

January 31, 2020

Mr. Mark White, CEO
Financial Services Regulatory Authority of Ontario
5160 Yonge St., 16th Floor
Toronto, ON M2N 6L9

RE: CAFII Response To Consultation on "New FSRA Guidance Framework"

Dear Mr. White:

The Canadian Association of Financial Institutions in Insurance (CAFII) thanks the Financial Services Regulatory Authority of Ontario (FSRA) for the opportunity to provide comments on FSRA's *New Guidance Framework*.

In this submission, we provide our feedback on a number of the major points set out in the consultation information published on FSRA's website.

Purpose, Rationale, and Context

CAFII supports FSRA's purpose and rationale for developing and consulting on a new Guidance Framework, and we agree that standardizing the Authority's approach to guidance will make it easier to do business in the regulated sectors and make FSRA a more effective regulator. We also concur that with the new Guidance Framework in place, it will be easier, after a short acclimatization period, for the public, new entrants to the regulated sectors, and incumbent businesses in the regulated sectors to understand what is legally binding, what is FSRA's interpretation of law, and what information has been communicated simply to provide helpful clarification from the regulator.

As a general observation, CAFII believes that the essential purpose of regulatory Guidance should be to clarify existing legislation and/or regulations, and not to add new prescriptive, rules-based elements which can undermine an otherwise principles/risk-based approach to regulation.

With respect to implementation of the new Guidance Framework, following the October 17/19 to January 31/20 pilot test period, we recommend that FSRA build in an opportunity for further feedback after one to two years of industry experience with the new Framework and that you be open to modifying the approach at that time based on the comments received.

Principles

CAFII supports the Principles which FSRA has articulated as the foundation for its approach to issuing Guidance.

In particular, we were pleased to see the prominent inclusion of the Effective principle, which we view as being inextricably linked to the overarching principles/risk-based approach which FSRA takes to fulfilling its regulatory mission and mandate. Principles-based regulatory effectiveness is also in complete harmony with the International Association of Insurance Supervisors' (IAIS) Insurance Core Principles (ICPs) and international best practices; and it provides the optimal balance between consumer protection and fostering industry innovation and efficient business operations.

We also support the Efficient principle, and FSRA's related commitment to (i) be consistent with a principles/risk-based approach to regulation when an Interpretation Guidance is creating compliance obligations; and (ii) minimize regulatory burden to the maximum degree possible.

That said, CAFII strongly encourages FSRA to consider adding a further foundational Principle to its Guidance Framework: harmonization. By taking an approach to the development and issuance of Guidance which seeks to achieve consistency with existing Guidance issued by other Canadian jurisdictions, and by working collegially with regulators from other jurisdictions on harmonized joint/national Guidance, FSRA can become a recognized leader among financial services regulators in supporting industry innovation, reducing regulatory compliance burden, and allowing businesses to dedicate more of their resources to meeting consumer expectations and enhancing the consumer experience.

Processes and Practices

CAFII supports FSRA's articulation of four distinct categories of Guidance, as we view the set as being comprehensive; the individual categories as largely mutually exclusive; and the definitions of the four categories as clear and understandable.

That said, under the Approach category of Guidance, we ask that FSRA provide more detail and explanation to the industry as to what is meant by "and application of CEO discretion."

As well, we would appreciate receiving clarification responses to the following two questions:

- does FSRA intend to identify which of the four categories a particular Guidance falls under, at the time it is issued?; and
- does FSRA anticipate that a Guidance might, in certain cases, fall under more than one of the four categories?

Governance

CAFII supports and appreciates FSRA's stated intention, consistent with the Transparent Principle, to consult publicly on Interpretation and Approach Guidance unless immediate action is required; and to consult on Information Guidance as needed.

We also strongly support FSRA's stated intention to review issued Guidance regularly.

However, that said, in a fintech/insurtech environment where change is constant, an outer limit of five years for such reviews seems too long. We recommend that FSRA change the Review Timeline to "at least once every three years."

Transition

CAFII was pleased to see and supports FSRA's stated intention to initiate and complete a review of all existing Guidance based on the lessons learned through the pilot test period, before the end of March 2020. In that connection, if FSRA determines that Guidance previously issued by the Financial Services Commission of Ontario (FSCO) or the Deposit Insurance Corporation of Ontario (DICO) should continue to apply, we recommend that such Guidance should be re-branded on FSRA letterhead and re-issued/re-published by FSRA, so as to avoid any possible confusion in the minds of the public or the regulated sectors as to whether Guidance from previous regulatory regimes continues to apply in the FSRA era.

Conclusion

CAFII once again extends congratulations to FSRA's management team and Board on a relatively seamless and successful launch as Ontario's new financial services regulator in June 2019, and on already achieving a number of the key milestones. We applaud the fact that a highly competent and experienced FSRA executive team has been appointed and is tackling the operational and strategic challenges of a start-up regulator with an ambitious transformation mandate. FSRA and its leaders are indeed "walking the talk" in doing the right things and doing things right -- by planning and acting in accordance with principles-based and outcomes-focused regulation which benefits industry and consumers alike, and by having a prominent initial focus on burden reduction and regulatory effectiveness.

Thank you again for the opportunity to provide input and feedback on the *New FSRA Guidance Framework*. Should you require further information from CAFII or wish to meet with representatives from our Association at any time, please contact Brendan Wycks, CAFII Co-Executive Director, at brendan.wycks@cafii.com or 647-218-8243.

CAFII and its members remain committed to supporting FSRA in its critically important mission and mandate; and we look forward to continuing our involvement as key stakeholder contributors to the Authority's ongoing success.

Sincerely,



Martin Boyle
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 health 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 are the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Financial Security; National Bank Insurance; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players Assurant, Canadian Premier Life Insurance Company/Valeyo, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and The Canada Life Assurance Company.