

July 9, 2021

Mr. Ron Fullan, Chair
Canadian Insurance Services Regulatory Organisations
c/o: cisro-ocra@fsrao.ca

Dear Mr. Fullan:

CAFII thanks CISRO for the opportunity to provide input on its draft *Principles of Conduct for Intermediaries*. Our Association strongly supports CISRO's efforts to codify principles and guidance around the fair treatment of customers.

We have organized this feedback submission around High Level Feedback Points; followed by Specific CAFII-Relevant Feedback Points.

High Level Feedback Points

CAFII strongly supports the premise that fair treatment of customers expectations must apply to intermediaries. Our Association is therefore generally comfortable with the 10 Principles set out in *CISRO's Principles of Conduct for Intermediaries*, and the expectation that intermediaries should conduct their business in accordance with the Principles that are relevant and applicable to them.

As an industry Association whose members must comply with the legislative and regulatory expectations of 18 federal and provincial/territorial insurance regulators and policy-makers across Canada, CAFII is strongly supportive of regulatory harmonization. We therefore applaud and thank CISRO for (i) deciding to set out high level, harmonized-to-the-degree-possible Principles which reflect the minimum regulatory conduct standards for intermediaries that are common across Canada regarding the fair treatment of customers; and (ii) designing the Principles with the intent of supplementing, complementing, and building upon the intermediary elements in the *CCIR/CISRO Guidance: Conduct of Insurance Business and Fair Treatment of Customers* (FTC Guidance) and aligning them with the Insurance Core Principles of the International Association of Insurance Supervisors.

CAFII appreciates that in the Principles' definition of intermediary, CISRO has taken pains to stipulate that the definition includes "business entities that distribute insurance products and services . . . It also applies to all distribution methods, including the internet." We agree with and support CISRO's specifying a relatively broad definition of intermediary. The definition's provisions which we highlighted above are directly relevant to CAFII, given that many of our members are Restricted Insurance Agent licence holders (i.e., business entity/corporate licensees) in those provinces which have RIA licensing regimes; and we focus as an Association on direct-to-consumer distribution of credit protection insurance (CPI) and travel insurance, including the internet channel, rather than on traditional face-to-face distribution by an individually licensed advisor.

That said, we note that the CISRO Principles' definition of intermediary includes "adjuster." Adjusters are not included, however, in the definition of "intermediary" found in the *CCIR/CISRO FTC Guidance*. Therefore, because adding "adjuster" to the CISRO definition of "intermediary" has the potential to cause confusion, without significant offsetting value to be gained in doing so, CAFII recommends the deletion of adjusters from the scope of the CISRO Principles' definition of "intermediary."

In addition, CISRO's Principles of Conduct for Intermediaries uses the term "must" to describe many of the Principles. Given that the Principles will not have the same legal status and enforceability as a Regulation, we recommend that CISRO harmonize with the language used in the FTC Guidance by using the words "are expected to" or other variations on the verb "expect" -- or alternatively the verb "should" -- rather than "must."

Specific CAFII-Relevant Feedback Points

CAFII has two feedback points to offer with respect to *Principle #4 Advice*.

First, with respect to this Principle's stipulation that "Advice must be suitable for the needs of the Customer based on the Customer's disclosed circumstances," CAFII would like to remind CISRO that while the federal *Bank Act* and section 5(1) of the federal *Insurance Business (Banks and Bank Holding Companies) Regulations* (IBBRs) permit banks and other federally regulated financial institutions (FRFIs) to offer advice regarding Authorized Insurance Products/CPI, the offering of that advice is significantly tempered by provincial and territorial regulatory and licensing requirements.

The nature of the advice that banks/FRFIs are permitted to provide around Authorized Insurance Products/CPI is strictly limited to the product itself and must not include suitability-related measures such as a needs-based financial/insurance assessment, Know Your Client tools, or holistic advice.

In the case of Authorized Insurance Products/CPI, because the consumer is enrolling in optional insurance related to a single and specific borrowing need such as a mortgage or line of credit – and that scenario falls within the scope of activity permitted to occur through a non-advisory sales channel (i.e. banks/FRFIs must provide consumers with sufficient information, which meets provincial or territorial regulations and industry commitments and guidelines, to enable them to make an informed decision) – Authorized Insurance Products/CPI are typically offered by non-licensed individuals throughout Canada.

Non-licensed individuals are strictly prohibited from offering advice and recommending an insurance product as "suitable."

That said, CAFII does not believe that this point of clarification which we've raised, while important, necessarily dictates that an amendment must be made to CISRO's draft *Principles of Conduct for Intermediaries*. That's because (i) *Principle #4 Advice* begins with the following words: "If providing advice to or for a Customer, . . ."; and (ii) the Preamble to the Principles states the following: "Intermediaries should conduct their business following the Principles **that are relevant to them**, . . ."

As a second point of feedback with respect to *Principle #4 Advice*, CAFII notes that there is a lack of congruence between the CISRO Principles' expectation that ". . . the intermediary must seek **complete information** from the Customer" and the CCIR/CISRO FTC Guidance's requirement that ". . . **appropriate information** should be sought from Customers." In the interests of optimal alignment, CAFII recommends that CISRO harmonize its Principles with the terminology in the already established FTC Guidance.

As a parallel point of feedback with respect to *Principle #5 Disclosure*, CAFII notes that there is a lack of congruence between the CISRO Principles' expectation that intermediaries should "... provide Customers with objective, **complete**, relevant, and accurate information ...". versus the CCIR/CISRO FTC Guidance's expectation that "**appropriate information**" should be disclosed to consumers. In the interests of optimal alignment, CAFII recommends that CISRO harmonize its Principles with the terminology in the already established FTC Guidance.

As a final specific feedback point on what CAFII believes to be an inadvertent omission error, we believe that the following edit is in order in *Principle #10, Oversight*: "Intermediaries **are expected to** have tools at their disposal such as policies and procedures, ..."

Conclusion

Fair treatment of customers is, in CAFII's view, a critically important element in a regulator's expectations toolkit, as it gets at the heart of a business' organizational culture. CAFII members firmly believe in and strive to be exemplary in embedding and practising fair treatment of customers as part of their business cultures.

We thank and applaud CISRO for developing and consulting widely on its draft Principles of Conduct for Intermediaries. We see value in the Principles as a source of accessible, crisp, plain language, base-case guidance, and as a document which addresses the need for recurring reinforcement of the imperative that businesses should base their marketplace behaviours on fair treatment of customers.

Thank you again for the opportunity to provide input and feedback on CISRO's Principles of Conduct for Intermediaries. Should you require further information from CAFII or wish to meet with representatives from our Association on this or any other matter at any time, please contact Brendan Wycks, CAFII Co-Executive Director, at brendan.wycks@cafii.com or 647-218-8243.

Sincerely,



Rob Dobbins
Board Secretary and Chair, Executive Operations Committee

About CAFII

CAFII is a not-for-profit industry Association dedicated to the development of an open and flexible insurance marketplace. Our Association was established in 1997 to create a voice for financial institutions involved in selling insurance through a variety of distribution channels. Our 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. Our members offer travel, life, health, property and casualty, and credit protection insurance across Canada. In particular, credit protection insurance and travel insurance are the product lines of primary focus for CAFII as our members' common ground.

CAFII's diverse membership enables our Association to take a broad view of the regulatory regime governing the insurance marketplace. We work with government and regulators (primarily provincial/territorial) 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.

CAFII's members include the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Insurance; National Bank Insurance; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players Assurant; Canada Life Assurance; Canadian Premier Life Insurance Company; Canadian Tire Financial Services; CUMIS Services Incorporated; Manulife (The Manufacturers Life Insurance Company); Sun Life; and Valeyo.