

The Autorité des marchés financiers (AMF) would like to thank the various stakeholders that have submitted comments as part of the consultation held from October 21, 2021 to January 28, 2022 on the draft update of its *Sound Commercial Practices Guideline*. After analysis, the AMF is hereby publishing its responses to the comments received, which fall under the following main themes.

Shift away from the principles-based prudential approach

The AMF was sensitized to the fact that the draft update of the *Sound Commercial Practices Guideline* (the “Guideline”) was more prescriptive than the previous version and included a number of requirements. The removal of the reference to the principle of proportionality in the draft was used to illustrate this shift.

In response to these observations, the AMF reiterates that work was carried out in 2020 and 2021 to improve the usability of its guidelines. The AMF removed the redundant sections from all prudential guidelines and moved the messages on its [website](#) to the location where the guidelines may be consulted. Although the “Preamble” section stating that it is the responsibility of each institution to adopt the principles and to implement them following the principle of proportionality, based on the nature, size and complexity of its activities and its risk profile, has been removed from the guidelines, the principle of proportionality is still fundamental for the AMF. There is therefore no shift away from the principles-based approach.

Increased compliance burden

The AMF was sensitized to the importance of ensuring consistency between the Guideline and the overall legislative and regulatory framework for Québec’s financial sector, including the AMF’s other guidelines. It was mentioned that it would be preferable, for example, to make reference to the applicable laws and regulations and only clarify expectations of a more specific nature to avoid any contradictions, inconsistencies or redundancies.

The AMF took note of these observations and reviewed, in particular, the section on the division of responsibilities between financial institutions and intermediaries (see below for a discussion of this aspect).

Regarding matters covered by laws and regulations not administered by the AMF, it is important to remember that, beyond expected compliance with all laws, the AMF gives prominence to aspects of the fair treatment of clients (FTC) it deems important and essential, even if these matters are otherwise covered by laws and regulations that are not under its responsibility.

Harmonization with the CCIR and CISRO Guidance

The AMF was sensitized to the fact that the Guideline was moving further away from the [*Guidance: Conduct of Insurance Business and Fair Treatment of Customers*](#), published in 2018 jointly by the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO). The comments reflected discomfort with the use of a different terminology and the addition of new expectations on top of those set out in the CCIR and CISRO Guidance.

In response to these observations, the AMF points out that the CCIR and CISRO Guidance is a statement of the common expectations of Canadian insurance regulators and that each jurisdiction is responsible for adapting it to its particular context using legislative and other instruments at its disposal, in accordance with its powers.

The AMF also reiterates that it contributed to the work on the CCIR and CISRO Guidance and, in this sense, was able to develop a Guideline that achieves optimal harmonization while being adapted to the context and characteristics of Québec's financial sector (including, among other things, the *Act respecting the distribution of financial products and services*).

Unlike the CCIR and CISRO Guidance, which is intended for insurers and intermediaries, the AMF's Guideline applies to financial institutions (insurers and deposit institutions). In light of its distinct scope of application, the AMF considered, for example, the provisions of the *Bank Act* aimed at enhancing the integrated Financial Consumer Protection Framework. The updated Guideline also takes into account observations and recommendations made in the context of the AMF's supervision of financial institutions since the release of the first version of the Guideline in 2013.

Division of responsibilities between financial institutions and intermediaries

The AMF was sensitized to the fact that the draft update of the Guideline gave financial institutions certain additional responsibilities that went beyond the responsibilities set out in the laws that govern them. It was also mentioned that the Guideline increased financial institutions' obligations in respect of intermediaries while imposing unrealistic expectations on them and leading them to override the intermediaries and meddle in their internal governance. The comments also made reference to a failure to acknowledge the intermediaries' role, independence and obligations under Québec's legislative and regulatory framework.

The AMF took the comments received into consideration and completely revised sections 3 and 4 of the Guideline. Section 3 now emphasizes a financial institution's FTC obligation at all stages of the product life cycle—an obligation that continues even where intermediaries may be involved in offering the financial institution's products and those intermediaries have different requirements. Section 4 focuses on the importance for financial institutions to establish with intermediaries agreements enabling them to fulfill their FTC obligation.