

**Agenda Item 5(e)
November 23/21 EOC Meeting**

From: Brendan Wycks
Sent: November-17-21 6:01 PM
To: See Salutation Line
Cc: Keith Martin <Keith.Martin@cafii.com>; Jake Becker <jake.becker@cafii.com>
Subject: FCAC Response To CAFII Follow-up Re FCAC's Planned Timelines For Public Consultation On Draft Appropriate Products and Services Guideline

Martin, Other Members of the CAFII Working Group On The FCAC's Appropriate Products and Services Guideline; Rob; Karyn; Brad; and Fay:

FYI, see below for this afternoon's exchange between myself, on behalf of CAFII, and Brad Schnarr of FCAC.

While Brad's response is definitive, helpful, and courteous, it is not very "considerate" in that FRFI representatives and related industry Association staff executives are definitely going to have to be working on FCAC consultation responses during the Holiday Season hiatus, as 45 calendar days from Monday, November 22, 2021 is Thursday, January 6, 2022.

Brendan Wycks, BA, MBA, CAE

Co-Executive Director
Canadian Association of Financial Institutions in Insurance
brendan.wycks@cafii.com

From: Bradley Schnarr (FCAC/ACFC) <Bradley.Schnarr@fcac-acfc.gc.ca>
Sent: November-17-21 4:47 PM
To: Brendan Wycks <brendan.wycks@cafii.com>
Cc: Stephen Wild (FCAC/ACFC) <Stephen.Wild@fcac-acfc.gc.ca>; Keith Martin <Keith.Martin@cafii.com>; Teresa Frick (FCAC/ACFC) <Teresa.Frick@fcac-acfc.gc.ca>; Frank Lofranco (FCAC/ACFC) <Frank.Lofranco@fcac-acfc.gc.ca>; Rana Abu Naameh (FCAC/ACFC) <Rana.AbuNaameh@fcac-acfc.gc.ca>
Subject: RE: Follow-up From CAFII Re FCAC's Planned Timelines For Public Consultation On Draft Appropriate Products and Services Guideline

Thanks Brendan,

Happy to provide an update on timelines. We plan to launch public consultation on Monday, November 22nd and have in fact landed on a 45-calendar day consultation period, which should afford a little more time.

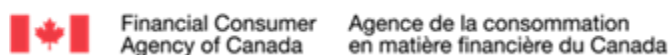
We also note your comment on “enforcement extension” and will document it for consideration as part of the consultation. Of course, we also encourage you to provide a submission during the consultation that we will carefully review and consider.

Thanks,

Brad

Bradley Schnarr (he, him, il)

Manager, Regulatory Guidance and Coordination | Supervision and Enforcement Branch
Financial Consumer Agency of Canada
Bradley.Schnarr@fcac-acfc.gc.ca | Tel: 613-299-5743



From: Brendan Wycks <brendan.wycks@cafii.com>
Sent: Wednesday, November 17, 2021 4:19 PM
To: Bradley Schnarr (FCAC/ACFC) <Bradley.Schnarr@fcac-acfc.gc.ca>
Cc: Stephen Wild (FCAC/ACFC) <Stephen.Wild@fcac-acfc.gc.ca>; Keith Martin <Keith.Martin@cafii.com>; Teresa Frick (FCAC/ACFC) <Teresa.Frick@fcac-acfc.gc.ca>; Frank Lofranco (FCAC/ACFC) <Frank.Lofranco@fcac-acfc.gc.ca>; Rana Abu Naameh (FCAC/ACFC) <Rana.AbuNaameh@fcac-acfc.gc.ca>
Subject: Follow-up From CAFII Re FCAC's Planned Timelines For Public Consultation On Draft Appropriate Products and Services Guideline

Hi, Brad.

In follow-up to your message of October 14 below, CAFII is reaching out again at this time to ask for greater specificity around the FCAC's planned timelines for the public consultation on the draft Appropriate Products and Services Guideline.

With respect to point 2) in your October 14 message, we believe that 30 days is the absolute minimum consultation period that the FCAC should provide for, in order for the Agency to receive well-considered, thorough, and constructive feedback submissions from industry stakeholders such as our Association.

We want to draw your attention to the fact that unless the draft Guideline is released almost immediately (within the next two days), a 30-day consultation period which is launched later in November or in December is going to encroach upon the Holiday Season hiatus that affects nearly all businesses, including the financial services and insurance sectors; and the quality of feedback submissions to the FCAC will therefore be compromised.

Given that today is November 17, we see the following timeline options as being reasonable approaches:

- the FCAC releases the draft Appropriate Products and Services Guideline for public consultation by Friday, November 19/21 and provides a deadline of Monday, December 20/21 for submissions (a 31 day consultation period);
- the FCAC releases the draft Appropriate Products and Services Guideline for public consultation between Monday, November 22/21 and Monday, December 20/21; and provides a deadline of Monday, January 31/22 for submissions (a somewhat longer consultation period, but one heavily compromised by the Holiday Season hiatus); or
- the FCAC releases the draft Appropriate Products and Services Guideline for public consultation on or before Monday, December 27/21 and provides a deadline of Monday, January 31/22 for submissions (a 35 day consultation period, but one comprised by the New Year's hiatus, including the fact that Monday, January 3/22 will be a statutory holiday lieu day).

In connection with the delayed/deferred second and third options noted above, we would strongly request that the FCAC give serious consideration to an "enforcement extension" beyond June 30, 2022, as it will be extremely difficult for FRFIs to be able to pivot and come into compliance with the new expectations to be set out in the final version of the Appropriate Products and Services Guideline in less than five months.

We thank you in advance, Brad, for providing any greater specificity around the FCAC's draft Appropriate Products and Services Guideline timing intentions that you can share with CAFII at this time.

Brendan Wycks, BA, MBA, CAE

Co-Executive Director

Canadian Association of Financial Institutions in Insurance

Brendan.wycks@cafii.com

T: 647.218.8243

Alternate T: 647.361.9465

www.cafii.com

Key Points for CAFII To Make in Submission to FCAC

- Extension of implementation time as Guideline will be published very close to implementation date, and members cannot build plans until they know exactly what is in the Guideline;
- Work with provincial regulators to coordinate regulations, to maximize harmonization, and to ensure consistency;
- Ask regulator for a carve out for scenarios that produce non-compliance with existing regulation, especially provincial insurance regulations with respect to CPI not being sold by licensed individuals and therefore not including advice;
- Clarity around appropriateness versus eligibility as criteria in the Guideline, or providing FCAC with our views on this matter and our inability to meet a suitability requirement for CPI products as a needs assessment and advice cannot be provided by non-licensed representatives;
- Carve out for requirement around financial circumstances component of the legislation.;
- Rule making engagement – would like wider consultation than one CBA Working Group, with a public consultation of more than 30 days. Request for engaging CAFII more in this consultation. Should not be so much behind closed doors. Stakeholder engagement model should be broader.
- Group would like to add in Jill's comments re consumer protection and branch staff being ill-suited to conduct a sufficient needs assessment (but maintain comments re concerns with the insurance regulatory framework)
- WG agreed that submission should not ask the FCAC for clarity on application of appropriateness to insurance. Instead CAFII's submission should provide clarity

What Can and What Cannot Be Included Within An Appropriateness Standard/Guideline With Respect To Authorized Insurance Products/Credit Protection Insurance; and Related Rationale

<u>Cannot Be Included</u>	<u>Rationale</u>	<u>Can Be Included</u>	<u>Rationale</u>
Assessing financial/insurance needs		Eligibility requirements	Questions can be asked to ensure that the customer meets the eligibility requirements to be enrolled in the insurance and to ensure that if they made a claim, they would be eligible for a benefits payout.
Assessing adequacy of existing insurance		Value of insurance protection arising from new/existing debt obligation	
Insurance recommendations or advice		Effective compliance oversight	
Description of how insurance meets any needs	The FI can have tools available for the customer to self-determine what risks they might face and what insurance could do to offset those, but personnel representing the FI must not attempt to influence the customer to purchase the insurance or imply that they need it or do not need it—FI representative	Focus on optional nature of product	The FI representative should emphasize that the coverage is entirely optional.

	must be completely impartial and only present the product, and only the customer can make the decision.		
Collection of information beyond what is directly related to the optional credit protection insurance being offered (e.g. financial goals/needs, time horizon, net worth, income, risk profile)	The information collected must be solely related to understanding the customer's eligibility for the CPI	All limitations and exclusions should be disclosed to the client along with content of the product, and a description of how the product functions in different scenarios.	
Affordability assessment (credit test should be considered appropriate)		Tools and self-assessment	FIs can provide tools on its website, app etc. for consumers to self-assess their own financial status and insurance needs. Branch personnel, a call centre representative etc. cannot assess a customer's financial status or insurance needs, and cannot offer advice or guidance. However, a general discussion around what the product does in certain situations is fine.
Requirements that create non-compliance with other applicable rules			