

**Agenda Item 4(a)(ii)(2)**  
**April 26/22 EOC Meeting**

3 May, 2022

Mr. Mark White, CEO; and  
Financial Services Regulatory Authority of Ontario  
25 Sheppard Avenue West, Suite 100  
Toronto, Ontario  
M2N 6S6

[mark.white@fsrao.ca](mailto:mark.white@fsrao.ca); and

<https://www.fsrao.ca/engagement-and-consultations/consultation-proposed-principles-conduct-insurance-intermediaries#comment>

**RE: CAFII Feedback on FSRA's Proposed Principles of Conduct for Insurance Intermediaries:**

Dear Mr. White:

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

CAFII strongly supports a principles-based regulatory (PBR) approach. PBR produces the desired regulatory outcomes by engaging regulated entities directly in the regulator's objectives; and by rooting the regulatory regime in a strong foundation of dialogue and the pursuit of common objectives, it is more effective at achieving the desired outcomes than is a rule-based approach.

PBR is also better aligned with a regulatory regime designed around fair treatment of customers (FTC) and optimally balancing FTC with fostering and supporting industry innovation; and it is fully consistent with the increasing recognition that the most important element in achieving FTC is focusing on the corporate culture of regulated entities.

In that regard, CAFII feels that the proposed Principles of Conduct for Insurance Intermediaries is very consistent with FSRA's stated objective of using a principles-based regulatory approach. We also appreciate that the proposed guidance supplement and build on the intermediary elements in the *Guidance on Conduct of Insurance Business and Fair Treatment of Customers ("FTC Guidance")* and are aligned with *Insurance Core Principles ("ICP") 18 and 19 of the International Association of Insurance Supervisors ("IAIS")*. We believe these are effective foundational documents and that it is wise and prudent for FSRA to build its Guidance on these existing approaches.

CAFII members offer credit protection insurance and travel insurance, with credit protection insurance offered in connection with a loan instrument like a mortgage or line of credit. These are authorized products under federal legislation and are offered by non-licensed representatives. As such, we are focused on the Guidance as it relates to "intermediaries not licensed with FSRA that have a role to play in distributing or servicing insurance products" (page 4).

We appreciate that FSRA does not take a “one size fits all” approach and as such, we are in agreement with the statement that:

*All insurance intermediaries and insurers should conduct their business following the Principles of Conduct that are relevant to their role in the industry. Expectations for conduct may differ depending on the nature of the relationship to the customer, the type of insurance provided, and the distribution method. (Page 6.)*

However, we express caution with the statement that “In the future, FSRA intends to assess the potential for incorporating the Principles of Conduct into the UDAP rule” (Page 6). Our concern is that this has the potential to deviate from a principles-based regulatory approach. We would be supportive of this approach if the incorporation of the Guidance into the UDAP rule is clearly stated as a “fall-back” measure to provide enforcement capabilities to FSRA in cases where a regulated entity is clearly not adhering to the principles of the Guidance. In general, however, the first effort at ensuring proper behaviour among industry participants should be through the Guidance itself.

With respect to implementation of the Guidance, we believe that adherence to the Guidance is more important than explaining it to customers. For example, transparency, fair treatment of customers, and full disclosure is more important than explaining that these behaviours conform to the expectations of FSRA around adhering to the Guidance. As such, we have concerns with the statement “It is expected that intermediaries and insurers that directly distribute insurance, share and explain the Principles of Conduct to customers” (Page 7).

In a similar vein, with tens of thousands of agents employed in the industry we believe that it is more important to act on any inappropriate behaviour as opposed to reporting it to FSRA, and as such we call out the “compliance and suitability screening systems” implementation expectation: “The insurer is required to report to FSRA if it has reasonable grounds to believe that an agent who acts on behalf of the insurer is not suitable to carry on business as an agent” (page 8).

We believe that FSRA demonstrates in the Principles of Conduct its commitment to principles-based regulation, and in that connection we applaud the following clarifying statement:

*As the Principles of Conduct are aligned with the FTC Guidance, which has been and continues to be implemented by industry, the adoption of the Principles of Conduct should not create more burden. Because the Principles of Conduct are principles-based, industry has some latitude to determine how best to achieve the expected outcomes of this Guidance, and reasonably GUI INT APP PC0044INT | [TBD] 9 Interpretation & Approach demonstrate application of this Guidance and the Principles of Conduct, as appropriate to the nature, size and complexity of their business operations and activities. (Pages 8-9.)*

In summary, CAFII believes that this Guidance strikes the right balance between consumer protection and avoiding burdensome regulation, and will be more successful by being based solidly on principles-based regulation and on the fair treatment of customers. We look forward to continuing our dialogue with FSRA and are committed, on behalf of our members, to adhering fully to the important principles and expectations contained in the *Proposed Principles of Conduct for Insurance Intermediaries*.

CAFII thanks FSRA again for the opportunity to provide feedback on your consultation, and we look forward to continuing our dialogue with you on this critically important matter. We also express our appreciation for FSRA's continuing to "walk the talk" on its commitment to open and transparent communication and consultation. 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 Keith Martin, CAFII Co-Executive Director, at [keith.martin@cafii.com](mailto:keith.martin@cafii.com) or 647-460-7725.

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 credit protection, travel, life, health, and property and casualty 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 which helps ensure that Canadian consumers have access to insurance products that suit their needs. Our aim is to ensure that 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 Bank; CUMIS Services Incorporated; Manulife (The Manufacturers Life Insurance Company); Sun Life; and Valeyo.