

Agenda Item 6(f)(2)
October 15/20 Board Meeting

**FSRA Life & Health Insurance Stakeholder Advisory Committee (SAC) Participation in FSRA's Transformation of
Current Unfair or Deceptive Acts or Practices (UDAP) Regulation into A FSRA Rule**

From: Stuart Wilkinson <Stuart.Wilkinson@fsrao.ca>

Sent: October 1, 2020 8:21 AM

To: Rachel Olaso-Pezeshkian <Rachel.Olaso-Pezeshkian@fsrao.ca>; sallemang@ifbc.ca; ncarroll@mccarthy.ca; dennis.craig@rbc.com; Christopher.Donnely@manulife.com; lduhaime@clhia.ca; Ali.Ghiassi@canadlife.com; moira.gill@td.com; Keith Martin <Keith.Martin@cafii.com>; gofarrell@olhi.ca; rosie.orlando@primerica.com; doug.paul@ssq.ca; russell.purre@sunlife.com; eskwerek@advocis.ca; ewachtel@idcwin.ca; timwitchell@rogers.com; Huston Loke <Huston.Loke@fsrao.ca>; Swati Agrawal <Swati.Agrawal@fsrao.ca>; Jisha Sarwar <Jisha.Sarwar@fsrao.ca>; neil.paton@edgebenefits.com
Cc: Cindy Kwok <Cindy.Kwok@fsrao.ca>; gpollock@advocis.ca; Glen Padassery <Glen.Padassery@fsrao.ca>; Jonas Schwab Pflug <Jonas.SchwabPflug@fsrao.ca>

Subject: FSRA UDAP rule making - follow up questions

Hi L&H SAC Members,

Thank you again for your time and engagement in our September 29th meeting about rule-making related to unfair or deceptive acts or practices under the Ontario *Insurance Act*.

As discussed on the call we are circulating a list of questions to help make sure we get constructive feedback from the group to inform the development of a draft rule. We are seeking your written feedback (either to these questions, other content in our slides, or both) by October 7, 2020. That date is important to us but if you have concerns about your ability to meet it please let me know and we can discuss alternatives.

You can send your feedback, if any, directly to me.

Here are the questions under four main headings based on items of interest from the discussion earlier this week:

- General Approach
 - Is FSRA's work on UDAP rule-making on the right track? Are you comfortable with the "staged" approach, including the scope and timelines associated with Stage One?

CAFII Response: FSRA continues to demonstrate a highly collaborative and consultative approach that CAFII believes will produce more effective regulations. The staged approach allows for FSRA to learn from its first stage implementation before finalizing the rule, which is a prudent and wise approach to such a complex change.

- Incentives (i.e. Rebates and Inducements)
 - Would the standards for incentives that are outlined in Appendix 1 (slide 14 – row marked "rebating") adequately address the risk of consumer harm related to carriers offering incentives? Are there other standards that should be included?

CAFII Response: By recognizing that there are circumstances where a rebate or an inducement may be aligned with the customer's interests and, as such, not prohibiting all such activity -- but rather subjecting it to conditions and transparency -- FSRA is striking an appropriate balance between protecting consumers and promoting innovation in the marketplace.

- Do you think the *Agents* regulation under the *Insurance Act*, (O. Reg 347/04 – see s. 17), adequately addresses the risk of consumer harm related to *advisor* conduct that you discussed, in particular risks related to incentives?

CAFII Response: No comment

- CCIR/CISRO Alignment
 - Do you support changes to, where possible, align provisions with CCIR / CISRO Fair Treatment of Customers guidance as part of principles-based redrafting of UDAP?

CAFII Response: CAFII strongly supports any effort to align relevant provincial/territorial Regulations and Rules, such as Ontario's UDAP provisions, with the CCIR/CISRO's "Guidance: Conduct of Insurance Business and Fair Treatment of Customers." Even small differences in language between different Regulations/Rules and regulatory guidance documents cause the industry to have to shift some resources and energy from protecting consumers, and ensuring their fair treatment, to version control between the different regulatory documents; and to internally-focused efforts, as opposed to customer-centric efforts.

- Other
 - Are there specific aspects of, or gaps in, the current UDAP regulation that we should consider, either in our Stage One work or a future phase?
 - Are there implementation considerations for a new FSRA UDAP Rule (e.g. required changes to industry-developed guidance) for the L&H industry that FSRA should be aware of?

CAFII Response: At this time, it is not clear how the new Rule will be enforced, and specifically what are the AMPs/fines or other tools that FSRA will use as sanctions against non-compliance. Further, it is not clear what appeal options will exist for a company found to be non-compliant with the Rule, and also what will be the process for bringing a violating company into compliance, e.g. whether the first step in addressing a first instance of non-compliance will be a warning.

Thanks,
Stuart

Stuart Wilkinson
Director, Auto/P&C Policy
Financial Services Regulatory Authority (FSRA)
C: 647.267.6239
E: stuart.wilkinson@fsrao.ca
www.fsrao.ca