries are enhancing regulations around digital services, cybersecurity measures, and data protection to align with the EU's General Data Protection Regulation (GDPR). There is also an increased focus on ensuring transparency, fairness and clearer disclosures in financial services.

Over the medium term, regulations will likely focus on governing the responsible use of fintech and Insurtech, including AI, blockchain, and other emerging technologies, with an aim of ensuring that the use of these emerging technologies does not pose undue risk to customers. Additionally, it is expected that there will be increasing focus in regulations requiring insurers to consider environmental, social and governance (ESG) factors in their operations.

In the long term, Europe is moving towards a more holistic approach to customer protection, which will consider the overall financial wellbeing of customers, aligned with frameworks seen in countries like the United Kingdom and Republic of Ireland. In some countries, changes in demographics, and in particular aging populations, are expected to drive increased focus on the regulation of products such as annuities and long-term care insurance and the treatment of vulnerable customers. There may also be significant regulatory changes around climate risk-related insurance products to address the impacts of climate change.

NORTH AMERICA

In the United States, short-term developments include higher standards of care for selling and replacing policies, driven by federal initiatives. Over the medium term, the focus is expected to be on the active enforcement of existing regulations as opposed to development of new ones, particularly around non-guaranteed elements and the sustainability of assets. In the long term, developments will emphasise ensuring that company assets are sustainable, thus protecting customer investments.

In Canada, additional disclosure requirements for participating insurance were introduced recently, but nothing further in the area of customer treatment is expected at this time.

ISRAEL

Israel is not expected to see significant new regulations in the short, medium or long term owing to its current comprehensive framework. However, there may be a focus on enhancing the mobility and flexibility of policies to address current limitations.

SOUTH AFRICA

In the short term, South Africa will introduce new amendments under the Conduct of Financial Institutions Bill focusing on the termination of policies. Over the medium term, there will be an increased focus on protecting vulnerable customers, drawing on trends in customer treatment regulation seen internationally. In the long term, it is expected that South Africa will continue aligning with United Kingdom and EU developments, paying broader attention to international best practices. Leading insurers in South Africa take customer centricity seriously, but the industry is not pushing for additional regulations.

Conclusions

Overall this research has highlighted that numerous differences exist globally in relation to customer treatment regulation, including the level of maturity and prescription, the specific regulatory requirements, attitudes to compliance and approaches for monitoring compliance. We have found this research to be valuable in highlighting the trends by region, the overall current global state of customer treatment regulation and the expected direction of future travel.

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