

CAFII Submission to the Federal Government Consultation Process For a New Consumer Code

Summary of CAFII's position

February 14, 2014

Background

The CBA position is supportive of the Federal code if it "confirms and eliminates any ambiguity about its longstanding policy intent to have exclusive federal jurisdiction over banks and banking including in the consumer protection context." The CBA is supportive of Finance consolidating all existing consumer provisions to which banks are subject to into a single code that would be the only code applying to banking products and services. The CBA response does not mention or seem to contemplate the fact that insurance products offered by banks and bank owned insurers are subject to provincial regulations.

The CLHIA position is that insurers are already subject to a comprehensive consumer protection regime of the provinces such that a new code should be restricted to banking only. They also recommend that if the new code is to apply to insurers as well as banks then the governments should consult with CCIR and provincial regulators to ensure that such a new code is comprehensive and "does not impose a secondary layer of regulation where it is not needed."

Introduction and Context

CAFII can respond on behalf of all members (not just authorized insurance products). CAFII could take the position that members are subject to comprehensive consumer regulations of the provinces and that we are in favour of a solution that avoids conflict with the regulations with which we already comply. This position acknowledges the fact that we are subject to provincial regulations without going as far as the CLHIA does and without ignoring the fact that banks are subject to provincial regulations (i.e. an in-between approach).

Establishing a Comprehensive Set of Principles for Consumer Protection

Suggest that we focus on the IAIS core principles, internationally-vetted, and remove the paragraphs that suggest looking farther field for more examples. We also need to remind the government of our position which is that beyond FCAC oversight of consumer provisions we are already subject to extensive provincial regulations and standards for insurance product features and wording, marketing practices, consumer disclosure, complaint handling and the conduct and licensing of insurers and agents. In addition, a number of CCIR documents establish expectations for marketplace conduct. Considering all of this is why our goal is to avoid conflict between regimes.

Rules and Guidelines

Suggest we reinforce your original words of expectations and guidance, not regulations. In addition to existing codes and industry guidelines working well, our rationale is that industry guidelines will help us manage potential conflicts between provincial and federal regulations.

Addressing the Needs of Senior and Vulnerable Canadians

Suggest limiting our response to financial literacy. No need to imply that seniors are vulnerable - too broad brush.

Responsibility of Financial Institutions to Consumers

In the DMC group discussion we wanted to point out that provincial regulators have long embraced principles-based market conduct. This provides an opportunity to point out ICP #19 as an example but that our concern would be ensuring conflict avoidance with existing regulations/rules.

Need to point out that CAFII members are subject to extensive obligations within insurance legislation and regulation, CCIR principles, provincial codes of conduct and insurer and association standards relating to disclosure

Supervisory Powers for Accountability and Enforcement

The FCAC would have a similar role regarding provisions of a Code (i.e. consumer provisions compliance). Should add OHLI in paragraph 3.

Innovation/Access to Financial Services

Suggest combining these two sections with our main point being that CAFII has been and will continue to be innovative in the "alternative distribution" space including electronic commerce. CAFII needs regulatory environment that enables and supports consumer access to alternative distribution, considering the large underserved middle market and Canada being at a 30 year low in life insurance ownership. Suggest removing items that speak to brokers and agents selling upscale, Bank Act access (last several paragraphs).

Continuing the Conversation

Yes, engagement is required during implementation of new rules/principles but also on an ongoing basis, especially as CAFII members are subject to additional rules/principles and members trying to avoid conflict.