

***Agenda Item 4(c)***

***April 30/19 EOC Teleconference Meeting***

**CAFII Dialogue With CCIR/CISRO Re Fair Treatment of Customers**

**Summary of CAFII Meeting With CCIR/CISRO Fair Treatment of Consumers (FTC) Working Group**

**27 March 2019**

**Attendees From CCIR/CISRO:**

Louise Gauthier, Senior Director, Distribution Management Policy, AMF, Quebec  
Sophie Jean, Director of Supervision of Intermediaries, AMF, Quebec  
Ron Fullan, Executive Director, Insurance Councils of Saskatchewan  
April Stadnek, Director of Compliance, Insurance Councils of Saskatchewan  
Swati Agarwal, FSCO  
Wendy Horrobin, FSCO  
Timothy Goff, Registered Insurance Brokers of Ontario (RIBO)  
Vivian Lee, RIBO  
Tony Toy, CCIR Policy Manager  
Joanna Reading, CISRO Policy Manager  
Adrienne Warner, CCIR Policy Associate

**Attendees From CAFII (In-Person)**

Rob Dobbins, Assurant  
Charles MacLean, RBC Insurance  
Huma Pubani, TD Insurance  
Martin Boyle, BMO Insurance  
Brendan Wycks, CAFII  
Keith Martin, CAFII

**On The Phone**

John Lewsen, BMO Insurance  
Michelle Costello, CUMIS Services Inc.  
Anu Bains, CIBC Insurance  
Dominique Julien, CIBC Insurance  
Louise Nash, CIBC Insurance  
Joanna Onia, CIBC Insurance  
Pete Thorn, TD Insurance  
Fay Coleman, TD Insurance  
Karyn Kasperski, RBC Insurance  
Michele Jenneau, National Bank Insurance  
Dallas Ewen, Canada Life Assurance  
Sharon Apt, Canada Life Assurance  
Dana Easthope, Canadian Premier Life Insurance/Valeyo

## **Meeting Summary**

Louise Gauthier, Chair of the CCIR/CISRO Fair Treatment of Consumers Working Group, opened the meeting by thanking CAFII for its participation. She noted that it had been one and a half years since the initial consultations began with respect to CCIR/CISRO's intention to issue a Guidance document on the Fair Treatment of Customers; and these quarterly meetings were an opportunity to continue the dialogue on this critical issue in a "safe environment." It was the desire of CCIR and CISRO that the Guidance be embraced by industry and that it lead to specific initiatives.

It was noted that there likely were still areas where the regulators could provide greater clarity around the Guidance, and this would be a continued focus for the Working Group. It was also noted that CCIR and CISRO understood the strong desire of the industry for regulatory harmonization; and, in that respect, it was mentioned that three jurisdictions -- namely British Columbia, Nova Scotia, and New Brunswick -- had now each publicly and formally endorsed the CCIR/CISRO Guidance document. Other provincial/territorial jurisdictions were working on following suit.

Some questions had been submitted by CAFII in advance of the meeting, and Ms. Gauthier and Mr. Fullan both noted that the Working Group had separately also received six Guidance-related questions from industry more generally. Ms. Gauthier said that they would go through the answers to those questions first, as they might answer CAFII's particular questions as well.

One question was about the meaning of Section 6.8 on Advice.

Another was a request for clarity around the meaning of the part of Section 6.6 which states that intermediaries must "disclose the services provided, including whether they offer products from a full range of insurers, from a limited range or from an exclusive insurer."

Another question pertained to Section 5 which states that insurers and intermediaries are expected to "make available their strategies, policies and procedures dealing with the fair treatment of customers," with the question being whether making these strategies available was to occur only upon request.

A related question was around the expectation that insurers and intermediaries must "promptly advise regulatory authorities if they are likely to sustain serious harm due to a major operational incident that could jeopardize the interests or rights of customers and the insurer or the intermediary's reputation," with clarity sought around precisely what "promptly advise" meant and what was a "major operational incident"? It was also noted that this section referenced expectations of insurers, and the view expressed was that this was too narrow and these expectations should also fall on intermediaries.

Based on some of the comments made in response to these questions, it was agreed that many of the questions which CAFII had posed had been addressed.

CAFII then offered to update the FTC Working Group on the progress of its members, and to address that component of the agenda.

Brendan Wycks delivered the following update statement:

*CAFII Members initially embraced Fair Treatment of Consumers six years ago, when the AMF first released its FTC-related Sound Commercial Practices Guideline.*

*Currently, CAFII Members are now using the new CCIR/CISRO Guidance: Conduct of Insurance Business and Fair Treatment of Customers as both a guide and a benchmarking reference tool which informs their ongoing Risk and Control Self-Assessment Activities to identify potential gaps and plan remediation initiatives, as necessary.*

*Such gaps could be in Members' current practices, or in the ability of Member companies to demonstrate adherence to the Guidance document's principles in an immediate and tangible manner.*

*CAFII Members are also embracing the new Guidance document as a tool in reviewing and updating their governance and business culture documentation; and as part of their scheduled compliance monitoring and testing activities.*

*The following is a compilation summary of some of the implementation progress initiatives with respect to the Guidance which CAFII Members have taken since it was released last September, and which are at various stages of development and progress among our Members:*

- (a) conduct a high-level review against principles to determine alignment.  
(Common feedback received from the review was that the biggest opportunity was the need for a framework to continually demonstrate FTC, as opposed to having to undertake a separate exercise if asked by a regulator to demonstrate FTC. A strong consensus emerged that there is a lot of value in these frameworks to reinforce existing organizational values around FTC.)*
- (b) communicate with the business about the need for an in-depth gap analysis against the Guidance.*
- (c) perform an in-depth (paragraph by paragraph) gap analysis against the Guidance (done by First Line of Defence and Second Line of Defence).*
- (d) assign accountabilities for any gaps and opportunities identified.*
- (e) currently at various stages of (i) developing action plans; (ii) implementing action plans; or (iii) have already completed some action plans.*
- (f) develop and/or update a Fair Treatment of Customers Policy to set expectations for all employees.*
- (g) develop and implement a mandatory, annually recurring Fair Treatment of Customers training module, with successful completion required by all employees.*

The discussion then turned to other areas for continued review of adherence to the Guidance, including training.

Charles MacLean of RBC Insurance noted that product development was another area that had been the subject of focus in his company, where those developing products were coached on keeping FTC principles top-of-mind as they worked on new products.

Louise Gauthier said that this sort of initiative was of interest and asked if our members could share some of these developments with the Working Group in writing. It is, she said, comforting for the regulators to obtain information on these sorts of initiatives.

CAFI representatives agreed that we would see if there were updates that could be provided in writing; and, if there were, they would be sent to Tony Toy.

Another area that was mentioned as a priority for the industry was to identify where there might be gaps between the expectations laid out in the Guidance and actual practices. The importance of continued training on the importance of the principles in the Guidance was also mentioned.

Keith Martin noted that a challenge for the industry is that measuring business culture is very difficult to do, with Rob Dobbins agreeing that this made it difficult to demonstrate progress even if it was occurring.

Louise Gauthier and others from the FTC Working Group agreed with that observation. Ms. Gauthier added that there were some measures that could be proxies for or indicators of adherence to the Guidance, or of potential problems in adhering to the Guidance. She cited reviews of complaints as an example, including the source of the complaint, noting that if a complaint occurs repeatedly and it is determined that the customer is complaining due to a lack of understanding of the product, that is a signal to the company that they have an issue to address, as customers should not continuously be having difficulty understanding a product.

Turnover among staff, staff morale, and customer retention were also cited as possible measures. Ms. Gauthier said that customer satisfaction surveys were another good measure that allowed a company to see if customers were satisfied with the different parts of their exposure to products.

It was added that the International Association of Insurance Supervisors (IAIS) is looking at developing Key Performance Indicators (KPIs) around FTC.

There was discussion about the importance of open communication on these initiatives, and of not just checking boxes but rather making fair treatment of customers a front and centre priority in all company initiatives. It was stated that there had been a shift in societal expectations and companies are being held to ever-higher standards.

Incentives management was cited as a particular priority for the regulators. Incentives-driven conflicts of interest were inconsistent with the fair treatment of customers, and needed to be looked at in detail.

Ms. Gauthier advised that an FTC Working Group sub-committee was looking at these issues, with a focus on four specific areas:

- 1) incentives that are challenging from a public optics perspective, for example a trip to Hawaii as a reward for meeting a sales target.
- 2) behaviour by the seller that is not aligned with the interests of customers, such as volume bonuses, quotas, etc.

- 3) contractual programs that restrict competition. The example was given of sliding commissions where commissions grow per sale if certain volumes with an individual company are met, which means that the seller has an incentive to send more business to one firm, even if the terms might be better for the customer at another firm.
- 4) customer service issues, for example where compensation is paid for the sale of a product, but there is no compensation for proper post-sale servicing of the consumer.

Ron Fullan spoke to these issues and said that as progress was made by the FTC Working Group sub-committee, the industry would be fully consulted, including being given the opportunity to offer written submissions in response to an Issues Paper which the Working Group sub-committee would be issuing. Initially, requests for responses will be made to industry Associations.

CCIR/CISRO representatives added that it would be appreciated if CAFII could share any information on how compensation and incentives management works within our member companies.

#### Conclusion

It was agreed that the next quarterly meeting between CAFII and the CCIR/CISRO FTC Working Group would be held in late June 2019. The Working Group asked if CAFII would be agreeable to very high level minutes of this meeting being developed and shared with other stakeholders, and the response was generally yes, so long as care was exercised around attribution and revealing details. It was agreed that draft high level minutes would be shared with CAFII prior to circulation, to ensure our comfort prior to dissemination.

CAFII members present at this meeting felt that the discussion was positive and collaborative and that there was a good rapport and dialogue during the session.

#### **CAFII Meeting With CCIR/CISRO Fair Treatment of Consumers Working Group: 28 November, 2018** **Meeting Summary**

##### Attendees From CCIR/CISRO:

Louise Gauthier, AMF; Chair of CCIR/CISRO Fair Treatment of Consumers Working Group  
Nathalie Sirois, AMF  
Izabel Scovino, FSCO  
Ron Fullan, Insurance Councils of Saskatchewan (ICS); Chair of CISRO  
April Stadnek, ICS  
Timothy Goff, RIBO  
Vivian Lee, RIBO  
Tony Toy, CCIR Policy Manager  
Joanna Reading, CISRO Policy Manager

##### Attendees From CAFII:

##### In-Person

Rob Dobbins, Assurant  
Charles MacLean, RBC Insurance  
Huma Pubani, TD Insurance  
Martin Boyle, BMO Insurance

Brendan Wycks, CAFII  
Keith Martin, CAFII

On The Phone

John Lewsen, BMO Insurance  
Michelle Costello, CUMIS Services Inc.  
Brad Kuiper, ScotiaLife Financial  
Sue Manson, CIBC Insurance  
Laura Bedford, RBC Insurance  
Leena Khan, Manulife Financial  
Anita Mukherjee, RBC Insurance  
Dallas Ewen, Canada Life Assurance  
Dana Easthope, Canadian Premier Life Insurance/Valeyo

The agenda was focused on reviewing CAFII members' progress on implementing CCIR/CISRO's "Guidance: Conduct of Insurance Business and Fair Treatment of Customers," the final version of which was released on September 27/18. However, between the time the original agenda was circulated to Brendan Wycks and Keith Martin on 19 November and the 28 November meeting itself, an additional item on "credit card balance insurance" had been added to the agenda.

Louise Gauthier, Chair of the CCIR/CISRO FTC Working Group, welcomed all in attendance to the meeting and indicated that the CCIR/CISRO FTC Working Group was the "regulators' hub" on FTC and it was continuing to meet biweekly with a recurring agenda item on "the FTC Guidance" at each meeting, with a particular focus on the industry's implementation efforts.

Initially seeming to be reading from a prepared script during the introductory part of the meeting, Ms. Gauthier said that the Working Group wanted an open and collaborative dialogue with the industry on FTC Guidance implementation, and wanted the Working Group to be a "safe environment" for open discussion. She repeatedly said that the Working Group would find it valuable if industry could provide it with data and information about its practices, and share information as openly as possible.

She stated that there is more than one way for regulators to monitor industry implementation of the FTC Guidance; regulators could bring in Regulations. At several points in the meeting, she made reference to "possible future Supervisory action." On that same subject of monitoring and enforcement options, Ms. Gauthier added that some of the provincial insurance regulators already have a "full enforcement kit" which they are willing to use, if necessary, to compel implementation of and compliance with the FTC Guidance. But she also indicated that another option is for the industry to self-regulate; and good industry practices and adhered-to industry Guidelines are respected by the regulators. She stated that that it was better for the industry to align itself with the FTC Guidance, rather than regulatory authorities having to dictate what the industry must do.

The FTC Working Group's ultimate goal at this stage is to find and strike the right balance or "the right cocktail of actions" between regulatory enforcement and industry self-regulation, Ms. Gauthier emphasized. (Ms. Gauthier also mentioned that a related initiative being undertaken by the FTC Working Group at this time is a canvas of all provincial/territorial insurance regulators to find out exactly "what is in their enforcement toolkit?")

It was suggested and agreed that these FTC Guidance implementation monitoring-focused meetings between the CCIR/CISRO FTC Working Group and CAFII should be held quarterly. *(In a phone call on January 8/19, Tony Toy advised that the next quarterly meeting would be held on Wednesday, March 27/19, with CAFII's slot likely being from 3:30 to 5:00 p.m.)*

Ms. Gauthier asked for feedback and input from CAFII representatives on where additional clarity in the Guidance was needed, and where elements of the FTC Guidance might not be fully understood. In response, Keith Martin advised that because many elements of the FTC Guidance were about corporate culture, it could be challenging to provide hard measures of the adoption and implementation of some elements, as these are softer attributes that can be difficult to measure concretely. Ms. Gauthier replied that she thought that was a valid point.

CAFII representatives then offered preliminary examples of how the FTC Guidance is being implemented within their own businesses:

*Huma Pabani, TD Insurance, said that TD Insurance was reviewing many existing TD Insurance documents to ensure their complete consistency with the FTC Guidance.*

*Rob Dobbins, Assurant, said that his company had given the Guidance a considerable amount of thought, and has developed an FTC Policy; implemented a complaints workshop with the FTC Guidance's regulatory expectations built-in; and is developing a training module to reflect the Guidance's expectations.*

*Charles MacLean, RBC Insurance, said that his company was working with its HR team to bake FTC components into "Executive Mandates" and that everyone in the chain of command was now focused on FTC expectations. There were multiple documents and policies at his company that addressed issues in the Guidance, but they were not centralized in one document. RBC Insurance was therefore examining how to develop one framework that captured everything FTC Guidance-related within one document or policy.*

Ms. Gauthier said that one of the current priorities for the FTC Working Group was securing evidence that the industry's FTC Guidance implementation efforts were filtering down to the front line. Evidence of good governance policies among industry players was also a key area of focus. She asked CAFII to provide input at the next quarterly meeting on what priorities the FTC Working Group should focus in the area of governance policies and practices.

She said the FTC Working Group was concerned that there were incentives or sales practices that could trigger "bad behaviour" among employees, and could create conflicts of interest. The FTC Working Group wanted to have a frank and open dialogue with the industry about these issues; that there might be some "difficult discussions" around the ways things have been done in the past; and that we may need to rethink our approach on some of product offerings in the future.

Ms. Gauthier re-emphasized that the FTC Working Group wanted data and information, and asked us to focus on the following issues:

- how we handle credit card balance protection insurance;
- information on our incentive management programs;
- demonstrating some "quick wins" that involve our changing or eliminating certain practices, which CCIR and CISRO could then share on their websites; and
- our recommendations around demonstrating that we have absolutely complied with informed consumer consent, and the need to respond to negative public perceptions and doubts about some of our products.

The subject of the CBC Marketplace 9 November, 2018 story on credit card balance protection insurance was raised, with Ms. Gauthier saying it had publicized certain issues that required a response. She implied that the CBC story put pressure on the regulators, who now needed to demonstrate that they were “doing something” in response, and this led her to ask if there were any actions which CAFII or its members could take which the regulators could publicize as an example that they were responding.

Ms. Gauthier specifically asked “are there incentives embedded in the credit card balance protection insurance business which stimulate bad behaviours, i.e. sales targets?” As an addendum to this question, she again re-iterated that “there may be intense discussions about this that we need to have with you.”

Brendan Wycks let the Working Group know that CAFII and its members did not view the story as fair or evidence-based, and invited Keith Martin to elaborate on this point.

Mr. Martin said that the story was one-sided, had many factual inaccuracies, and did not provide an even-handed overview of how these products worked.

Ms. Gauthier and the FTC Working Group did not challenge these comments, but an impression was left that the story had created pressures on them as regulatory authorities to demonstrate that they were regulating effectively and addressing industry bad practices.

In closing, Ms. Gauthier said that while there should be standard agendas for the agreed-upon quarterly FTC Guidance implementation-focused meetings between the FTC Working Group and CAFII, there could also be a special meeting on credit card balance protection insurance alone. It was agreed that there would be quarterly, one-hour meetings for the time being, at which CAFII and its members would be expected to demonstrate how the FTC Guidance was being implemented.