

November 15, 2022

Marina Makhnach
Director, Market Conduct Financial Institutions
BC Financial Services Authority 600-750 West Pender Street
Vancouver, B.C. V6C 2T8

Dear Ms. Makhnach:

CAFII thanks BCFSa for the opportunity to respond to the Authority's two follow-up questions on its draft *Insurer Code of Market Conduct and Supplemental Guideline*.

Our Association supports the important fair treatment of customers (FTC) objectives which BCFSa is seeking to achieve with this initiative.

However, it is our view that BCFSa appears to be committed to a path that does not support the efficient and effective implementation of FTC initiatives by regulated entities. We cannot envision any incremental consumer protection benefits that will be achieved by BCFSa's promulgating its own *Insurer Code of Market Conduct* for the province, when a nearly identical, nationally recognized such Code already exists in the form of CCIR/CISRO's *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*.

In that same vein, however, CAFII thanks BCFSa for listening and being responsive to industry stakeholder feedback, as reflected in your September 27/22 *BCFSa's Response to Consultation on Information Security (IS) Incident Reporting*. We extend a kudo to the Authority for its decision to amend its approach and not introduce a Rule on IS Incident Reporting; and instead to publish and consult on a separate Guideline on this matter and to align expectations to the extent possible with other Canadian regulators.

With respect to your first follow-up question on the draft *Insurer Code of Market Conduct*, around "compliance challenges" due to differences between it and the CCIR/CISRO *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*, CAFII emphasizes this important clarification: the challenges arise not in relation to our members' willingness and ability to comply, but rather due to the resources and effort which a separate, slightly different BC Code will cause to have to be re-allocated to 'exception management' as opposed to having those resources remain squarely focused on activities and initiatives that support FTC.

In our view, the comparison spreadsheet which you have provided illustrates well the compliance challenges for regulated entities that naturally arise whenever new, unharmonized regulatory Guidance is introduced, necessitating an allocation of resources to exception management.

When the draft BC *Insurer Code of Market Conduct* is compared to the CCIR/CISRO *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*, there are dozens of instances where the same objectives are being expressed and framed using slightly different wording. Regulated entities will therefore need to dedicate significant staff attention to assessing these different wordings, and dedicate similar attention to the resulting compliance implications for BC which has its own slightly different *Insurer Code of Market Conduct*, as distinct from the many jurisdictions across the country that have adopted the CCIR/CISRO FTC Guidance.

With respect to your second follow-up question, related to compliance with additional Guidance that may be issued supplementally (for example, additional expectations beyond those set out in the current CCIR/CISRO *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*), CAFII's answer is unequivocal: our members focus on complying with all regulatory expectations and Guidance. The issue again is not that CAFII members could not or would not comply, but rather their desire for an efficient and effective regulatory framework which allows resources to be focused not on understanding and adapting to subtle differences between jurisdictions, but rather on achieving the FTC objectives which regulators and the industry collectively support and strive to attain.

It is our view that in order to be most efficient and effective, Supplemental Guidance -- on issues such as incentives management, for example -- should be introduced via the CCIR/CISRO joint national co-ordinating body table. Whenever a provincial regulator issues its own Guidance on a matter such as incentives management -- a matter slated to be addressed in a near-future update to the CCIR/CISRO FTC Guidance -- the industry faces further challenges which arise from a jurisdictional patchwork and a national system that is not harmonized.

Our understanding is that BCFSA wants to ensure that its *Insurer Code of Market Conduct* is well-aligned with the CCIR/CISRO *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*, but that you feel constrained by the fact that the Authority does not regulate intermediaries, while the CCIR/CISRO *Guidance: Conduct of Insurance Business and Fair Treatment of Customers* captures intermediaries and makes significant reference to them. We understand that that has been a stumbling block which has caused the Authority to be of the view that it cannot adopt the CCIR/CISRO FTC Guidance.

In that connection, CAFII is pleased to offer some recommendations for your consideration which would allow national harmonization to be maintained, while also enabling BCFSA to meet its legislative requirement to "establish" an *Insurer Code of Market Conduct* in the province.

CAFII encourages BCFSA to emulate an approach that has been utilized successfully by Alberta in these very same matters, by engaging with the Insurance Council of BC and issuing a joint Statement/Bulletin which announces the joint adoption of the CCIR/CISRO *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*.

In our view, that approach would satisfy BCFSA's legislative requirement to "establish" an *Insurer Code of Market Conduct*; and, given that it would be a joint approach with the Insurance Council, the newly established BC Code (i.e. the nationally harmonized CCIR/CISRO FTC Guidance) would capture intermediaries operating in the province.

Furthermore, we strongly recommend that BCFSA look to the CCIR/CISRO joint national co-ordinating body table for a harmonized approach to the three additional principles which the Authority would like to see introduced in supplemental Guidance. The work of a joint CCIR/CISRO working group on incentives management issues has been underway for some time already, which creates an ideal opportunity for BCFSA to 'jump aboard' that consensus-building and harmonization opportunity, and to play a leadership role in the finalization of supplemental national Guidance in this area.

As a contingency alternative, CAFII recommends that should BCFSa still decide that it must issue its own *Insurer Code of Market Conduct*, the Authority should give insurers operating in the province the option to adhere instead to the CCIR/CISRO *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*; and to state in a BCFSa Bulletin that the two alternatives are equally permissible and satisfactory. A precedent for this approach existed in Ontario, temporarily, during the early months of FSRA's existence as that province's non-securities financial services regulator. During that period, regulated entities were given the option of adhering to either the national CCIR/CISRO *Guidance: Conduct of Insurance Business and Fair Treatment of Customers* or the *Treating Financial Consumers Fairly Guideline* which had been promulgated by FSCO, predecessor to FSRA, in the final phase of its existence.

CAFII also strongly recommends that should BCFSa decide that it must issue its own *Insurer Code of Market Conduct* to meet the legislative requirement to "establish" such a Code, it should release the Code document only. BCFSa should not issue its own Supplemental Guideline, but rather should pursue the matters covered therein through the CCIR/CISRO national co-ordinating body table.

Conclusion

As a key industry stakeholder Association, CAFII very much appreciates the opportunity to review and provide responses to BCFSa's two follow-up questions for our Association arising from our submission on the Authority's draft *Insurer Code of Market Conduct and Supplemental Guideline*. Fair treatment of customers is a critically important, foundational, culture-based principle for CAFII members, and we thank the Authority, in advance, for giving our Association's carefully-considered feedback your thorough and unhurried consideration.

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.

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 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 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; Canadian Tire Bank; CUMIS Services Incorporated; Manulife (The Manufacturers Life Insurance Company); Sun Life; and Valeyo.