



**CADRI**  
CANADIAN ASSOCIATION  
OF DIRECT RELATIONSHIP  
INSURERS

May 8<sup>th</sup>, 2018

Mr. Brian Mills  
Superintendent of Insurance  
Financial Services Commission of Ontario (FSCO)  
5160 Yonge St., Toronto, ON, M2N 6L9

[marketconduct@fSCO.gov.on.ca](mailto:marketconduct@fSCO.gov.on.ca)

Dear Mr. Mills,

**Re: Superintendent's Guideline – *Treating Financial Services Consumers Fairly* – Consultation Draft**

**Introduction**

The Canadian Association of Direct Relationship Insurers is the voice of insurance enterprises that offer automobile, home and commercial insurance directly to Canadians. We advocate for flexible and evolving regulatory and legislative frameworks governing automobile, property and commercial insurance to enable product and service innovation so that Canadians can easily choose insurance that serves their needs through the delivery channels of their choice.

CADRI appreciates the opportunity to participate in consultations that seek to modernize existing legislation and regulations as well as harmonize rules across jurisdictions. These measures allow CADRI members to provide efficient service to their customers and to meet their needs and expectations.

CADRI shares FSCO's interest in ensuring that people buying insurance in Ontario are treated fairly by the insurers providing it. Treating consumers fairly is of utmost importance to CADRI members. For this reason, each has internal codes of conduct, policies and procedures, to ensure its employees put customers' needs first.

**Superintendent's Guideline "Treating Financial Services Consumers Fairly" – Consultation Draft**

Earlier this year, CADRI attended a session held by FSCO to walk through the first draft of the Guideline discussed here. We appreciated the opportunity to provide oral feedback to that preliminary draft and commend the Commission on amendments which reflect our input.

We support that "FSCO has set high-level principles that provide Licensees, owners, officers, directors and senior management with the flexibility to apply these principles in a way that is best suited to their organization". In that context, CADRI endorses the eight high-level principles of the Guideline.

Because of the breadth of FSCO's mandate, these principles are, indeed, general rather than specific on the differences among the industries FSCO regulates. For instance, regarding Principle #4 –

*“FSCO expects Licensees to recommend suitable products, taking into account the consumer's disclosed personal circumstances and financial condition.”<sup>1</sup>*

– the amount of financial information that an insurance consumer shares and the degree to which an insurer is permitted to explore a consumer's financial circumstances or risk tolerance is much different than, say, for an investment dealer. Thus, CADRI members will refer to existing legislation, regulation and insurance industry best practices as a means of interpreting and implementing the Guideline.

Overall, CADRI seeks to focus on four important issues:

1. Harmonization of the Guideline with the Canadian Council of Insurance Regulators' (CCIR's) Guidance,
2. Recognition that the Guideline details activities governed by existing legislation and regulations,
3. The scope of the Guideline as it pertains to outsourcing to partners in the value chain, and
4. Ensuring the Guideline reflect a contemporary business model.

1. Harmonization – alignment of consumer protection guidelines

As direct-relationship insurers, CADRI members operate across Canada in many provincial and territorial jurisdictions. For this reason, we welcomed the statement in FSCO's email cover to the Guideline that said “some of the feedback we received will be considered at the end of the consultation period. This is to ensure alignment with the planned Guidance on Market Conduct by [CCIR]. We want to ensure coherence between the two documents and invite you to let us know if you identify any conflicts.”

Annually, CADRI members provide required information to the CCIR in the form of the *Annual Statement of Market Conduct*. We have heard that this process will be updated to include criteria set out in a soon-to-be circulated and then published *Guidance of Insurance Business & Fair Treatment of Consumers* (FTC).

CADRI has submitted to CCIR that the creation of the CCIR's pan-Canadian FTC Guidance, followed by the creation of more, separate and different sets of guidelines for each of the provinces and territories, would not be the most efficient, effective approach. Harmonization across Canada, and in conformity with international standards, would ensure that the standards are easily understood and implemented.

In this context, CADRI has requested that the CCIR consult with its members, Ontario among them, to determine a process whereby the guidelines are, in the majority, alike and that, as much as possible, the CCIR collect information that is then redistributed to its members.

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<sup>1</sup> Superintendent's Guideline, “Treating Financial Consumers Fairly” – Consultation Draft, p. 5

We are pleased to see that Ontario is aware of the need for alignment between its code and CCIR's and will highlight any discrepancies to FSCO once CCIR's FTC Guidance is in the public domain.

2. Overlap with existing legislation and regulation

The Superintendent's Guideline is thorough, and for that reason, far reaching. It covers a wide swath of business practices which, together, comprise the service consumers experience with financial services. This wide-range means that some aspects are already subject to other separate rules and laws.

Ontario acknowledges this at several points in the Guideline including that

“(m)uch of what FSCO expects is already contained, directly or indirectly, in existing legislation or is part of accepted industry best practices.”<sup>2</sup>

As well as when it notes that the Guideline uses ‘must’ when a statutory requirement is in place, and ‘should’ when there is not a consistent statutory requirement, and that Licensees are responsible for knowing their legal obligations.<sup>3</sup> Later, in Principle #8, about the protection of consumer information and privacy, the Guideline says that “Licensees must comply with applicable privacy legislation...”<sup>4</sup>

As much as possible, CADRI encourages FSCO to ensure that the Guideline is consistent with existing statutory requirements, and neither duplicates nor extends their reach. Using the same rules, rather than new rules, will avoid confusion for the consumer as to what to expect from insurers operating in Ontario. This would include, but not be limited to, privacy, e-commerce and e-documents, complaints processes etc. For the sake of clarity, CADRI recommends that FSCO insert a paragraph in its guidance that notes that the existing rules of law supersede the Guideline.

3. Third-party partners and the third-party supply chain

It is CADRI's understanding that the Superintendent seeks to ensure fair treatment of consumers at every touchpoint and throughout the life cycle of the customer's relationship with an insurer. We share this goal.

CADRI's members employ any number of professions as well as employee agents to provide customer service to their clients. These employees thrive in healthy corporate cultures which emphasize customer service and fair treatment. Each company has codes of conduct, guidelines, policies and procedures, training exercises, risk, compliance and internal human resource practices that apply to both licensed and unlicensed personnel and ensure that consumers' needs are put first.

Direct-relationship insurers also enter into contracts with third parties to provide other services, some related to the insurance value chain, and others more administrative. For instance, for auto insurance, health care providers and auto body shops provide support to the claims process. The health care providers are separately regulated from insurers and financial services.

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<sup>2</sup> Ibid. p.1

<sup>3</sup> Ibid. p. 3

<sup>4</sup> Ibid. p. 8

We appreciate that FSCO listened to our concerns in earlier consultations about our members' ability to enforce codes of conduct with these partners. Ensuring that third-party contractors "know" about FSCO's expectations is a fair expectation, however, ensuring that they "comply" may not be entirely consistent with the nature of the relationship. In practice, if a third-party partner does not treat a consumer fairly, our members are more than likely to be made aware of it by an employee or a consumer, and where there is a problem, seek to correct it or cease to do business with that supplier in the future.

If the regulator intends that its Guideline be applied to outsourced services, we have serious concerns that such obligations may be impractical, if not impossible, to comply with. Therefore, we submit that FSCO review the Guideline as it pertains to outsourcing with the intention of narrowing its scope to a practical framework which applies to activities under direct control of the insurer.

4. Fair treatment of consumers which looks to the future

An advantage of principles-based regulation is its ability to adapt to changing circumstances. In CADRI's experience, consumers expect insurers to provide their services in the same transparent and speedy manner they experience elsewhere in the financial sector and in other businesses. Moreover, new technology-driven business models are being created. These 'disruptors' are often subject to far fewer regulations than the incumbents represented by CADRI.

In this context, we ask that FSCO ensure the Guideline is technologically neutral and aligned with the evolving operating environment.

**Conclusion**

CADRI members embrace FSCO's intent to ensure Ontarians are confident in, and can rely on, financial services which treat them fairly. If implemented, we believe our four recommendations will enhance the implementation of the Guideline among direct-relationship insurers – to the benefit of their customers.

Thank you for the opportunity to comment on Ontario's approach to treating financial services consumers fairly.

Yours sincerely,



Alain Thibault,  
Chair and CEO, CADRI

cc:

CADRI Board of Directors  
CADRI Ontario Committee & FTC Working Group