

May 4, 2021

Ms. Jennifer Chan, Senior Policy Analyst
Market Conduct Policy Division
Financial Services Regulatory Authority of Ontario (FSRA)
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Dear Ms. Chan:

Re: Follow-up Questions For CAFII Arising From March 24/21 Meeting On FSRA's Proposed Rule [2020-002]: Unfair or Deceptive Acts or Practices

Thank you for sending CAFII a March 25/21 follow-up message in which you recapped the two hypothetical questions posed to our Association in a March 24/21 meeting involving representatives of CAFII and CLHIA with FSRA Market Conduct Policy Division staff executives related to FSRA's *Proposed Rule [2020-002]: Unfair or Deceptive Acts or Practices*.

We are pleased to provide below our responses to FSRA's questions, along with some *Additional Relevant Input From CAFII*.

Question #1

Would it be appropriate for the following to be deemed an unfair or deceptive act or practice and possibly called out to that effect in FSRA's UDAP Rule: offering an inducement to a person who is ineligible for credit protection insurance (CPI)?

As you may be aware, Credit Protection Insurance (CPI) is an optional insurance product offered under a Group Master Policy where eligibility for enrolment is predicated upon a consumer's taking on a debt obligation such as a mortgage, line of credit, car loan, or credit card and being within a specified age range. In that regard, enrolment in CPI is contingent upon the debtor meeting eligibility requirements under the terms of the Group Master Policy, as captured in the Certificate of Insurance which all CPI enrollees/insureds receive. CPI reduces or pays off an insured debt should the enrolled debtor experience an insured event: death, disability, critical illness, and/or loss of employment.

To ensure that the optional CPI coverage which they make available is offered only to eligible debtors, CAFII Members have in place carefully designed and rigorously executed and monitored processes and controls with respect to product design, employee training, offer/enrolment, and post-enrolment review and confirmation.

However, it is conceivable that, in rare circumstances, a systems error could occur that would lead to the offering of CPI to an ineligible customer (e.g. CPI is offered to a customer who is older than the age maximum for eligibility due to a miscalculation based on his/her date of birth). In such a case, CAFII Members would discover the systems error in their post-enrolment review and confirmation processes and then fully remediate the customer on a timely basis.

CAFII agrees, in principle, that the offering of an inducement to a person who is ineligible for CPI would be an unfair act or practice. However, in the rare but possible systems error scenario described above, the realization that the debtor is ineligible for the CPI would occur after any inducement had already been offered; and a UDAP Rule proscription as contemplated by *Question #1* would have no bearing upon and serve no useful purpose in preventing or deterring that type of error.

As a concluding comment, we question whether it would be appropriate and of value for FSRA to include such a specific proscription in the UDAP Rule. Please see our *Related Relevant Input From CAFII* below.

Question #2

Would it be appropriate for the following to be deemed an unfair or deceptive act or practice and possibly called out to that effect in FSRA's UDAP Rule: offering an inducement to someone who is outside of the target market for credit protection insurance (CPI)?

Building upon the contextual information provided in our response to *Question #1*, we point out that the consumer value proposition of CPI is making simple, accessible, affordable protection against death, disability, critical illness, and loss of employment available to all eligible debtors. The target market for CPI is therefore any debtor of the offering financial institution who is eligible to enrol under the Group Master Policy and related Certificate of Insurance. As such, with respect to CPI, there is no meaningful difference between "someone outside of the target market" for the insurance and "a person who is ineligible" for the insurance.

That being the case, CAFII agrees, in principle, that offering an inducement to a person who is outside of the target market for CPI would be an unfair act or practice. However, the same caveat with respect to a rare but possible systems error scenario, as outlined in our response to *Question #1*, applies here as well.

As a concluding comment, we question whether it would be appropriate and of value for FSRA to include such a specific proscription in the UDAP Rule. Please see our *Related Relevant Input From CAFII* below.

Related Relevant Input From CAFII

As stated in our March 18/21 CAFII submission on *Proposed Rule [2020-002]: Unfair or Deceptive Acts or Practices*, we support FSRA's stated intention to take an outcomes/principles-based approach to its Proposed UDAP Rule, which we believe will produce better results for both consumers and the industry, by facilitating innovation and responsiveness to consumer needs.

Because FSRA has always prudently positioned itself as a risk/principles-based regulator and given that the Authority's stated objective for the Proposed UDAP Rule is to take an outcomes/principles-based approach, we question the necessity and value of getting into micro details and becoming proscriptive by calling out in the Rule such hypothetical scenarios as those posed in the two questions above.

In CAFII's view, FSRA's opting to include micro-level proscriptions in the UDAP Rule would place the Authority in an awkward position because once it specifically calls out and proscribes one or more specific acts or practices, the following questions would naturally arise:

- why hasn't FSRA therefore called out and proscribed all known/possible unfair acts or practices (or at least a much larger number of the possible universe of them?); and

- why is FSRA specifically calling out CPI-related scenarios, when forbidding the offering of an inducement to an ineligible person and to someone outside of a product's target market are proscriptions which should apply to all types of insurance, and indeed to all types of financial services?

Thank you again for your meeting recap email of March 25/21 and the opportunity to respond to the two questions posed for our Association therein. Should you require further information from CAFII or wish to meet with representatives from our Association on this or any other matter at any time, please contact Keith Martin, CAFII Co-Executive Director, at keith.martin@cafii.com or 647-460-7725.

CAFII and its members remain committed to supporting FSRA in its critically important mission and mandate; and we look forward to continuing our involvement as key stakeholder contributors to the Authority's ongoing success.

Sincerely,



Rob Dobbins
Board Secretary and Chair, Executive Operations Committee

About CAFII

CAFII is a not-for-profit industry Association dedicated to the development of an open and flexible insurance marketplace. Our Association was established in 1997 to create a voice for financial institutions involved in selling insurance through a variety of distribution channels. Our members provide insurance through client contact centres, agents and brokers, travel agents, direct mail, branches of financial institutions, and the internet.

CAFII believes consumers are best served when they have meaningful choice in the purchase of insurance products and services. Our members offer travel, life, health, property and casualty, and credit protection insurance across Canada. In particular, credit protection insurance and travel insurance are the product lines of primary focus for CAFII as our members' common ground.

CAFII's diverse membership enables our Association to take a broad view of the regulatory regime governing the insurance marketplace. We work with government and regulators (primarily provincial/territorial) to develop a legislative and regulatory framework for the insurance sector that helps ensure Canadian consumers get the insurance products that suit their needs. Our aim is to ensure appropriate standards are in place for the distribution and marketing of all insurance products and services.

CAFII's members include the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Insurance; National Bank Insurance; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players Assurant; Canada Life Assurance; Canadian Premier Life Insurance Company; CUMIS Services Incorporated; Manulife (The Manufacturers Life Insurance Company); Sun Life; and Valeyo.