

June 14, 2024

Mr. Philippe Lebel
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1

c.c.

Mr. Patrick Déry, Surintendant des institutions financières
Mr. Hugo Lacroix, Surintendant des marchés de valeurs et de la distribution
Ms. Kim Lachapelle, Surintendante à l'assistance aux clientèles et à l'éducation financière
Ms. Nathalie Sirois, Directrice principale de la surveillance prudentielle
Mr. Christian Beaulieu, Directeur principal des opérations d'encadrement de la distribution
Mr. Mario Beaudoin, Directeur des pratiques de distribution alternatives en assurance
Ms. Véronique Martel, Directrice de la surveillance des pratiques commerciales
Ms. Geneviève Komenda, coordonnatrice experte en surveillance et contrôle.

Re : AMF Consultation on « Issues and Discussion Paper : Best Practices for the responsible use of AI in the Financial Sector »

Dear Mr. Lebel:

The Canadian Association of Financial Institutions in Insurance (CAFII) thanks the Autorité des marchés financiers for the opportunity to provide comments on « **Issues and Discussion Paper : Best Practices for the responsible use of AI in the Financial Sector.** »

We found the Issues and Discussion paper to be very thoughtful and well-researched, and a very useful guide to financial institution professionals navigating these new technologies with significant implications for the financial services ecosystem. We appreciated, and fully support, your statement that

The purpose of this paper is not to implement a new framework or modify an existing one. None of the practices presented here constitute a new obligation for financial institutions and other players in the financial sector... Nevertheless, the AMF wishes to engage in dialogue with the industry about the use of these best practices, which can guide the financial sector toward the responsible use of AI. The financial players are also reminded that they must continue to comply with all currently applicable laws and requirements.

We believe that like any new process or technology, it is important to allow industry the flexibility to determine how best to implement these developments and to innovate. It is our view that the AMF has successfully developed principles around the Fair Treatment of Customers, privacy, consumer protections etc. including the Sound Commercial Practices Guideline that meet many of the requirements and expectations laid out in the remainder of the paper, and that developing redundant requirements could stifle innovation in the artificial intelligence field.

Artificial intelligence itself is decades old, and new developments around generative AI and large language models (LLMs), while more recent, are just the latest in the ongoing stream of innovation and technology enhancements that have and will continue to characterize modern society. In our view, for the development of separate and unique requirements around artificial intelligence is not required when the regulatory environment in Quebec, across all provinces and Territories, and federally, including existing regulations, guidelines, and rules, already address many of the expectations of the AMF and other regulators laid out in the discussion paper. We would recommend that those requirements that are already addressed through existing guidelines, regulations, and rules should be clearly identified as such, and that if there are gaps a risk-based approach to addressing those be identified such that blanket obligations on all uses of AI are not captured by the recommendations in the Discussion Paper.

An example of this is the statement “Consumers may be denied access to a financial product or service as a result of discriminatory biases introduced into an AIS or a flaw in the AIS. Moreover, conflicts of interest may influence an AIS’s recommendations to an investor” (page 7). We believe that there are already laws and regulations in place that address biases, including human rights codes, and these would address the AI biases noted in the paper.

We see repeated examples of this sort of AI-focused concerns that in our view is overreach. The AMF is proposing 30 best practices for the responsible use of AI, including “Using AI in consumers’ best interests,” “respecting consumers’ privacy,” “treating consumers fairly,” etc. It is our view that these are already best practices in the industry generally and do not need separate treatment for AI.

A separate but related concern is we also see a tendency in the discussion paper to have a regulatory oversight that is higher for AI than for other technologies in the discussion paper. For example, we are concerned with the direction a best practice like #6, “Consulting consumers required to use AIS” could lead to. Consumers are not consulted in the development of existing underwriting mechanisms including the use of computers to generate risk profiles. Why would AI now require consumers to be consulted so long as the development of the AI methods and the application of the technology is consistent with existing regulatory requirements? In a similar vein, best practice #9, “Explaining outcomes relating to a

consumer” is again in our view a requirement that appears unique to AI for reasons that are not clear to us. We are also concerned with best practice #21, “Conducting due diligence on third-party AI’s.” It is not always possible to pass requirements down to vendors, and the training data they use may be proprietary and the contracting party may not have the option to change that training model. Throughout the document, there are innumerable other examples of this sort of expectation or requirement around AI that is inconsistent with the way other technologies are currently treated, and which could lead to a stifling regulatory environment that could inhibit innovation unnecessarily.

If there are areas that the AMF feels AI poses additional risk, we would recommend identifying the best practices or requirements that are most in need of additional oversight, and avoiding requirements that are burdensome with little benefit to consumers, as this could inhibit innovation and appropriate adoption of AI. We also would advocate for a risk-based approach that focuses regulatory attention only on those areas with well-identified higher risks to consumers.

In summary, technology is always evolving, and what is needed is an existing system that is constant and can provide the protections required in a changing environment. We believe that is the actual situation today in Quebec and more broadly across Canada. The AMF has effectively prepared Quebec society for the reality of AI and other emerging technologies we may not even be aware of by having in place a robust regulatory system with regulations, guidelines, and rules that protect consumers and clearly lay out regulatory expectations in a governance system that, regardless of technology changes, remains constant. Having said that, we recognize that this is a fast-moving field and there may be a need for additional oversight. We encourage a careful approach that identifies where existing guidelines, regulations, and rules already address the emerging concerns, and to harmonize new regulatory expectations with other jurisdictions both provincial and federal. We feel that any new requirements should be risk-based and only introduced to fill clear gaps that are not addressed by the existing regulatory environment.

To conclude, we support the intention of the AMF to deepen its understanding of AI and other emerging technologies, and how these could affect the financial system, and we wish to partner with the AMF in the dialogue on these important issues. The spirit of that effort should not result in an AI-focused unique and parallel system of regulation to the already robust regulatory environment that exists and which we feel is already largely up to the task of protecting consumers and achieving regulatory objectives without new regulations, guidelines, and rules. We encourage the AMF to take a purposeful approach such that all overlap in the paper with pre-existing regulatory obligations be identified as not a new requirement, and for any new requirements to be harmonized with other jurisdictions.

We wish to end our comments by committing to the expectations in the following statement in the discussion paper, with which we agree wholeheartedly:

Lastly, governments and the private sector are investing heavily in AI research and marketing, causing scientific and technological advances to accelerate at breakneck speed. The fast pace of development is widening the mismatch between the opportunities afforded by AI and our understanding of the issues it may present in the medium to long term. In view of the rapid, uncertain pace of AI development, but also the potential benefits of AI for the financial sector, the AMF wishes to deepen its understanding of the risks associated with this technology and the practices to be implemented so that those risks can be managed without inhibiting innovation. At stake is continued confidence in our financial system (page 8).

On a separate matter, we have noticed that there are many regulatory consultations in Quebec where the consultation document is produced in French only. CAFII respects the primacy of French in Quebec. However, many of our members who operate in Quebec may have subject matter experts on issues the AMF is consulting on who are not fluent in French. In that respect, we wish to thank the AMF for having produced an English version of the discussion paper. We would also like to call out the high quality of the translation, which was a very professional and sophisticated product. This was greatly appreciated and we wanted to make a point of recognizing this effort by the AMF.

Thank you again for the opportunity to provide input and feedback on the AMF's **Consultation on « Issues and Discussion Paper : Best Practices for the responsible use of AI in the Financial Sector »**. Should you require further information from CAFII or wish to meet with representatives from our Association at any time, please contact Keith Martin, CAFII Executive Director, at keith.martin@cafii.com or 647.460.7725.

Sincerely,



Karyn Kasperski
Board Secretary and EOC Chair

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 credit protection, travel, life, health, and property and casualty 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 which helps ensure that Canadian consumers have access to insurance products that suit their needs. Our aim is to ensure that appropriate standards are in place for the distribution and marketing of all insurance products and services.

CAFII's 15 members include the insurance arms of Canada's major financial institutions--BMO Insurance, CIBC Insurance, Desjardins Insurance, National Bank Insurance, RBC Insurance, Scotia Insurance, and TD Insurance, along with major industry players Assurant Canada, The Canada Life Assurance Company, Canadian Tire Bank, Canadian Western Bank, Chubb Life Insurance Company of Canada, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and Securian Canada.