

February 28, 2014

Ms. Jane Pearce
Director, Financial Institutions Division
Financial Sector Policy Branch, Department of Finance Canada
L'Esplanade Laurier, 15th Floor, East Tower
140 O'Connor Street
Ottawa, Ontario K1A 0G5

Dear Ms. Pearce:

The Canadian Association of Financial Institutions in Insurance (CAFII) is pleased to respond to the Department of Finance Canada's Invitation for Comments related to the proposed development and implementation of a comprehensive financial consumer code.

CAFII would like to point out that insurance is already subject to a comprehensive consumer protection regime. Beyond FCAC oversight of consumer provisions, provincial governments play a large role in setting standards for insurance product features, disclosure, market conduct, and licensing. In addition, the Canadian Council of Insurance Regulators (CCIR) – the interjurisdictional (provincial and territorial) Association of Insurance regulators – establishes expectations for other aspects of market conduct. Lastly, the insurance consumer protection framework includes multiple industry codes and guidelines to which all CAFII members adhere. In this context, a consumer code at the federal level runs the great risk of layering on additional unnecessary and potentially conflicting accountability for members. As a result, if the federal Government decides to proceed with a financial consumer code, to avoid conflict with existing provincial regulation of financial services, it should be done in close consultation with the CCIR.

Summary of Recommendations

Should the Government decide to proceed with a financial consumer code, CAFII recommends that Finance Canada/FCAC:

1. Maintain FCAC's current principles/risk-based approach in the monitoring and enforcement of a new code, and its existing enforcement powers.
2. Meet any need for rules and guidelines by referencing existing industry voluntary commitments, codes of conduct, and guidelines.
3. Avoid overlap and possible conflict with existing provincial regulation of financial services, including insurance.
4. Leverage the International Association of Insurance Supervisors' (IAIS) Insurance Core Principles (ICPs) as a guide for market conduct and regulatory supervision in insurance.
5. Expand the breadth and depth of financial literacy education provided and move forward with the appointment of a Financial Literacy Leader.
6. Recognize the importance of fostering and supporting the growth and development of alternate and emerging distribution channels.

Recommendation 1: Maintain FCAC’s current principles/risk-based approach in the monitoring and enforcement of a new code, and its existing enforcement powers

- Enables continuing ability to clearly distinguish roles of multiple regulators and corresponding company accountabilities, i.e.
 - FCAC oversight of consumer provisions
 - Provincial government responsibility for regulating insurance products features, policy wording, marketing practices, consumer disclosure, complaint handling, and the conduct and licensing of companies and individual agents
- FCAC’s current investigative and order-making powers and company dispute resolution mechanisms (including external complaint resolution bodies) already provide a complete solution for handling consumer issues that may arise
- Consistent with the principles-based approach taken by provincial regulators in supervision of insurance

Recommendation 2: Meet any need for rules and guidelines by referencing existing industry voluntary commitments, codes of conduct, and guidelines

- Rules and guidelines required to realize the principles of how consumers should be treated are already established in existing industry voluntary commitments, codes of conduct, and guidelines, e.g. CBA Code of Conduct for Authorized Insurance Activities, CLHIA Guidelines (currently 17 guidelines) including those covering Product Disclosure, Direct Marketing, Travel Insurance, Creditor Group Insurance

Recommendation 3: Avoid overlap and possible conflict with existing provincial regulation of financial services, including insurance

- As there is already a comprehensive consumer protection regime in place for insurance, a new code must be carefully crafted to avoid potential layering on of unnecessary regulation and potentially conflicting accountabilities

Recommendation 4: Leverage the International Association of Insurance Supervisors’ (IAIS) Insurance Core Principles (ICPs) as a guide for market conduct and regulatory supervision in insurance

- As Finance/FCAC wishes to explore the use of principles-based guidance or regulation, the IAIS Insurance Core Principles may provide meaningful guidance. Specifically Core Principle 19 states that the fair treatment of customers encompasses achieving outcomes such as:
 - Developing and marketing products in a way that pays due regard to the interests of customers
 - Providing customers with clear information before, during, and after the point of sale
 - Reducing the risk of sales which are not appropriate to customer needs
 - Managing the reasonable expectations of customers

Recommendation 5: Expand the breadth and depth of financial literacy education provided and move forward with the appointment of a Financial Literacy Leader

- Improved financial literacy among Canadians is one of the most effective ways that Finance Canada/FCAC can address the financial consumer protection needs of Canadians

Recommendation 6: Recognize the importance of fostering and supporting the growth and development of alternate and emerging distribution channels

- CAFII members have been, and will continue to be, leaders in providing “alternate distribution” choices (including e-commerce) to consumers to help meet the protection needs of all Canadians

Conclusion

CAFII appreciates the opportunity to respond to the Department of Finance Canada's Invitation for Comments related to the proposed development and implementation of a comprehensive financial consumer code and we trust that you will find our input to be constructive.

Should the Government decide to proceed with a new consumer code that includes insurance, CAFII believes it is imperative that Finance Canada/FCAC engage with CCIR and provincial regulators. We also believe that the FCAC's current principles/risk-based approach should be used in the monitoring and enforcement of a new code, and its existing enforcement powers should be maintained. Further, the need for any rules and guidelines should be met by referencing existing industry voluntary commitments, codes of conduct, and guidelines.

We look forward to working with the Department of Finance and the FCAC in fostering a practical, efficient, and effective consumer protection regime. Should you wish to meet in-person in Ottawa or by teleconference to discuss our submission, please contact our Executive Director, Brendan Wycks, at brendan.wycks@cafii.com or 647-218-8243.

Sincerely,



Mark Cummings, Chair
Canadian Association of Financial Institutions in Insurance

ABOUT CAFII

The Canadian Association of Financial Institutions in Insurance (CAFII) is a not-for-profit industry Association dedicated to the development of an open and flexible insurance marketplace. CAFII was established in 1997 to create a voice for financial institutions involved in selling insurance through a variety of distribution channels. CAFII members provide insurance through client contact centres, agents and brokers, travel agents, direct mail, branches of financial institutions, and the internet.

CAFII believes consumers are best served when they have meaningful choice in the purchase of insurance products and services.

CAFII is currently the only Canadian Association with members involved in all major lines of personal insurance. CAFII's full members are the insurance arms of Canada's major banks – BMO Insurance; CIBC Insurance; Desjardins Financial Security; National Bank Insurance; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players American Express, Assurant Solutions, and Canadian Premier Life Insurance Company.

In addition, CAFII has 10 Associate members that support the role of financial institutions in insurance.

CAFII members offer travel, life, health, property and casualty, and creditor's group insurance across Canada. In particular, creditor's group insurance and travel insurance are the product lines of primary focus for CAFII as its members' common ground.

CAFII's diverse membership enables our Association to take a broad view of the regulatory regime governing the insurance marketplace. CAFII works with government and regulators (primarily provincial) to develop a legislative and regulatory framework for the insurance sector that helps ensure Canadian consumers get the insurance products that suit their needs. Our aim is to ensure appropriate standards are in place for the distribution and marketing of all insurance products and services.