

Agenda Item 5(e)(2)
March 22/22 EOC Meeting

Guideline on Appropriate Products and Services for Banks and Authorized Foreign Banks

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I. Introduction

1. The Financial Consumer Agency of Canada (FCAC) has developed a *Guideline on Appropriate Products and Services for Banks and Authorized Foreign Banks* (Guideline) to set out its expectations with respect to Banks' (including federal credit unions) and Authorized Foreign Banks' (Banks) implementation of the appropriate product or service provisions in the *Bank Act* and the *Financial Consumer Protection Framework Regulations*.

2. Part XII.2 of the *Bank Act* establishes the provisions that apply to Banks regarding products and services offered or sold by Banks. A Bank must establish and implement policies and procedures to ensure that the products or services in Canada that it offers or sells to a natural person other than for business purposes are appropriate for that person, having regard to their circumstances, including their financial needs (Policies and Procedures).

3. FCAC encourages other federally regulated financial entities, such as trust and loan companies and insurance companies, to review this Guideline to develop and improve their appropriate product or service Policies and Procedures.
4. A Bank is responsible for ensuring it meets the requirements established in the *Bank Act* including ensuring the compliance of any parties subject to the requirements in s. 627.15 of the *Bank Act* (Third Parties).
5. FCAC recognizes that Banks may tailor their Policies and Procedures to align with the nature, size and complexity of their business, distribution channels, and products and services. Each Bank may adapt its existing processes to comply with its obligations under s. 627.06 and s. 627.07.
6. This Guideline should be read in conjunction with all applicable legislation and regulations.

II. Key principles

7. A Bank's senior management and the committee of the board responsible for the Bank's compliance with consumer provisions—or, in the case of an Authorized Foreign Bank, its senior management—should oversee the establishment and implementation of the Policies and Procedures.
8. When establishing and implementing Policies and Procedures, a Bank should recognize that consumers are a diverse group, and that some consumers may have financial vulnerabilities. Policies and Procedures should be comprehensive and result in a Bank offering or selling products or services that are appropriate for consumers, having regard to their circumstances, including their financial needs.
9. A Bank should keep records that demonstrate that it has established and implemented Policies and Procedures that meet the requirements of the *Bank Act*.

Effectiveness

10. A Bank should effectively address and implement the following:

i. Know your consumer

A Bank should collect and assess Know Your Consumer (KYC) information to understand consumers' circumstances, including their financial needs, when it offers or sells products or services to them.

ii. Know your product

A Bank should understand the features, charges, risks and benefits of the products or services that it offers or sells.

iii. Assess appropriateness

A Bank should assess the appropriateness of the product or service when it offers or sells it.

iv. Inform consumers

A Bank should inform consumers when it has assessed a product or service as not appropriate for them, or when the Bank is unable to conduct the assessment.

v. Align remuneration

A Bank should include controls relating to its remuneration, incentive and benefit practices to align with the intent and application of the Policies and Procedures.

III. Know your consumer

11. A Bank's Policies and Procedures should ensure that the Bank collects and records the KYC information it needs to understand consumers' circumstances so that it can assess the appropriateness of the products or services being offered or sold. The nature of the KYC information that a Bank may need to collect and record can vary depending on consumers' circumstances, including their financial needs, and on the products or services that it offers or sells.

12. A Bank's Policies and Procedures should cover the collection and updating of information, including what information is to be collected and how it is to be used.

13. A Bank's Policies and Procedures should cover the verification of information, including how to proceed if that information is unreliable, inaccurate, outdated, or incomplete, or if the information has any other issue that calls its use into question.

14. A Bank's Policies and Procedures should cover circumstances when consumers refuse or are unable to provide KYC information.

IV. Know your product

15. In developing, designing, approving and offering appropriate products or services, a Bank should ensure it has an internal assessment, review and approval process in place that applies throughout the product or service life cycle that accounts for:

- 15.1. an assessment of the features, risks, charges and benefits to consumers associated with the product or service
- 15.2. considerations regarding distribution channels
- 15.3. consumer-facing materials, such as disclosure documents or marketing materials

16. A Bank should ensure that the internal assessment, review and approval process applies when:

16.1. products and services are developed by the Bank, regardless of whether the product or service is sold directly by the Bank or through a Third Party

16.2. Third Party products or services are offered or sold by or through the Bank

16.3. material changes are made to existing products or services

17. A Bank should require initial and ongoing training to ensure that an officer, employee or any person involved in the offer or sale of a Bank product or service has the necessary skills, knowledge and expertise to discharge their responsibilities related to the appropriateness of the product or service. This training should:

17.1. cover the Bank's obligations regarding the offer or sale of appropriate products or services

17.2. cover the products or services that the officer, employee or person is offering or selling, including the relevant features, charges, risks and benefits of the Bank's products or services and how to explain these to consumers

18. A Bank should ensure it:

18.1. provides the training program

18.2. monitors officers', employees' or other persons' completion of the training program

18.3. regularly reviews and updates the training

V. Assessing appropriateness

19. A Bank's Policies and Procedures should ensure that the Bank conducts an appropriateness assessment when it offers or sells products or services to consumers. For greater certainty, a Bank's Policies and Procedures should ensure that it conducts an appropriateness assessment even when these products or services have been requested by consumers.

20. A Bank's Policies and Procedures should ensure that the Bank can demonstrate that assessments are being conducted and the outcome of these.

21. A Bank's Policies and Procedures should address how to proceed if consumers wish to purchase products or services that the Bank has assessed as not appropriate for them, or if it cannot conduct the assessment.

VI. Informing consumers

22. A Bank's Policies and Procedures should ensure that the Bank informs consumers when it has assessed products or services as not appropriate for them or if it cannot conduct the assessment so that consumers can make informed decisions. The Bank's Policies and Procedures should ensure that this information:

22.1. is provided in a manner, and using language, that is clear, simple and not misleading

22.2. is presented in a manner that accounts for factors such as the distribution channel, the nature of the products or services and any other relevant factors

VII. Aligning remuneration

23. A Bank should ensure that:

23.1. an employee's, officer's or any person's remuneration is determined in a manner that does not interfere with their obligation to comply with the Bank's Policies and Procedures to offer or sell products or services that are appropriate

23.2. the metrics used to determine remuneration align with the Bank's obligation to offer or sell products and services that are appropriate

23.3. remuneration and benefits account for monetary and non-monetary components, such as salaries, variable pay, commissions, bonuses, pension benefits and awards

24. A Bank's remuneration, incentives and benefits should be reviewed regularly to ensure they do not interfere or conflict with its obligations regarding appropriate products or services.

VIII. Miscellaneous

25. Questions relating to this Guideline can be sent by email to compliance@fcac-acfc.gc.ca or by mail to:

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Attention: Deputy Commissioner, Supervision and Enforcement Branch
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