

Consultation on a proposed Guideline on Appropriate Products and Services for Banks and Authorized Foreign Banks

From: Financial Consumer Agency of Canada

Current status: Open

This consultation is open. All submissions must be received by **January 6, 2022**.

The Financial Consumer Agency of Canada (FCAC) invites comments on a proposed Guideline on Appropriate Products and Services for Banks and Authorized Foreign Banks (Guideline) in support of the implementation of the new Financial Consumer Protection Framework (FCPF) in the [Bank Act](#). The FCPF introduces new or enhanced consumer protection measures that will further empower and protect consumers in their dealings with banks and authorized foreign banks (Banks).

The Guideline sets out clear principles and expectations that Banks should use when establishing and implementing their policies and procedures to ensure they offer or sell products and services that are appropriate for their consumers, having regard to their circumstances, including their financial needs.

The consultation will give all interested parties an opportunity to express their views and enable FCAC to benefit from a wide range of perspectives.

This is the second in a series of consultations on guidelines that FCAC has developed to help Banks comply with their obligations in the [Bank Act](#) and the new [Financial Consumer Protection Framework Regulations](#), which will come into force on June 30, 2022.

A consultation on a proposed [Guideline on Complaint Handling Procedures](#) is in progress until December 11, 2021. Another consultation on the obligations of Banks to implement a whistleblowing program for their employees is being planned.

How to participate

FCAC invites all interested parties to submit their comments by email to FCAC.Consultation.ACFC@fcac-acfc.gc.ca or by using the [following form](#).

FCAC will also accept written comments by mail or fax at:

Financial Consumer Agency of Canada
Supervision and Enforcement Branch
427 Laurier Avenue West, 6th floor
Ottawa, ON K1R 1B9
Fax: 613-941-1436

FCAC may wish to quote from or summarize your submission in its public documents and post all or part of it on its web pages on Canada.ca. We may revise submissions to remove sensitive information. If you would prefer that FCAC withhold all or part of your comments from its public documents, please indicate this clearly in your submission.

All comments received by FCAC will be subject to the [Access to Information Act](#) and the [Privacy Act](#) and may be disclosed in accordance with the law.

Who is this consultation for

The consultation is primarily intended for the financial industry and stakeholders with an interest in consumer protection. Interested members of the public are also invited to participate.

Background

In 2017 and 2018, 2 FCAC reports highlighted key areas where the legislation and regulations could better protect financial consumers and further strengthen regulatory oversight. The first was an assessment of best practices in provincial, territorial and international consumer protection regimes in the [Report on Best Practices in Financial Consumer Protection](#). The second was a review of bank sales practices in the [Domestic Bank Retail Sales Practices Review](#).

To address issues raised in these reports, the federal government introduced legislative amendments in 2018 to the [Bank Act](#) to create what is referred to as the FCPF. The FCPF includes new provisions requiring Banks to establish and implement policies and procedures to ensure that the products or services they offer or sell are appropriate for consumers. The recently published [Financial Consumer Protection Framework Regulations](#) add detail and specificity to certain legislative obligations.

Proposed Guideline

FCAC is seeking comments and feedback on the following document:

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

The proposed Guideline sets out FCAC's expectations with respect to Banks' implementation of, and compliance with, the appropriate product or service provisions in the [Bank Act](#) and the [Financial Consumer Protection Framework Regulations](#), which will come into force June 30, 2022.

The new legislative obligations require Banks to 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 the person having regard to their circumstances, including their financial needs. In addition, Banks need to ensure that the remuneration they offer to their officers, employees or third parties, does not interfere with their ability to comply with the policies and procedures on appropriate products or services.

FCAC expects Banks will consider the following elements when establishing and implementing their policies and procedures on appropriate products or services:

- know your consumer
- know your product
- assess appropriateness
- inform consumers
- align remuneration

FCAC expects Banks to review and revise their policies and procedures to ensure compliance with the applicable consumer provisions under the [Bank Act](#) and applicable regulations. In addition, Banks should be guided by the principles and expectations detailed in the Guideline when establishing their appropriate product or service policies and procedures.

Next steps

FCAC will consider all comments received and may modify the proposed Guideline, where appropriate. FCAC plans to publish an anonymized summary of comments on Canada.ca once the final version of the Guideline is released.

Related links

- [Part XII.2 of the Bank Act](#) (not yet in force)
- [Financial Consumer Protection Framework Regulations](#) (not yet in force)
- [Report on Best Practices in Financial Consumer Protection](#)
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Proposed Guideline on Appropriate Products and Services for Banks and Authorized Foreign Banks

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On this page

- [I. Introduction](#)
- [II. Key principles](#)
 - [Effectiveness](#)
 - [i. Know your consumer](#)
 - [ii. Know your product](#)
 - [iii. Assess appropriateness](#)
 - [iv. Inform consumers](#)
 - [v. Align remuneration](#)
- [III. Know your consumer](#)
- [IV. Know your product](#)
- [V. Assessing appropriateness](#)
- [VI. Informing consumers](#)
- [VII. Aligning remuneration](#)

I. Introduction

1. The Financial Consumer Agency of Canada (FCAC) has developed this draft Guideline – Appropriate Products and Services for Banks and Authorized Foreign Banks (Guideline) to set out the Agency's expectations with respect to 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* sets out the requirements regarding products and services offered or sold by banks, including federal credit unions, and authorized foreign banks (Banks). A Bank must establish and implement policies and procedures to ensure that the products or services it offers or sells to a natural person are appropriate for that person, having regard to their circumstances, including their financial needs (Policies and Procedures).

3. 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).

4. FCAC recognizes that Banks may tailor their Policies and Procedures in accordance 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.

5. 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.

6. This Guideline should be read in conjunction with legislation and regulations.

II. Key principles

7. A Bank's senior management and the committee of the board of directors responsible for the Bank's compliance with consumer provisions should oversee the establishment and implementation of the Policies and Procedures.

8. 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's Policies and Procedures 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, before 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 they offer or sell.

iii. Assess appropriateness

A Bank should assess the appropriateness of the product or service before they offer or sell 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 verify 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.

13. A Bank's Policies and Procedures should cover the verification of information, including how to proceed if that information is unreliable, including inaccurate, outdated, or incomplete information, 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 a product or service, a Bank should ensure its Policies and Procedures cover an internal assessment, review and approval process that applies throughout the product life cycle and accounts for:

- an assessment of the features, risks, charges and benefits to consumers associated with the product or service
- considerations regarding distribution channels

- consumer-facing materials, such as disclosure documents or marketing materials

16. The internal assessment, review and approval process should apply to:

- all products and services developed by the Bank, regardless of whether the product or service is sold directly by the Bank or through a Third Party
- any Third Party products or services offered or sold by or through the Bank
- any material changes to existing products or services

17. A Bank's Policies and Procedures 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:

- cover the Bank's obligations regarding the offer or sale of appropriate products or services
- 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's Policies and Procedures should cover:

- providing the training program
- monitoring officers', employees' or other persons' completion of the training program
- regular reviews and updates of 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. Policies and procedures should ensure that this information:

- is provided in a manner, and using language, that is clear, simple and not misleading
- is presented in a manner that accounts for factors such as the distribution channel, the nature of the products or services and other relevant factors

VII. Aligning remuneration

23. A Bank's Policies and Procedures should ensure that:

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