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Submitted by email: [ccir-ccrra@fsco.gov.on.ca](mailto:ccir-ccrra@fsco.gov.on.ca)

To: Members of the Canadian Council of Insurance Regulators (CCIR)  
Members of the Canadian Insurance Services Regulatory Organizations (CISRO)

**Subject: Proposed Guidance on the Conduct of Insurance Business and Fair Treatment of Customers**

Independent Financial Brokers of Canada (IFB) is pleased to comment on the above-noted Guidance. IFB is a national, professional association representing approximately 3,500 individually licensed financial advisors. Most IFB members are life insurance licensed. Many have other financial licenses, such as for mutual funds, and/or have accreditations which allow them to provide more comprehensive advice to clients.

An important part of the work IFB does is to provide a unified voice for advisors who are independent, and often owners of their financial practice. IFB provides input to regulators, government officials, industry stakeholders and others who seek to influence the development of public policy and regulation, to ensure that independent advice remains a viable choice for consumers.

IFB supports the objectives reflected in the fair treatment of customers (FTC), and its principles-based approach. Much of what has been proposed provides a structure to the FTC that already exists in various industry and regulatory responsibilities. We expect that the CCIR/CISRO or its member jurisdictions will next need to build upon these high level principles to provide further guidance on how success in meeting the FTC will be adjudicated.

In this regard, IFB believes an opportunity exists for CISRO and/or the CCIR to adopt a harmonized code of conduct, or consumer protection code that would apply to all insurance stakeholders. This would standardize the regulatory expectations on market conduct and the fair treatment of customers that all those involved in the distribution of life insurance would be held accountable against.

Codes of conduct express a common set of expectations for firms, employees and contracted personnel around what constitutes an appropriate standard of conduct, as well as the prevention of undesirable or unethical behaviour.

IFB members must agree to abide by the IFB Code of Conduct, which has as its first principle, the requirement to place the interests of the client above one's own. This is in keeping with the FTC principles. Many insurance intermediaries are covered by codes of conduct/ethics that require them to place the interest of the consumer ahead of all others. Some Codes are voluntary industry codes adhered to by members of associations, like IFB, while others are required by regulation (Life Insurance Council of Saskatchewan). Each of these codes, however, vary in their requirements.

A consistent approach across financial sectors, despite the differences in regulatory oversight, is desirable. Consumers should not be subject to a different standard of fairness based on the financial sector. Some securities regulators are looking at a best interest or similar requirement, while others are not. Lack of a harmonized approach leaves consumers at risk. Many advisors are dual-licensed, and subject to different regulatory regimes, which increases the possibility of conflicting compliance requirements.

### **Scope**

We agree that treating customers fairly should be a shared responsibility throughout the life-cycle of the insurance product. In reality, though, there is not an equal sharing because insurers influence how products are designed, and sold to customers at point of sale and throughout the life of the policy.

To help mitigate this asymmetry, advisors should have a mechanism to provide feedback about products, post-sale service practices or other barriers that may impair the FTC throughout the life-cycle. Advisors meet with clients and can be an invaluable information resource in helping to achieve the FTC.

### **Conduct of Business and Corporate Culture**

IFB agrees that the FTC should be central to the outcome of any business transaction. However, recent examples demonstrate the difficulty that large, integrated organizations can face in successfully integrating a top-down business culture. Senior leadership of the firm, including members of the Board of Directors, may set policies to demonstrate the firm's commitment to a culture of appropriate behaviour for its employees and contractors. However, the recent investigation by the FCAC into bank sales practices in Canada indicated that pressure on middle managers resulted in sales targets being placed on customer service reps that resulted in poor customer sales practices. In the US, the Board of Wells Fargo appeared to be ignorant of sales practices in the bank itself and that customers were sold unsuitable products. Many insurers are large, complex financial institutions that will need to be cognizant of these internal risks and adopt appropriate mitigation measures, such as building the TCF into their business plans and strategic planning processes.

Similarly, regulators will need to have the appropriate skills and capacity to be able to undertake supervision of these measures, and adjudicate compliance. We have noted an increasing trend for financial services regulators to employ professional staff who are highly- educated but who lack industry knowledge. We think it is important for regulators to have, or have access to, those who have training on specific products and business models, and understand the possible risks they present.

For consumers, fairness is complicated by the sale of products which can be difficult to understand, and by generally low levels of financial literacy. While these can be obstacles, significant improvements have been taken to produce reports and documents that are written in simpler language, provide more transparent cost disclosure, and better awareness of alternatives in the event of a complaint. Recent examples include the introduction of CRM2 and the revised disclosure document for segregated funds.

We remain concerned about the industry trend of mergers and acquisitions that is leading to the outright exit of small to medium sized firms, or these firms being absorbed into large entities. More recently, insurers have been purchasing MGAs. Fines against a bank-owned mutual fund dealer were levied in response to the firm paying higher commissions for the sale of in-house (proprietary) products, despite the dealer having access to a wide shelf of funds. Regulators will need to monitor these developments and consider their impact on competition and the FTC if consumers are faced with reduced choice and/or access to independent advice.

Below are some concluding comments.

Customer complaints.

We suggest the CCIR/CISRO consider the development of a whistleblower program as a tool to assist in ensuring the FTC for insurance customers. Other financial regulators have done so, and have achieved success where they might not have otherwise.

Non-compliance.

The paper discusses the various elements that should be included in a FTC program but doesn't address non-compliance or how a regulated body can demonstrate compliance where there is a discrepancy, for example, between the advisor and MGA, or MGA and insurer.

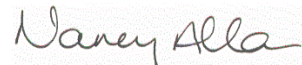
Proprietary firms and products.

We continue to wonder how these firms can meet the FTC standards when they offer a restricted product shelf or compensate sales of in-house products at a higher level.

In closing, IFB is very supportive of the fair treatment of customers' guidance. It reflects a modern, flexible and principles-based approach to regulation. We look forward to continuing to work with the CCIR/CISRO as you work toward an implementation strategy.

Thank you for the opportunity to comment. Please contact the undersigned if you wish to discuss our comments, or have questions.

Yours truly,



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