



May 2, 2018

Mr. Brendan Wycks, Executive Director
Canadian Association of Financial Institutions in Insurance (CAFII)
21 St. Clair Avenue West, Suite 802
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Re: Pre-Consultations on Fair Treatment of Customers

Dear Mr. Wycks:

In February, the Canadian Council of Insurance Regulators (CCIR) publicly announced the development of guidance for the insurance industry that will set out regulators' expectations of insurers and intermediaries as they relate to the fair treatment of customers (FTC).

Your organization kindly agreed to participate in an in-person pre-consultation meeting where the CCIR presented the highlights of such guidance and provided a draft of the document upon the execution of a confidentiality undertaking.

Following this meeting, your organization also provided valuable written comments on our draft guidance. CCIR wants to express its great appreciation of your contribution and efforts over a short time frame.

CCIR carefully analyzed all comments received and would like to give you feedback on the main issues raised. To this extent, we invite you to consult and review the table attached to this letter.

We expect that this feedback will bring your organization a further understanding of our objectives and inform your reflections in view of the public consultation. In this regard, we would like to inform you that on April 19, the Canadian Insurance Services Regulatory Organizations (CISRO) formally joined this initiative. Lastly, we invite you to look for the upcoming launch of the CCIR and CISRO public consultation on FTC Guidance.

Sincerely yours,

Original signed by

(s) Louise Gauthier
CCIR CISRO FTC Working Group



Table of Stakeholders Comments and CCIR-CISRO Response

1. Harmonization

- Stakeholders expressed concerns over the risk of duplicative and conflicting regulations from province to province, as provincial regulators have developed or are in the process of developing their own guidance on FTC.
- *CCIR and CISRO recognize that the introduction of their guidance might raise concerns on the risk of contradiction with existing or future local regulatory frameworks. In its consultation document, CCIR and CISRO will formally request specific comments on this issue and will address along the way any risk or need for clarification that will be identified.*

2. The CCIR and CISRO proposed guidance should be principles-based and must not supersede existing laws

- While stakeholders agreed to be provided with sufficient latitude to determine how to achieve results based on the nature, size and complexity of their activities, a number of comments sought for a more granular description of our expectations.
- Some stakeholders also expressed that the CCIR should clearly state that proposed guidance does not supersede existing laws and is not retrospective in nature, so as insurers and intermediaries would have to re-open existing agreements.
- *The proposed CCIR and CISRO guidance is principles-based and expresses CCIR and CISRO members' overarching common expectations with regard to FTC. It aims at fostering meaningful discussions between regulators, insurers and intermediaries on market conduct. CCIR and CISRO members express their common expectations through outcomes to be achieved by insurers and intermediaries, rather than by prescribing the means to use. In doing so, CCIR and CISRO aim at providing sufficient indication to insurers and intermediaries to guide their conduct with regard to FTC in compliance of existing laws and regulations.*

3. Advisor's responsibility and arrangements between insurers and intermediaries

- Stakeholders from the distribution industry told the CCIR that although the insurer may be the ultimate risk carrier, the first contact with the client is through the advisor who also has some responsibilities and regulatory obligations. The responsibility of the insurer as the primary risk taker does not mean that other parties (i.e. intermediaries) can be irresponsible.
- It was also said that the expectations related to arrangements between Insurers and intermediaries are too prescriptive.



- *For CCIR and CISRO, one of the goals of this guidance is to strike the right balance between the roles and responsibilities of insurers, distribution firms, agents and representatives. CCIR and CISRO will formally request specific comments from stakeholders on this objective.*

4. Responsibility to oversee intermediaries

- Some stakeholders expressed that there might be limits to an insurer's ability to monitor intermediary actions, as an insurer cannot review intermediary client files or undertake the types of on-site examinations of intermediaries that regulators undertake of their regulated entities.
- *CCIR and CISRO are mindful that in some industry sectors, the introduction of this guidance may raise questions about the possibility that intermediaries may be subject to multiple audits by regulators, self-regulatory organizations and insurers in a given year. CCIR and CISRO will address any need for clarification and invite stakeholders to comment.*

5. Definitions

- *To respond to comments on the clarification of the definition of key terms such as "distribution firm", CCIR and CISRO revised the draft guidance and moved the definitions section at the beginning of the guidance.*

6. Conflict of Interest: Definition and Scope

- The CCIR took note of some comments on the need to consider the 2006 Canadian insurance regulators' final recommendations on management of conflicts of interests. A number of comments were also made on compensation and incentives management.
- *The 2006 recommendations were considered, as were the recent amendments to the Insurance Core Principle 19 of the International Association of Insurance Supervisors, on which the proposed guidance is based upon.*
- *CCIR and CISRO propose their guidance as the cornerstone on which to build the dialogue with the insurance industry. After this guidance is in place, further work will be done to address specific issues with regard to FTC. To this extent, CCIR and CISRO currently monitor and analyze international regulatory developments related to, among others, incentives management. The purpose of this review is to develop recommendations regarding the applicability and appropriateness of these positions for CCIR and CISRO members.*