Advocis
The Financial Advisors Association of Canada

April 4, 2022

Canadian Council of Insurance Regulators
Canadian Insurance Services Regulatory Organizations
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

SENT VIA EMAIL: ccir-ccrra@fsrao.ca

Dear Sirs/Mesdames,

Re: Canadian Council of Insurance Regulators (CCIR)
Canadian Insurance Services Regulatory Organizations (CISRO)
Incentive Management Guidance Consultation

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide the following comments to the Incentive Management Guidance (the Guidance). Advocis shares the CCIR/CISRO's goal that incentives in the insurance sector should align with the Fair Treatment of Customers (FTC). We believe that our comments can help strengthen the Guidance to the benefit of consumers and industry participants.

1. ABOUT ADVOCIS

Advocis is the association of choice for financial advisors and planners. With over 17,000 member-clients across the country, we are the definitive voice of the profession. Advocis champions professionalism, consumer protection, and the value of financial advice. We advocate for an environment where all Canadians have access to the professional advice they need.

Advocis members advise consumers on wealth management; risk management; estate, retirement and tax planning; employee benefits; and life, accident and sickness, critical illness and disability insurance. In doing so, Advocis members help consumers make sound financial decisions, ultimately leading to greater financial stability and independence. In all that they do, our members are driven by Advocis' motto: *non solis nobis* – not for ourselves alone.

2. OUR COMMENTS

Advocis believes that the CCIR/CISRO can strengthen the Guidance by further recognizing the diverse entities that serve customers in the insurance sector. We believe the Guidance should recognize that advisors have little or no influence in the design and implementation of incentive arrangements. We also ask that the CCIR/CISRO provide concrete examples of inappropriate incentive arrangements. We suggest that ongoing service should be assessed through effective post-sales controls. Finally, we request greater clarity from the CCIR/CISRO regarding the operationalization of the Guidance.

Beyond our specific comments below, we also wish to address the issue of professionalism in the insurance sector and its impact on FTC outcomes. Unfair consumer outcomes often result from a professional failure—whether on the part of insurers or intermediaries—rather than from any particular incentive arrangement. Acting as professionals, insurance advisors are critical to furthering FTC outcomes in their dealings with their clients. Thus, the CCIR/CISRO should focus on raising professional standards in the insurance industry as the foundation for all of its FTC efforts.

a. Diversity in Insurance

The insurance industry is diverse. A variety of actors and business model exist to meet the needs of an equally diverse array of consumers. We urge the CCIR/CISRO to be mindful of this diversity when developing principles about compensation and incentive arrangements.

Both captive and independent agents sell insurance products. Managing General Agents (MGAs)—which range in size and scope of services offered—have flourished in the independent channel. Some insurers offer heaped commissions, while others provide a more levelized structure. The products offered are equally diverse: term, whole or universal life; par policies or non-par policies; segregated funds and other wealth products.

Due to this diversity, a "one-size-fits-all" approach to incentives is unworkable. An incentive arrangement which supports FTC principles in one context may be problematic in another. For example, volume-based incentives in the career channel could reinforce FTC if those incentives bolster knowledge of proprietary product, but those same incentives could harm FTC in the independent channel.

Some incentive structures that support FTC at the point of sale may create problematic incentives at the servicing stage. For instance, level commissions may address incentives created by the upfront nature of heaped commissions. However, this same structure could incent advisors to conserve policies that no longer meet their clients' needs.

We recognize the efforts of CCIR/CISRO to create a principles-based framework to provide "insurers and intermediaries with the discretion necessary to devise strategies, policies and controls in support of fair customer outcomes based on the nature, size and complexity of their business activities."

We urge the CCIR/CISRO to continue to be mindful of this diversity in developing and implementing the Guidance. Certain practices may help or hinder FTC outcomes depending on the context within which they are used. A nuanced understanding of the impact on customers is required to determine whether an incentive is problematic in a particular context.

b. The Role of Advisors

We believe that the Guidance should assign responsibilities to those positioned to fulfill them. Advisors should not be held responsible for incentive arrangements that they do not design, implement, or oversee.

We welcome the recognition that "The Insurer is responsible for FTC throughout the life-cycle of the insurance product, as it is the Insurer that is the ultimate risk carrier. The Insurer's ultimate responsibility does not absolve Intermediaries of their own responsibilities for which they are accountable. Treating Customers fairly is a shared responsibility when Insurers and Intermediaries are both involved."

However, we believe that the Guidance should also recognize the limited role of advisors.

As drafted, the Guidance defines "intermediaries" broadly—capturing advisors—and assigns responsibility for the design, implementation and oversight of incentives to these intermediaries. However, many intermediaries—particularly advisors—do not design, implement, or oversee incentive arrangements. Insurers are largely responsible for the design and oversight of incentive arrangements. While MGAs may have a role, it is typically limited and ancillary.

Consider a captive insurance agent. As an intermediary per the Guidance, this captive agent is expected to ensure that persons conducting post-sales monitoring "have the required competence and experience" and "are sufficiently independent from the sales functions they are required to monitor to avoid being unduly influenced." However, short of resigning their job, the captive agent lacks the power to fulfill these expectations.

We ask that the limited role of advisors be recognized by carving them out of the definition of intermediaries for the purposes of the Guidance. Instead, advisors should be specifically defined as a separate class of intermediaries within the Guidance.

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Responsibilities could then be assigned where advisors do have the power to act. For instance, advisors can and should understand the incentive arrangements to which they are subject. In particular, advisors could be responsible for good faith efforts to recognize conflicts of interest that may arise as a result of a particular incentive arrangements. Advisors could then determine whether those conflicts could be sufficiently managed in accordance with FTC principles or whether the advisor must decline to participate in the incentive arrangement. This would empower advisors to advance the implementation of FTC principles within the industry.

Alternately, individual sections of the Guidance could make clear that the expectations only apply to intermediaries who have the power to fulfill them. This approach is taken regarding the responsibility of the board of directors and senior management regarding governance.

c. Concrete Examples of Unacceptable Incentives

We believe the Guidance would benefit from more concrete and granular examples. This would provide the insurance industry with greater clarity and certainty regarding inappropriate incentives.

Although we recognize that the components listed in the Appendix may become problematic "without proper design, management and post-sale controls", the breadth of examples chosen give rise to concern. Several examples are broad enough to potentially capture nearly all incentive arrangements—including some of the most well-established business practices. Such examples do not provide useful direction to industry participants.

For instance, the Guidance indicates that "Commissions linked to the premium level or the investment amount" may be problematic. Beyond flat-rate commissions, essentially all commissions are tied to either the premium or the investment amount.

Similarly, the Guidance suggests that "Incentive[s] paid in advance of the service expected" may also be problematic. Again, it is common industry practice to heap commissions before the years of servicing expected of advisors. The Guidance appears broad enough to capture these widespread industry norms.

Notwithstanding the language in the preamble about "without proper design", the Guidance casts a shadow over these longstanding practices. It almost creates a presumption that the practices are problematic. Unless the intention of the Guidance is to initiate a fundamental redesign of incentive structures in the insurance sector, the broad examples in the Guidance are not particularly helpful.

Instead, we ask that the CCIR/CISRO provide more specific examples around the incentive arrangements which contravene FTC principles. By providing this clarity, the CCIR/CISRO will

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provide better direction to the industry, higher adoption of the principles in the Guidance, and improved outcomes for customers.

d. Ongoing Service

We believe that the ongoing servicing of in-force policies is crucial to ensuring that FTC principles are achieved. Customers rightly expect that service does not end with the initial product transaction. However, this key FTC element is only briefly addressed in the Appendix. We believe that the role of ongoing servicing should be discussed in the Guidance itself.

We suggest adding a new section 4.3.5 to the Guidance to add an expectation that post-sales ongoing service is monitored. Such an addition could improve outcomes for customers.

e. Unfair Outcomes

The Guidance relies heavily upon the concept of "unfair outcomes". However, this concept is not defined within the Guidance. We ask that the CCIR/CISRO address this conceptual uncertainty.

We note that the underlying FTC guidance provides outcomes which are indicia of the fair treatment of customers in section 2:

- developing, marketing and selling products in a way that puts Customers' interests ahead of their own;
- providing Customers with accurate, clear, not misleading and sufficient information before, during and after the point of sale, which will allow them to make informed decisions;
- minimizing the risk of sales which are not appropriate to the Customers' needs;
- ensuring that any advice given is relevant;
- dealing with Customer claims, complaints and disputes in a fair and timely manner;
- protecting the privacy of Customer information.

We ask the CCIR/CISRO to confirm in the guidance that "unfair outcomes" in the Guidance are the inverse of these fair treatment outcomes, namely:

- developing, marketing and selling products in a way that puts Customers' interests behind of their own;
- providing Customers with inaccurate, unclear, misleading or insufficient information before, during and after the point of sale, which will prevent them from making informed decisions;
- failing to minimize the risk of sales which are not appropriate to the Customers' needs;
- failing to ensure that any advice given is relevant;
- dealing with Customer claims, complaints and disputes in an unfair or untimely manner;
- failing to protect the privacy of Customer information.

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We believe the Guidance will be strengthened if this conceptual gap is addressed.

f. Implementation of the Guidance

While we appreciate the CCIR/CISRO's work to place FTC principles at the core of incentive arrangement design and management, we would like further clarification concerning the implementation of this Guidance.

How will the Guidance be operationalized in respect of insurers, who are the stakeholders best positioned to see that the principles behind the Guidance are adopted, and intermediaries?

What steps will the CCIR/CISRO take to ensure that the expectations in the Guidance apply equally to increasingly complex online insurance transactions? The risk of unfair outcomes is particularly acute in these transactions because important client safeguards—like the needs analysis—are often handled by algorithms rather than receiving the due care they deserve by professional insurance advisors. This concern relates back to our introductory comments that the CCIR/CISRO can best further FTC outcomes by focusing on industry professionalism above all else.

We would also appreciate if the CCIR/CISRO would clarify its expectations on the incorporation of non-quantitative metrics as indicia of FTC outcomes.

3. CONCLUSION

We welcome the work the CCIR/CISRO have undertaken towards principled regulation of incentive arrangements. We will continue to work with you to ensure the fair treatment of customers.

We believe that the Guidance can be strengthened through greater recognition of the diverse organizations that provide services in the insurance space, a clearer reflection of the limited role of advisors in incentive design, greater emphasis on the importance of ongoing service, more concrete examples of unacceptable incentive arrangements, and clarification of certain implementation issues.

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We continue to support the CCIR/CISRO's work to obtain better outcomes for insurance customers, including through efforts to reform incentives. We would welcome the opportunity to further discuss the proposed Guidance with you.

Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Advocacy and General Counsel at jryu@advocis.ca.

Sincerely,



Greg Pollock, M.Ed., LL.M., C.Dir., CFP
President and CEO



Rob Eby, CFP, RRC
Chair, National Board of Directors

Corporation des assureurs directs de dommages du Québec

Québec le 4 avril 2022

Par courriel

Secrétariat CCIR-CCRRA
ccir-ccrra@fsrao.ca.

Madame,
Monsieur,

Au nom des membres de la Corporation des assureurs directs de dommages du Québec (**Cadd**), il me fait plaisir de vous transmettre nos commentaires en réponse à la consultation sur le projet de *directive sur la gestion des incitatifs*.

En premier lieu, la définition d'incitatifs devrait être modifiée afin d'éviter que la directive s'applique à tous les employés d'un assureur, **qui n'interviennent pas dans la vente et le service après-vente de ses produits d'assurance** et qui reçoivent un boni versé en fonction de l'atteinte de cibles et critères de performance de l'institution financière, comme par exemple, des employés des ressources humaines ou des secteurs administratifs.

De plus, la définition retenue pour un incitatif ne doit pas empêcher les assureurs de réaliser des activités d'animation de la force de vente dans la mesure où ceux-ci gèrent adéquatement les enjeux potentiels relatifs au traitement équitable des clients.

Il y aurait lieu, selon nous, de bien distinguer les obligations propres aux assureurs de celles des intermédiaires, afin de s'assurer que les assureurs ne deviennent pas responsables de l'encadrement de leurs intermédiaires, rôle qui revient au régulateur.

Il devrait aussi clairement être indiqué que le contenu de l'annexe n'est pas une liste de renseignements ou d'indicateurs clés à vérifier/utiliser obligatoirement.

Nous aimerions également qu'il soit prévu un délai d'implantation de 2 ans, afin de donner le temps nécessaire aux assureurs de renouveler les ententes avec leurs partenaires, de développer et d'implanter les procédures administratives ainsi que les changements technologiques requis.

Nous vous ferons bientôt parvenir un mémoire détaillé qui comporte des commentaires et observations sur certains articles du projet de directive.

Entretemps. si des informations ou précisions additionnelles étaient requises à la suite de la lecture de ce mémoire, je vous invite à me contacter **au 581 986-9762 ou par courriel à Denis.cote@outlook.com**.

Denis Côté
Directeur Général
Corporation des assureurs directs de dommages du Québec

Corporation des assureurs directs de dommages du Québec

Consultation sur le projet de directive sur la gestion des incitatifs
Avril 2022

Introduction

Le Conseil canadien des responsables de la réglementation d'assurance (CCRRA) et les Organismes canadiens de réglementation en assurance (OCRA) ont publié pour consultation un projet de directive qui expose les attentes envers les assureurs et les intermédiaires qui versent une rémunération ou conçoivent des mécanismes incitatifs relatifs à la vente et au service après-vente de produits d'assurance.

On retrouvera dans les prochaines pages des commentaires spécifiques sur les différentes sections du projet de directive. De façon globale, la définition d'incitatifs devrait être modifiée afin d'éviter que la directive s'applique à tous les employés d'un assureur, **qui n'interviennent pas dans la vente et le service après-vente de ses produits d'assurance** et qui reçoivent un boni versé en fonction de l'atteinte de cibles et critères de performance de l'institution financière, par exemple des employés des ressources humaines ou des secteurs administratifs.

De plus, la définition retenue pour un incitatif ne doit pas empêcher les assureurs de réaliser des activités d'animation de la force de vente dans la mesure où ceux-ci gèrent adéquatement les enjeux potentiels relatifs au traitement équitable des clients.

Il y aurait lieu, selon nous, de bien distinguer les obligations propres aux assureurs de celles des intermédiaires, afin de s'assurer que les assureurs ne deviennent pas responsables de l'encadrement de leurs intermédiaires, rôle qui revient au régulateur.

Il devrait aussi clairement être indiqué que le contenu de l'annexe n'est pas une liste de renseignements ou d'indicateurs clés à vérifier/utiliser obligatoirement.

Nous aimerions également qu'il soit prévu un délai d'implantation de 2 ans, afin de donner le temps nécessaire aux assureurs de renouveler les ententes avec leurs partenaires, de développer et d'implanter les procédures administratives ainsi que les changements technologiques requis.

La Corporation des assureurs directs de dommages du Québec (Cadd) remercie à l'avance le Conseil canadien des responsables de la réglementation d'assurance (CCRRA) et les Organismes canadiens de réglementation en assurance (OCRA) pour la considération qu'ils accorderont aux commentaires et observations énoncés par ses membres.

Si des informations ou précisions additionnelles étaient requises à la suite de la lecture de ce mémoire, nous vous invitons à contacter monsieur **Denis Côté, directeur général de la corporation, au 581 986-9762 ou par courriel à denis.cote@outlook.com**.

Aux pages suivantes, on retrouvera les commentaires de la Cadd pour chacune des sections du projet de directive.

Concepts

Projet de directive du CCRRA / OCRA	Commentaire
Assureur Inclut les diverses entités inscrites pour exercer des activités d'assurance.	Nous sommes d'avis qu'il y aurait lieu d'être plus précis et de bien distinguer les attentes envers les assureurs de celles envers les intermédiaires.
Client Tout titulaire de police (et, selon le cas, tout titulaire de certificat) actuel ou potentiel avec lequel un assureur ou un intermédiaire interagit, y compris, s'il y a lieu, les autres bénéficiaires et demandeurs d'indemnités ayant un intérêt légitime dans la police.	Aucun commentaire.
Incitatif Rémunération pécuniaire ou non, offerte par les assureurs ou les intermédiaires à leurs employés (notamment au personnel de première ligne et aux membres de la direction) et à d'autres personnes ou entités qui agissent en leur nom dans la vente et le service après-vente des produits d'assurance. Les incitatifs pécuniaires comprennent notamment les commissions versées en fonction des ventes et des services attendus et rendus (p. ex. : ventes initiales, renouvellements, suivis) et les bonis versés à l'atteinte de cibles de performance (p. ex., selon le volume (nombre/montant) de ventes, la rétention, la croissance ou le traitement équitable des clients). Les incitatifs non pécuniaires comprennent les avantages autres qu'en espèces, notamment les récompenses et les privilèges, comme des voyages, des biens et de l'hébergement, des divertissements, des abonnements, une participation à un concours, des référencements de clientèle de l'assureur et l'accès à des services qui sont liés à des cibles de performance. Les incitatifs découlent principalement de programmes établis de rémunération et de gestion de la performance ainsi que de relations entre les assureurs et les intermédiaires et toute autre personne qui agit en leur nom.	Les incitatifs de valeur modique qui ne sont pas suffisamment significatifs, par leur valeur ou leur fréquence, pour exercer une influence sur le traitement équitable des clients devraient être exclus. Tous les secteurs en dehors de la vente devraient être exclus de la directive.

Projet de directive du CCRRA / OCRA	Commentaire
Intermédiaire Reçoit une interprétation large qui englobe les agents individuels, les courtiers et les représentants (les « représentants ») ainsi que les entités autorisées à distribuer des produits et des services d'assurance, dont les agences générales, les tiers administrateurs et les comptes nationaux, selon le cas. Au Canada, les intermédiaires qui doivent détenir un permis et faire l'objet d'une supervision peuvent différer d'un territoire à l'autre. La présente directive s'applique à tous les intermédiaires autorisés à exercer des activités dans un territoire, qu'ils soient titulaires de permis, inscrits ou dispensés d'inscription.	Nous sommes d'avis qu'il y aurait lieu d'être plus précis et de bien distinguer les attentes envers les intermédiaires de celles envers les assureurs.
Mécanismes incitatifs Principalement l'incitatif en tant que tel, le programme de gestion de la performance qui y est associé et différentes caractéristiques liées, notamment au versement ou à la déduction de l'incitatif.	Aucun commentaire.
Programmes de gestion de la performance Mesures, cibles et critères établis par les assureurs et les intermédiaires pour évaluer la performance d'une personne ou d'une entité en ce qui a trait à la vente et au service après-vente de produits, dans le but d'octroyer des incitatifs. Les critères peuvent être quantitatifs, pour tenir compte de la contribution financière (p. ex. : volume de ventes, rentabilité, productivité), ou qualitatifs, pour tenir compte du traitement équitable du client (p. ex. : résultats des contrôles après-vente, qualité du comportement envers les clients, satisfaction des clients, nombre et type de plaintes formulées et autres indicateurs clés).	Tous les secteurs en dehors de la vente devraient être exclus de la directive.

1. Gouvernance

Projet de directive du CCRRA / OCRA	Commentaire
Le CCRRA et les OCRA s'attendent à ce que la gouvernance et la culture d'entreprise chez les assureurs et les intermédiaires placent le TEC au centre des décisions concernant la conception et la gestion des mécanismes incitatifs. Les mécanismes incitatifs reflètent les valeurs et les objectifs que se fixent les assureurs et les intermédiaires et constituent en conséquence des éléments clés dans l'établissement d'une culture d'entreprise. Ils peuvent démontrer l'importance qu'accorde un assureur ou un intermédiaire au TEC. Ces mécanismes ne doivent pas nuire au TEC.	
La responsabilité globale du TEC incombe au conseil d'administration ou à la haute direction, ou aux deux, lesquels conçoivent, approuvent et mettent en œuvre des politiques et des procédures à cette fin, et contrôlent leur respect. **Attentes pour parvenir à ce résultat (assureurs et intermédiaires)**	La responsabilité du conseil d'administration et de la haute direction est de voir à ce que les mécanismes de contrôle soient mis en place et non pas d'effectuer le travail en tant que tel.
1.1 Superviser la stratégie, la propension au risque et la culture par rapport à la conception et à la mise en œuvre de mécanismes incitatifs.	
1.2 Élaborer des politiques, des procédures et des contrôles qui permettent d'intégrer les résultats en matière de TEC aux mécanismes incitatifs.	La responsabilité de la haute direction/CA devrait être d'« Adopter » les politiques plutôt que de les élaborer. De même, ils devraient « Veiller à la révision […] et à la mise en œuvre de tout changement […] ».
1.3 Veiller à ce que les politiques, les procédures et les contrôles tiennent compte de la détermination et de l'évaluation des risques de résultats inéquitables pour les clients qui pourraient découler des mécanismes incitatifs.	
1.4 Veiller à ce que les politiques, les procédures et les contrôles soient surveillés périodiquement pour maintenir leur efficacité en matière de détermination, d'évaluation, de suivi et d'atténuation des risques de résultats inéquitables pour les clients.	
1.5 Revoir périodiquement les mécanismes incitatifs et mettre en œuvre tout changement nécessaire pour gérer les risques liés au TEC, en tenant compte des commentaires émanant des fonctions concernées (p. ex. : gestion des risques, conformité, services juridiques et ressources humaines).	

2. Conception et gestion des mécanismes d'incitatifs

Projet de directive du CCRRA / OCRA	Commentaire
Le CCRRA et les OCRA s'attendent à ce que les assureurs et les intermédiaires conçoivent et mettent en œuvre des mécanismes incitatifs dont les critères assurent le TEC. Les assureurs et les intermédiaires sont responsables de l'expérience du client. Si les mécanismes incitatifs sont conçus et mis en œuvre adéquatement, ils peuvent diminuer le risque de résultats inéquitables pour les clients.	Il y aurait lieu, selon nous de bien distinguer les obligations propres aux assureurs de celles des intermédiaires afin de s'assurer que les assureurs ne deviennent pas responsables de l'encadrement de leurs intermédiaires, rôle qui revient au régulateur.
Conception 2.1 La conception des mécanismes incitatifs assure les résultats suivants : 2.1.1 Tout incitatif octroyé est conséquent avec le niveau de service attendu et rendu tout au long du cycle de vie du produit; 2.1.2 Les cibles et les critères de performance quantitatifs et qualitatifs sont clairement définis, mesurables et propres à assurer le TEC; 2.1.3 Le coût du produit pour le client ne varie pas en fonction de la méthode de distribution. 2.2 Les évaluations des risques de résultats inéquitables pour les clients et les résultats des contrôles sont pris en compte dans l'approche et les procédures de conception des mécanismes incitatifs.	Nous suggérons d'utiliser la formulation retenue dans le projet de ligne directrice de L'AMF, soit : *Les cibles et critères de performance quantitatifs et qualitatifs sont clairement définis, mesurables et sont équilibrés de manière à assurer le traitement équitable des clients.* Il y aurait lieu que le régulateur précise ici quelle est la problématique/préoccupation et l'enjeu visé par cette orientation.

Projet de directive du CCRRA / OCRA	Commentaire
2.3 Veiller à ce que les membres du personnel et les autres personnes et entités concernées comprennent les mécanismes incitatifs qui s'appliquent à elles. 2.4 Utiliser suffisamment de renseignements et d'indicateurs clés[3] pour être en mesure de déterminer les risques potentiels que les mécanismes incitatifs entraînent des résultats inéquitables pour les clients. [3] Par exemple, les tendances de vente avant et après l'atteinte, ou non, d'une cible; les variations dans la gamme de produits vendus (pour voir si le barème de commissions influe sur le choix de produits vendus ou si les vendeurs sélectionnent toujours un produit plutôt qu'un autre); les taux de pénétration relativement aux ventes croisées, dans lesquelles l'intérêt indirect peut différer de l'intérêt du client; les taux de déchéance élevés sur les nouveaux contrats; les piètres taux de maintien en vigueur par rapport aux cibles de maintien; le cumul de la rétrofacturation non réglée; les taux de refus de demande d'indemnités et les raisons de ces refus; les plaintes récurrentes liées aux ventes; les tendances à la vente de produits qui offrent davantage d'incitatifs.	Quel est l'objectif de cet article? Y-a-t-il une obligation de démontrer que les mécanismes d'incitatifs sont compris ? De la façon dont est formulé l'article et surtout la référence à la note nº 3, nous croyons que l'élaboration des indicateurs clés devrait être du ressort des assureurs et la liste d'exemples ne devrait pas être utilisée à titre de liste de contrôle pour faire des vérifications auprès des assureurs.
Gestion 2.5 Examiner périodiquement et, au besoin, améliorer les contrôles en tenant compte des caractéristiques des mécanismes incitatifs qui accentuent les risques de résultats inéquitables pour les clients (p. ex., les contrôles après-vente en fonction des dossiers de clients, les contrôles qui visent à détecter les pratiques inadéquates dans les interactions avec les clients). 2.6 Veiller à ce que des mesures correctives soient prises lorsque les contrôles détectent des pratiques inadéquates envers les clients. 2.7 Établir des conséquences ou des mesures dissuasives adéquates afin de prévenir activement les comportements qui entraînent des résultats inéquitables pour les clients. 2.8 Prévoir des mécanismes de recouvrement, s'il y a lieu, de la rémunération lorsque celle-ci a été versée. 2.9 Rajuster ou modifier rapidement les caractéristiques des mécanismes incitatifs lorsqu'il est impossible de gérer ou de surveiller les risques de résultats inéquitables pour les clients sans pouvoir assurer le TEC. 2.10 Soumettre tout mécanisme incitatif qui pourrait raisonnablement avoir une incidence sur le TEC à la gestion des conflits d'intérêts potentiels.	Nous sommes d'avis que la directive 2.8 n'est pas requise étant donné la directive 2.7. Rapidement devrait être remplacé par dans un délai raisonnable. Soumettre est un terme vague et imprécis. À quel résultat s'attend-on ? C'est le seul endroit dans le projet de directive où l'on aborde les conflits d'intérêts. La formulation de l'article semble vouloir imposer un processus obligatoire. Nous sommes d'avis qu'en cas de conflit d'intérêt, la situation devrait être traitée suivant ce qui a été mis en place en réponse à la directive portant sur les conflits d'intérêt et qu'en ce sens la référence au conflit d'intérêt devrait être retirée.

3. Risques de résultats inéquitables pour les clients

Il y aurait lieu d'aligner les sections 2 et 3, plusieurs points de la section 3 sont abordés dans la section 2.

Projet de directive du CCRRA / OCRA	Commentaire
Le CCRRA et les OCRA s'attendent à ce que les assureurs et les intermédiaires déterminent et évaluent régulièrement les risques de résultats inéquitables pour les clients qui pourraient découler de mécanismes incitatifs, dans le but d'introduire des contrôles appropriés ou d'ajuster ces mécanismes. Des résultats inéquitables sont plus susceptibles de se produire lorsque les assureurs, les intermédiaires ou toute autre personne et entité qui agissent en leur nom octroient ou obtiennent des incitatifs relativement à des pratiques qui ne permettent pas d'atteindre les résultats attendus en matière de TEC. De tels risques peuvent découler de la conception des mécanismes incitatifs, d'enjeux propres aux méthodes de distribution, ainsi que des systèmes de communication d'information et de contrôle des résultats pour les clients. L'annexe donne des exemples de composantes des mécanismes incitatifs qui, sans conception, gestion ou contrôles après-vente adéquats, peuvent accroître les risques de résultats inéquitables pour les clients.	Nous sommes d'avis que l'évaluation devrait se faire au besoin et non pas régulièrement. Plusieurs éléments/principes de cette section se retrouvent dans la section 2. Nous sommes d'avis qu'il y aurait avantage à aligner le contenu des sections 2 et 3.

Projet de directive du CCRRA / OCRA	Commentaire
Attentes pour parvenir à ce résultat (assureurs et intermédiaires)	
3.1 Revoir régulièrement et au besoin les mécanismes incitatifs en accordant une attention suffisante à la détermination, à la compréhension et à l'évaluation des caractéristiques précises qui pourraient accroître les risques de résultats inéquitables pour les clients.	Nous sommes d'avis que l'évaluation devrait se faire au besoin et non pas régulièrement.
3.2 Tenir compte de la possibilité d'un risque de résultat inéquitable et des conséquences possibles de ce risque pour les clients.	
3.3 Prendre dûment en considération les conséquences des mécanismes incitatifs qui sont principalement ou uniquement fondés sur des critères de performance quantitatifs.	Il y aurait lieu que le régulateur précise ici quelle est la problématique/préoccupation et l'enjeu visé par cette orientation. À l'article 2.1.2 on n'indique pas d'exigences à respecter quant au nombre/proportion de critères quantitatifs versus qualitatifs.
3.4 Tenir compte des mécanismes incitatifs octroyés par les personnes et les entités qui agissent en leur nom et de l'accroissement possible des risques de résultats inéquitables pouvant découler de la combinaison de ces mécanismes avec les leurs, et échanger les renseignements ayant trait aux mêmes opérations pour être en mesure de répondre à cette attente.	Ce n'est pas la responsabilité des assureurs de superviser le travail des intermédiaires. De plus l'échange d'information entre entités est réglementé et rendrait difficile l'application de cet article.
3.5 Tenir compte de l'ajout de différents types d'incitatifs (commissions, bonis, avantages autres qu'en espèces, récompenses et privilèges) pour un même lot de ventes.	
3.6 Tenir compte des répercussions des campagnes de ventes et des promotions de produit d'une durée limitée.	

4. Contrôle de qualité

Beaucoup de moyens sont énumérés dans cette section. Nous sommes d'avis qu'il y aurait lieu d'énumérer uniquement les attentes et de laisser aux assureurs la responsabilité de déterminer les moyens requis pour répondre aux attentes. De plus, il devrait être mentionné que l'atteinte des attentes doit se faire dans les limites imposées par la technologie et la protection des renseignements personnels.

Projet de directive du CCRRA / OCRA	Commentaire
Le CCRRA et les OCRA s'attendent à ce que les assureurs et les intermédiaires mettent en place des contrôles après-vente efficaces afin de détecter les ventes inadéquates qui découlent de mécanismes incitatifs. Des contrôles après-vente efficaces devraient aider les assureurs et les intermédiaires aux fins suivantes : o Détecter les ventes inadéquates qui découlent de mécanismes incitatifs afin de prendre les mesures correctives nécessaires; o Déterminer les risques résiduels de résultats inéquitables pour les clients; o Faire en sorte que la conception et la mise en œuvre des mécanismes incitatifs permettent d'atteindre les résultats attendus en matière de TEC. Plus le niveau de risque des mécanismes incitatifs augmente, plus il est nécessaire que les assureurs et les intermédiaires démontrent l'efficacité de leurs contrôles à détecter les ventes inadéquates.	Nous sommes d'avis qu'il faudrait davantage viser la détection des résultats inéquitables que la détection des ventes inadéquates.

Projet de directive du CCRRA / OCRA	Commentaire
Attentes pour parvenir à ce résultat (assureurs et intermédiaires) 4.1 Veiller à ce que les personnes qui procèdent au suivi après-vente remplissent les conditions suivantes : 4.1.1 Posséder les compétences et l'expérience requises pour comprendre les caractéristiques des mécanismes incitatifs applicables, ainsi que les procédures appropriées pour détecter les risques de résultats inéquitables pour les clients; 4.1.2 Être suffisamment indépendantes des fonctions des ventes qu'elles doivent surveiller pour éviter toute influence indue. 4.2 Veiller à ce que les contrôles après-vente établis en fonction des risques soient cohérents avec les éléments suivants : 4.2.1 L'évaluation des risques de résultats inéquitables pour les clients qui pourraient découler des mécanismes incitatifs; 4.2.2 Tout facteur à risque élevé (p. ex. : personnes, équipes, entités, secteurs d'activité, zones géographiques, services ou directions, canaux de distribution, hausses inhabituelles des ventes, pratiques de vente) relevé lors du suivi des renseignements ou des indicateurs clés. 4.3 Examiner régulièrement les résultats des contrôles après-vente pour s'assurer que les conditions suivantes sont réunies : 4.3.1 L'adéquation des ventes fait l'objet d'un suivi serré; 4.3.2 Le suivi après-vente se concentre sur les risques importants de résultats inéquitables pour les clients; 4.3.3 Les résultats pour les clients sont évalués; 4.3.4 Les éléments préoccupants ou les enjeux courants qui doivent être traités sont relevés.	En lien avec le commentaire sur l'article 2.10, nous sommes d'avis qu'il n'est pas nécessaire de préciser que le suivi doit être serré.

Annexe

La formulation du texte donne l'impression qu'il s'agit d'une liste de points à vérifier/contrôler systématiquement pour être conforme à la directive. Il y aurait lieu d'indiquer que le contenu de cette annexe n'est pas une liste de renseignements ou d'indicateurs clés à vérifier obligatoirement.

On trouvera ci-dessous des exemples de composantes des mécanismes incitatifs qui, sans conception, gestion ou contrôles après-vente adéquats, peuvent accroître les risques de résultats inéquitables pour les clients.

Incitatifs

1. Taux de bonis qui augmentent en fonction de seuils de volumes de ventes prédéterminés, sans prise en compte adéquate du TEC.

2. Incitatifs excessifs octroyés pour la vente croisée de produits facultatifs en comparaison des incitatifs octroyés pour la vente du produit principal uniquement.

3. Commissions liées au niveau de prime ou au montant du placement.

4. Montants de commissions de renouvellement qui sous-estiment le niveau de services continus ou écarts entre les commissions pour la vente initiale et celles pour les services continus, ce qui pourrait amener les intermédiaires à proposer de remplacer un produit afin d'accroître leur rémunération.

5. Commissions de renouvellement acquises la vie durant par des intermédiaires, ce qui peut laisser des clients « orphelins ».

6. Mécanismes incitatifs qui peuvent entraîner des frais ou des pénalités (p. ex. : des frais de sortie) pour les clients.

7. Incitatifs octroyés à des intermédiaires qui ne participent pas à la vente et au service après-vente, que ceux-ci soient attendus ou rendus. Cet élément n'est pas abordé dans la directive, il ne devrait donc pas faire partie des exemples.

Critères de performance

8. Critères de performance qui visent principalement des cibles quantitatives.

9. Critères qualitatifs qui ne parviennent pas ou ne suffisent pas à faire concorder les intérêts de l'assureur et de l'intermédiaire avec ceux du client.

10. Concours de ventes, quotas de vente, bonis et avantages non pécuniaires fondés sur la vente de produits précis pendant une période limitée.

11. Concours, campagnes, promotions et programmes de fidélité ou de reconnaissance conçus pour accroître les volumes de vente ou atteindre d'autres cibles quantitatives en vue d'obtenir des bonis, des récompenses (p. ex. : des titres, des cadeaux, des biens, de l'hébergement, des voyages) ou des privilèges (p. ex. : un accès à des services).

Autres caractéristiques

12. Octroi d'incitatifs avant la prestation des services attendus ou l'atteinte des cibles de performance.

13. Mécanisme de rétrofacturation qui incite l'intermédiaire à conseiller au client de conserver un produit d'assurance inadéquat, de manière à éviter de restituer la rémunération.

14. Ententes avec les intermédiaires (p. ex. : distribution, commission sur les bénéfices, soutien financier, accès aux plateformes/logiciels de TI, programmes de participation aux bénéfices, centre d'appels) qui peuvent permettre aux assureurs d'influencer les décisions, les activités et les pratiques des intermédiaires et restreindre l'accès aux marchés. Voici des exemples de conséquences possibles :

    - l'imposition d'un volume minimal ou d'une date limite pour atteindre un volume, l'inclusion du versement d'un boni ou d'une partie des bénéfices selon l'expérience en matière de contrats, ou encore de programmes de fidélité en fonction de la productivité, ce qui pourrait avoir un effet sur l'indépendance des conseils fournis par les intermédiaires ou les inciter à confier la totalité ou la majorité des nouveaux contrats à un assureur en particulier;

    - les ententes peuvent non seulement entraîner l'obtention d'un incitatif, mais aussi servir de pont vers la conclusion d'une entente de distribution ou l'obtention d'une aide financière ou d'un large éventail d'avantages à long terme.

cafii acifa
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April 4, 2022

Ms. Louise Gauthier, Co-Chair, CCIR/CISRO Fair Treatment of Customers (FTC) Working Group; and
Mr. Ron Fullan, Co-Chair, CCIR/CISRO Fair Treatment of Customers Working Group
c/o Messrs. Tony Toy and Munir Chagpar, CCIR Policy Managers/Secretariat; and
Ms. Adrienne Warner, CISRO Policy Manager/Secretariat

Dear Ms. Gauthier and Mr. Fullan:

Re: CAFII Comments on CCIR/CISRO Revised Incentive Management Guidance

Dear Ms. Gauthier and Mr. Fullan:

CAFII thanks CCIR and CISRO for the opportunity to review and provide feedback on the CCIR/CISRO Fair Treatment of Customers Working Group's updated draft *Incentive Management Guidance*.

Our Association very much appreciates and supports CCIR/CISRO's efforts to augment the jointly developed *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*, with specific Guidance on its implications for the Incentive Management programs utilized by the insurance industry. We are pleased that this work is being done at a national level, with the two national co-ordinating bodies of provincial and territorial regulators working together, which helps to foster a harmonized approach across jurisdictions.

We also thank CCIR and CISRO for recognizing and respecting – as demonstrated by both the *Guidance: Conduct of Insurance Business and Fair Treatment of Customers* and the updated draft *Incentive Management Guidance* -- the importance of balancing the primary objective of fair treatment of customers, on the one hand, with a regulatory framework that does not impede consumer choice in accessing and purchasing insurance products, on the other hand.

CAFII's feedback on specific sections of the updated draft *Incentive Management Guidance,* which we felt it germane to comment on, follows.

B. Preamble

We note that the updated draft Guidance includes the following new paragraph in its Preamble section:

> *This guidance provides Insurers and Intermediaries with the necessary latitude to determine the requisite strategies, policies, processes, procedures and controls in order to facilitate achieving such results and to apply them based on the nature, size and complexity of their activities, while taking into account representatives' regulatory obligations in order to facilitate achieving the Customer outcomes reflected in this guidance.*

CAFII fully supports CCIR/CISRO for including this new clarifying and context-setting paragraph. It sets out several important considerations including a recognition of the need for regulatory flexibility around "the nature, size and complexity of their activities" and that there is no 'one size fits all' correct approach to Fair Treatment of Customers (FTC).

C. Scope

We note that Scope section in the updated draft Guidance includes the following new paragraph:

> *The Insurer is responsible for FTC throughout the life-cycle of the insurance product, as it is the Insurer that is the ultimate risk carrier. The Insurer's ultimate responsibility does not absolve Intermediaries of their own responsibilities for which they are accountable. Treating Customers fairly is a shared responsibility when Insurers and Intermediaries are both involved.*

CAFII firmly supports the inclusion of this new paragraph in the *Incentive Management Guidance* as it is a helpful explanation.

1. Governance: CCIR and CISRO expect Insurers' and Intermediaries' governance and business culture to place FTC at the center of decisions concerning the way Incentive arrangements are designed and managed.

CAFII is appreciative of the fact that the updated draft Guidance now purposely avoids the use of the term "core" and that it also makes clear the CCIR/CISRO's acknowledgement that governance matters related to incentives may be the responsibility of Boards **and/or senior management**. This section now more accurately reflects typical and proper governance roles and responsibilities within regulated entities.

4. Post-sale controls: CCIR and CISRO expect Insurers and Intermediaries to establish effective post-sale controls to identify inappropriate sales resulting from Incentive arrangements.

CAFII thanks CCIR/CISRO for adopting our feedback, in part, by replacing the adjective "unsuitable" with "inappropriate" as a modifier of "sales" in the above-referenced summary expectation statement associated with post-sale controls in the updated draft Guidance.

That said, it is our strong view that the concept of "suitability" and related modifiers such as "unsuitable" should not be used in a blanket and unqualified manner anywhere in the Guidance. Rather, that the concept needs to be either (i) used/treated in a distinct, qualified manner; or (ii) replaced with a better, less problematic concept such as "appropriateness" and related modifiers such as "inappropriate" throughout the Guidance.

In that connection, in our September 21, 2022 CAFII submission on the preliminary draft of the *Incentive Management Guidance*, we offered the following commentary with respect to its application to credit protection insurance (CPI), which we continue to view as critically important feedback and therefore now reiterate:

> *CAFII cautions against a blanket and unqualified use of the term "unsuitable sales" throughout this section, as it is not applicable to Authorized Insurance Products/CPI offered by banks and other FRFIs.*

In an insurance context in Canada, the concept of "suitability" (and variations on that word) – which implies the provision of "advice" to customers -- is not applicable to Authorized Insurance Products/CPI.

The issue around "suitability" stems from the fact that while the federal Bank Act and section 5(1) of thefederal Insurance Business (Banks and Bank Holding Companies) Regulations (IBBRs) permit banks and other federally regulated financial institutions (FRFIs) to offer advice regarding Authorized Insurance Products/CPI, the offering of that advice is significantly tempered by provincial/territorial regulatory andlicensing requirements.

The nature of the advice that banks/FRFIs are permitted to provide around an Authorized Insurance Product/CPI is strictly limited to the Authorized Insurance Product itself and must not include suitability-related measures such as a needs-based financial/insurance assessment, Know Your Client tools, or holistic advice.

In the case of Authorized Insurance Products/CPI, because the consumer is purchasing/enrolling in optional insurance related to a single and specific borrowing need such as a mortgage, line of credit, orcredit card – and that scenario falls within the scope of activity permitted to occur through a non- advisory sales channel, i.e. the business must provide consumers with sufficient information, which meets provincial/territorial regulations and industry commitments and guidelines, to enable them to make an informed decision – Authorized Insurance Products/CPI are typically offered by non-licenced individuals in most provinces and territories. Non-licenced individuals are strictly prohibited from offering advice and recommending an insurance product as "suitable."

With respect to Authorized Insurance Products/CPI, given the prohibition against holistic advice engendered by the combination of the federal Bank Act and IBBRs with provincial/territorial regulatory and licensing requirements, FRFIs legally can only ascertain a consumer's "eligibility" for coverage and tomake a claim at the time that an Authorized Insurance Product/CPI is being offered as optional insurance. FRFIs therefore prioritize establishing certainty of the consumer's "eligibility" for coverage and to make a claim under the group CPI master policy.

This situation makes Authorized Insurance Products/CPI a unique product set – a product set to which the concept of product suitability does not apply due to legal constraints; but a product set to which themore limited concept of "eligibility" for coverage and to make a claim does indeed apply as a Fair Treatment of Customers (FTC) consideration.

As a proposed solution to deal with the problematic application of the words "unsuitable sales" in the Draft Incentive Management Guidance, CAFII recommends that those words be precisely defined within the Guidance – perhaps through an approach which uses a superscript number and corresponding footnoted definition below -- and that the definition expressly state that "unsuitable sales" does not apply to Authorized Insurance Products/CPI as defined by the federal Bank Act and the federal Insurance Business (Banks and Bank Holding Companies) Regulations.

In our view, the updated draft Guidance has not adequately addressed the above-noted important feedback.

Further, stemming from a quite recent development, continued CCIR/CISRO use of the "suitability" concept would be particularly problematic for CAFII members and other players in the *bancassurance*/Authorized Insurance Products/CPI sector due to its inconsistency with the Financial Consumer Agency of Canada (FCAC)'s recently finalized and released *Guideline On Appropriate Products and Services For Banks and Authorized Foreign Banks*. This is because the *Incentive Management Guidance* would immediately result in "exception management" challenges for CAFII members and other regulated entities in the same sector.

In summary, continued use of "suitability" and related terms is very problematic for CAFII members and others in the *bancassurance*/Authorized Insurance Products/CPI sector, while equally effective alternative terminology is readily available to be utilized instead.

Final Observations

CAFII believes there is no fundamental conflict between FTC and offering incentives to the insurance sales and customer service personnel who interact with customers, as part of their overall compensation package.

The adage that insurance is sold, not bought, is true. Life and health insurance, in particular, is not easily sold because it is completely optional and not something that people readily think about and pursue. Therefore, offering incentives to sales/customer service-personnel -- as part of a well-designed and implemented and carefully monitored program -- can help promote healthy competition in the marketplace resulting in more access and choice for consumers in securing life and health insurance protection, which is ultimately in their personal best interest and the best interest of society.

CAFII members have extensive controls in place around sales practices and related incentive programs, including training, scripts, sales reviews, and a variety of post-sales monitoring tools, which together help prevent, detect, and address inappropriate sales incidents from occurring.

With respect to training, our members' customer service personnel undergo comprehensive and recurring product training, to enable them to provide consumers with accurate and reliable information; as well as ethics and integrity training which underscores the importance of FTC.This training provides them with the knowledge, skills, and tools to do their jobs and serve consumers well. It also helps ensure that they, as sales/customer service-personnel, and CAFII member companies, as their employers, act in accordance with all applicable federal and provincial/territorial insurance legislation and regulations; and industry guidelines.

Conclusion

Thank you again for the opportunity to provide feedback on CCIR/CISRO's updated draft *Incentive Management Guidance*. 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 at 647-460-7725.

CAFII and its members remain committed to supporting CCIR and CISRO in their critically important independent and joint work; and we look forward to continuing our involvement as a key stakeholder contributor to your efforts.

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.

CAILBA
Canadian Association of
Independent Life Brokerage Agencies

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April 4, 2022

Canadian Council of Insurance Regulators
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

Dear Sirs/Mesdames,

Re: Canadian Council of Insurance Regulators/Canadian Insurance Services Regulatory Organizations request for comment on draft Incentive Management Guidance

The Canadian Association of Independent Life Brokerage Agencies (**CAILBA**) welcomes the opportunity to comment on the Canadian Council of Insurance Regulators (**CCIR**) and the Canadian Insurance Services Regulatory Organizations (**CISRO**) *Draft Incentive Management Guidance* (the **Proposed Guidance**).

CAILBA is a national industry association of life insurance intermediaries that helps our members to stay abreast of change and effectively implement compliance and regulatory updates. We work with our insurance insurer members to identify their expectations and provide education, knowledge, and tools to our members and their insurance brokers to help them stay current with industry best practices and technology. We provide a platform for our MGA members to collaborate and share ideas and best practices across Canada, to better the industry and build unity in the MGA community while promoting the Fair Treatment of Customers (FTC). In addition to comments in CAILBA's previous submission dated September 21, 2021, we offer the following comments and thoughts.

Broadly speaking, CAILBA supports the principles listed within CCIR/CISCRO's latest draft Incentive Management Guidance. We appreciate recognition that life and health insurance products are typically 'sold and not bought' which therefore necessitates healthy competition among insurers as well as incentives for intermediaries. We believe that the Proposed Guidance sets a clear tone for the industry's approach, and more specific guidance as to expectations around robust policies, procedures, mitigation, and redress mechanism to detect and deter potential harm to consumers. We would not want unintended consequences to be the outcome of this guidance, which ultimately and inevitably would have severe, negative consequences on consumers and Canadians' financial security.

Our comments provide further distinction from the perspective of MGAs. While there will always be areas and opportunities to improve incentive management and FTC outcomes, CAILBA maintains the view that for many decades, the Canadian life insurance industry, driven in large part by its compensation framework, has successfully helped millions of Canadian families and businesses insure themselves against the risks of death, disability and critical illness, and secure retirement savings. This was true even during the agency period when many career agents were-contracted to sell products for only one insurer. More recently, this Canadian success story has continued and expanded with the industry responding and adapting to the Covid challenge, enabling advisors to continue to sell insurance and investment products to Canadians, benefiting families and society.

We recognize the industry must continue to improve incentive management, demonstrating how we manage conflicts of interest in support of the Fair Treatment of Customers.

We note that this Proposed Guidance seems mainly directed at insurers, who create the majority of compensation and incentive structures within Canada. It rests with insurers to design and implement compensation and incentive structures that are not so inherently conflicted so as to put intermediaries in situations of having to make untenable choices. We feel that it is unfair and increases the potential for negative outcomes for consumers. While intermediaries cannot effect changes to compensation structures, incentive-based conflicts are addressed through disclosure and needs-based selling, education, increased oversight, and professionalism, much of which is addressed by the Canadian Insurance Services Regulatory Organizations (CISRO) in its *Principles of Conduct for Intermediaries*, the industry's three Principles for Managing Conflicts of Interests from 2007, and in the Financial Services Regulatory Authority of Ontario's *Insurer-MGA Relationship Thematic Review.* CAILBA also strongly supports the expectation noted in 2.1.3., that the cost of the product to the Customer does not vary based on the distribution method.

Referring to specific clauses of interest:

2.5 We support CCIR here and encourage insurers to provide more information and tools to MGAs that would assist with oversight and controls. For example, quarterly persistency reports to MGAs.

3.6 With respect to the expectation, "Consider the effects of time-limited sales campaigns and product promotions" we agree there must be due consideration of both the positive and any potential negative impacts to consumers of time-limited sales campaigns and product promotions.

Appendix

Specific to point #5, we agree that treating customers fairly includes life-time servicing of the products they purchase, that the consumer has the right to choose their advisor, and that advisors should be properly compensated for the services they provide. We reiterate the need for an industry-wide, regulator supported solution to facilitate open discussion on a path moving forward that will achieve these positive outcomes.

We would like to point out what we feel is an omission from the Appendix. It is CAILBA's view that rebating of any amount, in any form creates an unlevel playing field whereby a consumer can pay a different price for the same product depending on the rebate being offered by the broker. Allowing rebating is in direct conflict of the "Fair Treatment of Customer's Guidance" published by the CCIR.

On behalf of our CAILBA members, we wish to thank you for the opportunity to comment on this very important guidance. We look forward to further dialogue with you; as we have stated, we would not want unintended consequences to be the outcome of this guidance, which would have poor outcomes for consumers.

Regards,

Michael Williams
President, CAILBA

April 4, 2022

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DELIVERED VIA EMAIL

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

Re: CCIR and CISRO consultation on Incentive Management Guidance

On behalf of the Conference for Advanced Life Underwriting (CALU), we are pleased to provide our comments on the Incentive Management Guidance (Guidance).

CALU commends the work of CCIR/CISRO in preparing the Guidance and strongly supports the objective of aligning incentive arrangements related to the sale and servicing of insurance products by insurers and their intermediaries with the fair treatment of customer (FTC) principles.

CALU collaborates closely with Advocis on tracking and consideration of public policy matters impacting the insurance industry in Canada. CALU has had the opportunity to review the submission provided by Advocis to CCIR/CISRO on the Guidance, and we are strongly supportive of the commentary provided therein.

The purpose of this separate submission by CALU on the Guidance is to fully endorse the Advocis commentary, while also highlighting issues of particular interest and concern for our members.

About CALU

CALU is the only national professional organization dedicated to advanced planning issues related to life underwriting, tax planning and wealth management. CALU's industry leading members include insurance and financial advisors as well as accounting, tax, legal and actuarial experts.

We advocate on behalf of more than 600 members as leaders in the life insurance and financial services advisory industry and, in a strategic partnership with Advocis, we support fair and competitive public policies to grow and preserve the financial well-being of Canadian families and businesses.

Individuals and small business owners across Canada rely on our members to help protect and secure their financial futures.

Our members serve their clients with specialized services in insurance, business succession, estate and retirement planning and tax.

Our members also offer their clients advanced expertise in: employee benefits; disability, critical illness, and long-term care insurance and compassionate benefits; philanthropy and charitable giving strategies; cross border tax and estate planning.

CALU provides a collaborative community to our members – helping them connect, stay informed, and turn ideas into action. Together we share advances in strategies and practice, shape public policy and promote and protect the long-term financial well-being of Canadians.

Summary of recommendations

1. **Professionalism standards:** CALU recommends that CCIR/CISRO continue to focus on the advancement of professionalism standards in the insurance sector in recognition of the foundational role professionalism plays in advancing positive FTC outcomes.
2. **Role of advisors:** CALU recommends that the Guidance be amended to distinguish advisors from the general definition of "intermediaries" to ensure the principles in the Guidance are understood and applied by regulators in manner commensurate with the specific role and responsibilities of advisors.
3. **Removal of Appendix as currently drafted:** CALU recommends that the Appendix as currently drafted be removed from the Guidance to permit further dialogue between industry and regulators on incentives specific to the life and insurance industry. In its approach and content, the Appendix suggests that all incentive structures inherently pose significant risks for customers without sufficient consideration for the context in which a particular incentive is used. As a result, the examples do not provide helpful insight or guidance to the industry on how a specific incentive arrangement may result in unfair consumer outcomes.

Detailed comments

Professionalism standards

CALU recommends that CCIR/CISRO continue to focus on the advancement of professionalism standards in the insurance sector in recognition of the foundational role professionalism plays in promoting fair outcomes for consumers. We believe that better FTC outcomes are assured through high standards of professional conduct as unfair consumer outcomes can generally be traced back to professional failure, whether on the part of an insurer or an intermediary.

High professionalism standards help ensure that market participants recognize potential conflicts of interest minimizing the risk that an intermediary will fail to serve the needs of their customers.

In recognition of this critical link between professionalism and FTC, CALU strongly supports continuing education requirements and ongoing efforts to advance professionalism standards for advisors. CALU supports legislative efforts in Ontario to require that individuals calling themselves a Financial Planner or Advisor have the appropriate credentials. We also support requiring advisors to receive professional designations (like Chartered Life Underwriter (CLU) or Certified Financial Planner (CFP)).

As we discuss in connection with recommendation #3, identifying professionalism as the basis for achieving better FTC outcomes also helps protect against inadvertently undermining the role that incentives play in ensuring access and diversity of insurance products necessary for the financial stability, security, and well-being of customers

Ultimately, it is the professionalism of advisors that ensures positive FTC outcomes. As described below, an advisor's role is to provide service to their clients over their lifetimes, maintaining long-term relationships to respond to a client's evolving needs. High standards of professionalism ensure positive FTC outcomes throughout an individual's lifetime.

Role of advisors

CALU recommends that the Guidance be amended to distinguish advisors from the general, broad definition of "intermediaries" to ensure the principles in the Guidance are understood and applied by regulators in manner commensurate with the specific role and responsibilities of advisors.

As currently drafted, responsibility is assigned to intermediaries without distinction related to the specific role played by the intermediary in the sale and servicing of insurance products. Advisors play a defined role in developing and maintaining long-term relationships with their customers to understand, and respond to, their customers' evolving needs. Advisors spend a significant amount of time with a client at the front-end, developing the relationship, understanding the client's situation, needs and challenges. On the basis of a developed understanding of the client's requirements, an advisor will consider and vet possible solutions before making recommendations to the client and implementing solutions. The advisor maintains long-term relationships with their clients to meet their evolving needs as their families and businesses grow and change.

Advisors play a more limited role in the design and implementation of incentive arrangements. We ask that advisors be defined separately, and their specific responsibilities related to incentive arrangements be assigned commensurate with the role, responsibilities, and degree of control of the intermediary over the incentive arrangement. We believe that better FTC outcomes are supported by ensuring that each type of intermediary are appropriately guided to advance FTC in accordance with their role and responsibilities.

CALU would welcome the opportunity to work with CCIR/CISRO to delineate the specific responsibilities advisors should have in relation to incentive arrangements.

Removal of Appendix as currently drafted

CALU recommends that the Appendix as currently drafted be removed from the Guidance to permit dialogue to continue on the use of incentives in the life and health insurance industry.

The Appendix threatens to undermine the integral role that incentives play in promoting diversity and accessibility of insurance products for customers without providing useful insight or guidance to the industry on how a specific incentive arrangement may result in unfair consumer outcomes.

In capturing virtually every incentive arrangement employed in the insurance sector today, the Appendix implies that all incentive structures pose significant inherent risks for customers without any consideration for the

context in which a particular incentive arrangement is used. This is particularly problematic when considering health and life insurance.

Life and health insurance products have characteristics which pose certain challenges for sale and servicing. Despite the critical role that life and health insurance plays in the financial stability and well-being of customers and their families, individuals often resist planning for the possibility of long-term disability or the certainty of death. Advisors in this space are compensated for building and maintaining long-term relationships with their customers and responding appropriately to the evolving lifetime needs of their customers.

Incentive programs and programs need to be assessed contextually to determine their compatibility with FTC principles. Factors such as the type of product being sold, the distribution channel used, and the responsibilities of the individuals and entities involved in the sale and servicing of the products are all relevant. The Appendix effectively paints every incentive program as increasing the risk of practices that adversely affects FTC without context.

We recognize the critical role that regulators play in identifying where there are concrete risks to the consumer. To the extent that CCIR/CISRO regulators have continuing concerns about specific incentive arrangements currently in use in the Canadian insurance marketplace, CALU would encourage regulators to engage with industry through CCIR/CISRO to address these concerns. CALU would welcome the opportunity to participate in these discussions.

Conclusion

We look forward to continuing a dialogue with CCIR/CISRO in support of the CCIR/CISRO's work to ensure the fair treatment of customers. CALU collaborates closely with Advocis but also welcomes any opportunity to contribute our unique perspective on issues. We would welcome the opportunity to further discuss the proposed Guidance with you.

Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

Guy Legault
President & CEO

Barry Pascal
Chair, Board of Directors

April 4, 2022

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RE: Proposed Guidance on Incentives Management

Dear Robert and Eric,

The Canadian Life and Health Insurance Association (CLHIA) appreciates the opportunity to provide feedback on the Draft CCIR/CISRO "Incentives Management Guidance". We agree that incentives should be managed in a manner that supports the fair treatment of consumers (FTC). In doing so, risks should be mitigated through processes that promote fair outcomes for consumers. Identified below are some practical issues with how this Guidance may be interpreted. Also included is feedback that identifies suggested changes to the Guidance that support our shared FTC public policy objectives.

We have divided our comments into two sections:

1. Overarching concerns, and
2. Section-by-section recommendations.

Overarching Concerns

The importance of advice to Canadians' financial wellbeing

When examining compensation structures, regulators should consider the important role advisors play in connecting uninsured Canadians with life and health insurance products. These products provide valuable protections and subsequently serve the broader public by reducing pressure on public infrastructure. Generally, people do not like to think about risks associated with the loss of life, serious

injury, or illness. However, life and health insurance offsets the financial risks to consumers and their families. In Canada, most are underinsured, meaning they are exposed to a high-level of financial risk.

When examining incentives management, we would ask that regulators consider the highly specialized work of advisors. Prior to a sale, they work with their clients to gather facts, to assess their personal situation, and to quantify financial risk based on the information they gather. Once the level of financial risk is determined, advice is provided about what solutions will suit their needs along with corresponding product information. Throughout this process, an advisor may meet with their client multiple times prior to a sale. It is commonplace for advisors to build a relationship with their clients by working with them over decades to help them modify or add products based on their changing needs. The compensation paid to advisors, therefore, must appropriately incent and reward them for all of this critical work with clients throughout the entire sales process.

<u>The market for insurance distribution is highly competitive</u>

The market for life and health insurance is highly competitive. Most insurance products are sold through intermediaries that are independent of insurers (e.g., MGAs). Insurers compete for these independent distributors based on several factors including the nature of an insurer's products, the services they provide, and the compensation provided to these intermediaries.

Compensation structures have evolved through competition. As in most highly competitive marketplaces, the evolution of incentive practices has led to a broad alignment in terms of structures and compensation levels. Due to these same competitive forces, any insurer that makes a significant unilateral change to their practices risks becoming an outlier. In this position the insurer would be potentially less attractive to distributors like MGAs. Here, we would encourage regulators to be specific about their expectations.

Further, insurers may be limited by competition laws from working closely together on this matter. In that context, the CLHIA has already set out general principles in their industry standards for FTC and compensation. These standards are included in Guideline G13 excerpted below:

> "A sales-related compensation management process should support the following outcomes:
>
> a) Product design that considers implications of compensation structures on advisors' business practices in respect to their customers' interests;
> b) Monitoring to maintain sales practices that are not unduly influenced by sales-related compensation; and
> c) A documented protocol to facilitate timely response to actionable items by responsible officers of the insurer."

<u>Insurers cannot set incentive management practices of intermediaries</u>

Several sections of the Guidance imply that insurers should direct the incentive management programs of intermediaries. This would include MGAs, TPAs, and those in the alternate distribution channel. Practically, and legally, this is not viable. Insurers do not have control over the incentive management programs of these separate businesses. As well, insurers do not have the requisite authority to mandate elements of their day-to-day operations.

Further, the compensation practices of intermediaries are a competitive component of their business. For an intermediary like an MGA, they are the basis of how they attract advisors. Insurers reviewing, setting, and standardizing compensation structures could be considered anti-competitive. Therefore, the Guidance should clarify that intermediaries are responsible for their own incentive related design, management, risk assessment, and risk mitigation.

Strong support for harmonization of requirements across Canada

A company's compensation and monitoring practices operate on a company-wide basis. Their design is consistent across the jurisdictions in which an insurer operates. This makes the coordination of "Incentive Management Guidance" by the CCIR and CISRO essential to minimizing regulatory burden.

Without harmonization, the industry could be left with a confusing matrix of regulatory requirements. Insurers would need to complete separate incentive risk assessments, and have different risk management programs, to accommodate jurisdictional differences. Much of the work implementing this Guidance would be duplicative. A possible unintended consequence is the fragmentation of existing oversight programs and disproportionately higher administrative costs. In this scenario, it would become more difficult for insurers to identify misconduct or compliance issues. Ultimately, these unintended consequences would make achieving the stated regulatory goals difficult.

Moreover, we understand that there will be further consultations by the CCIR, CISRO, and individual provincial regulators on this topic. In future, we urge regulators to consider integrating incentives guidance into a singular set of expectations.

We encourage regulators to adopt a risk-based approach to incentives management

The life and health insurance industry supports a risk-based approach to incentives management. We appreciate that the Guidance recognizes that risks can be managed through appropriate control processes. We encourage individual regulators to take a similar risk-based approach and caution against equating all incentive related risks. In the absence of a risk-based approach, insurers and regulators both lose the ability to focus attention and resources where the greatest benefit could be achieved.

The Guidance should avoid use of language that implies a guaranteed outcome

The Guidance sets an expectation that incentive management programs "ensure" fair outcomes. This implies a guarantee, which is inconsistent with risk-based regulation and risk-based compliance processes. Such a guarantee is also inconsistent with the operation of any public or private method of delivering services to consumers. Even the most effective processes and controls cannot guarantee specific outcomes in all circumstances. They also cannot eliminate any potential risk.

We recommend that the Guidance focus on controls and practices that are reasonably designed to promote an outcome. Consider replacing the word "ensure" and "ensuring" with "promote" and "promoting".

Do not differentiate between quantitative and qualitative "targets"

The Guidance uses FTC to delineate between qualitative and quantitative targets or criteria. It limits quantitative targets to forms of financial payment and limits qualitative factors to those that relate primarily to FTC. However, FTC concepts are often integrated into quantitative criteria. For example, consider criteria relating to persistency, lapses, and the number of complaints. All of these have quantitative components and promote FTC.

This Guidance should not set separate expectations for what is qualitative, or quantitative. Rather, it should consider the totality of a program, and the steps take to support alignment with incentives guidance.

FTC should be a shared responsibility between insurers, intermediaries and regulators

Throughout the Guidance there is the description of an insurer as the "ultimate risk carrier". Most intermediaries are not employees of the insurer. Therefore, it should not be assumed that the insurer is the only one with responsibility. In many circumstances intermediaries are the best positioned to determine the risk of a conflict-of-interest as they are often authorized to sell products from several different companies. Therefore, FTC needs to be a shared responsibility between insurers, certain types of intermediaries, and regulators.

As drafted, the Guidance implies that intermediaries do not have any responsibility for their conduct. This is not the case. Where these intermediaries are licenced, they have obligations in regulations, legislation, rules, and regulatory guidance documents. For example, intermediaries have liability for their own acts or omissions. If negligence occurs, responsibility should not be put onto insurers when they are not part of the individual day-to-day decisions advisors make when working with their clients. Agents carry errors and omission insurance (E&O) for these purposes. Similarly, in the event of fraud or other gross misconduct, an intermediary will be responsible.

Additionally, Saskatchewan has created an MGA license, to regulate how MGAs distribute life and health insurance products. In addition, an MGA licence is planned for New Brunswick. While we agree that insures have oversight responsibilities, intermediaries have a critical role to play in protecting consumers and supporting fair outcomes. As independent businesses, they have the best vantage point to oversee how their own compensation structures interact with the distribution of life and health insurance distribution.

As well, in Quebec intermediaries have their own separate legal framework within which they operate. They have specific obligations in terms of conflicts of interest, incentive management, supervision, and accountability to their customers. They are established under the *Act Respecting the Distribution of Financial Products and Services* and its regulations.

Therefore, we ask that the "ultimate risk carrier" language be removed. As well, the Guidance should not try to indirectly create an obligation on intermediaries through insurers. Insurers and intermediaries should be responsible for their own incentive management programs.

Narrow the scope of the Guidance to licenced employees

Our understanding is that this Guidance is intended to apply to the compensation of licenced employees. However, as drafted, the Guidance could be interpreted as broadly applying to all employees who are engaged in the administration of insurance policies.

These administrative employees, or head-office employees of an insurer, are generally salaried. Their individual actions are unlikely to have a direct influence on sales. As a result, their compensation should be beyond the scope of this Guidance.

Regarding the definition of "Incentives" and the second paragraph of the Preamble, we suggest clarifying that the Guidance is intended to apply only to employees whose compensation is dependant on completing a specific sale and direct advice-giving interactions with clients. Employees that do not sell insurance should not be included within the scope of this Guidance.

Section-by-section recommendations

Definitions

Please see comments above regarding the definitions of "Incentives" and "Performance management programs".

2. Design and management of incentive arrangements

Incentive design and management must be viewed in the context of an insurer's compliance program

For common types of incentives, such as commissions on premiums, there are complex information systems that track and process compensation on an ongoing basis. The costs of major systems changes would lead to higher prices for consumers. Additionally, changing these systems would frustrate measures that are currently in place throughout the sales and underwriting process to first avoid unsuitable sales and then identify potential misconduct.

Similarly, requiring insurers and intermediaries to completely change how advisors are paid would have a chilling impact on insurance distribution. Notably, consumers without coverage (or sufficient coverage) may face far greater risks than any of those associated with an insurer incentive programs.

As regulators engage with this Guidance, we ask that they consider the design of incentive programs in the context of an insurer's or intermediary's overall compliance program. This would enable the leveraging of existing controls, monitoring techniques, and processes that support fair consumer outcomes.

Incenting strong advisor-client relationships

We are concerned that s. 2.1.1 assumes that because compensation is more concentrated when a sale is made, that there is not an appropriate incentive for product servicing. The up-front compensation generally corresponds with the substantial amount of advisory work completed when a client decides to first purchase or significantly change their coverage. A client, over the course of their life, may periodically seek assistance from an advisor to change their insurance products as their needs change. For example, a client may add wealth products as part of their long-term financial goals such as

retirement, or they may convert term insurance to a permanent product. Advisors are incented to build relationships with clients, so they are present to provide advice (service), and supply needed financial products throughout a client's life.

Client preferences for service should also be considered. Some clients do not require an ongoing relationship with an advisor. Additionally, consider that the type of product may also impact the amount of advice a client needs or wants. For example, a term insurance product requires less service than a product with an investment component, such as a universal life insurance product. This is because a client who owns a product with investment options may need to make decisions on an ongoing basis.

Article 2.1.3 indicates that "the cost of the product to the Customer does not vary based on the distribution method". Different distribution methods have different costs related to them. These costs have to be factored into what the client has to pay.

3. Risks of Unfair Outcomes to Customers

Article 3.4 reads "Consider Incentive arrangements granted by persons and entities acting on their behalf and if their combination with those from the Insurer or the Intermediary increases the risk of unfair outcomes and share information with respect to the same transactions in order to enable Insurers and Intermediaries to meet this expectation". We are unsure what this means or how it applies to the distribution of life and health insurance. As described above, insurers do not have the ability to direct the operations of separate businesses when it comes to how they compensate those with whom they are contracted.

We believe there is an error in footnote 6. It states that that "insurers are expected to have written agreements in place established in respect of their business dealings with each other […]." We assume that footnote 6 is intended to state that insurers are expected to have written agreements with intermediaries.

4. Post-sale Controls

Article 4.2.2 includes several examples of high-risk concerns. It is unclear how geographic areas or departments impact risks associated with incentives. We recommend removing these examples.

Appendix

Please see comments above regarding items #8"Performance criteria primarily aligned with qualitative objectives".

Implementation Period

This Guideline sets out several expectations that may impact insurers' structures, systems, policies, and procedures. Further implementation may require changes to distribution agreements with intermediaries that will need to make their own changes. Therefore, we propose an implementation period up to 36 months.

Conclusion

Thank you again for allowing us to provide feedback prior to the public consultation. We would be pleased to meet with you or your staff if you have any questions. We look forward to continuing to work collaboratively on this topic.

Sincerely,



Lyne Duhaime
Senior Vice President, Market Conduct Policy and Regulation

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March 29, 2022

Canadian Council of Insurance Regulators
CCIR Secretariat

Sent via e-mail to: ccir-ccrra@fsco.gov.on.ca

RE: CCIR & CISRO Consultation - Proposed Guidance on Incentives Management

Dear Ladies / Sirs:

The distribution of insurance products has changed considerably since compensation structures were developed. It is important we take steps to review and make sure these structures are reasonable, appropriate and in line with the industry needs of today. HUB Financial welcomes the opportunity to participate and respond to the CCIR/CISRO Consultation pertaining to Incentives Management.

HUB Financial Inc. ('HUB') is one of the largest MGAs in Canada, with offices across the country and licensed in all jurisdictions. HUB represents approximately 3,500 active independent brokers and Agencies across Canada. Our brokers are independent licensees operating in their local communities and others on a larger scale, whose Agencies are licensed in multiple jurisdictions with a larger number of employed licensees and administrative support systems. Regardless of size or length of time in the industry, each has a place in the distribution of insurance products. As such, HUB's response is representative of a large constituency of the insurance industry.

HUB is generally supportive of the principles outlined in the CCIR Incentive Management Guidance and the concepts outlined in the governance, design and management of incentive arrangements.

CCIR and CISRO have concluded that some incentive practices may present risks to the Fair Treatment of Customers ("FTC") and has concerns these risks are not being properly addressed or managed. CCIR defines Monetary Incentives as: include, but are not limited to, commissions paid based on sales and services expected and provided (e.g., initial sales, renewals, trailers).

Insurance "Intermediaries" play an important role in helping Canadians put appropriate insurance and financial products in place to protect their assets and families. Like any other business or person who assists a consumer in acquiring new products or services, it should be reasonable to conclude intermediaries are appropriately compensated for the services they provide and does not necessarily represent a detriment to FTC outcomes. As is the case with any business or industry, compensation needs to be fair and adequate to ensure the interest of new blood to the industry.

HUB agrees the risk of unfair outcomes to customers exist in the design of renewal/service commission which does not reasonably compensate intermediaries for the continued services to consumers and the vesting of this compensation to intermediaries that no longer provide the expected client services. This can

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lead to replacement transactions which may not be in clients' best interests, poor service experiences by policy holders or client orphaning. Orphaned policies are already a growing concern in the industry requiring many intermediaries to work for free to service the clients.

Perhaps this is a good opportunity for the industry to review compensation as a whole to ensure both sales and service compensation is reasonable for the work involved in the sale and servicing of insurance products.

The proposed guidance could incorporate guidance for developing reasonable compensation, when it is paid, incentive compensation and managing the associated risks. HUB also recommends the guidance differentiate compensation, monetary incentives and incentive compensation which is paid by both the manufacturers and distributors.

The greater volume of incentive arrangements and compensation are developed and paid by Insurers directly to intermediaries. Much of the compensation structure is outlined in Insurer Contracts and Commission Schedules. Most sales incentives are designed by Insurers and communicated directly to intermediaries. Those that promote incentives tied to a specific product or volume of applications within a brief and specific timeframe as the incentive qualifier could mean the needs of the customer are not aligned with the product sold.

HUB believes monetary incentives which include bonuses paid on achievement of performance targets can spur intermediary interactions with consumers to arrange for essential financial products and do not necessarily impede positive FTC outcomes. A salaried employee is compensated for doing their job and monetary incentives may be awarded where the employee goes above and beyond on behalf of their employer. In this spirit and when managed reasonably, intermediaries' compensation does not necessarily represent a risk to FTC principles.

MGAs compensation structures generally support the brokers overall production volumes instead of meeting individual Insurer minimums or targeting any one product available to them. The flexibility of our product shelf is welcomed by the brokers and agencies we have under contract and allows them to offer the best product solution to the consumer. Like any other product or service provided to consumers, insurance brokers and agencies should be appropriately compensated for the services which they provide. HUB agrees that some incentives provide opportunity for activities which are not supportive of FTC principles.

HUB Financial Inc. is committed to improve upon the insurance distribution network and the resulting customer experience and outcomes. HUB welcomes the opportunity to participation in this process.

Yours truly,
HUB Financial Inc.
Andrew Fink

Andrew Fink
President

formstack sign

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The Financial Planning Association of Canada

Official Commentary Submitted to

Canadian Council of Insurance Regulators

Regarding

Proposed Guidance on
Incentives Management for Consultation

April 2022

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About this Submission

This commentary is submitted to the Canadian Council of Insurance Regulators in response to their request for commentary on proposed guidance in regards to Incentive Management.

At the Financial Planning Association of Canada, we welcome the opportunity to participate in this process and lend our perspective on this important change within the Canadian financial industry regulatory landscape.

About the Financial Planning Association of Canada

The Financial Planning Association of Canada (FPAC) is a new professional association founded in 2019, dedicated to the professionalization of the Financial Planning industry.

Our goal is to make financial planning a profession with the highest standards of fiduciary responsibility, competency, and practice standards possible. We believe that Financial Planners are uniquely positioned to help improve the lives of Canadians through comprehensive financial planning – and that only when Financial Planners are held to the highest standards, which would, in turn, lead to greater consumer confidence and trust, will FPAC be able to fully achieve its mission of professionalization of the financial planning industry.

Scope of Guidance

We recognize that the scope of the proposed guidance is limited to:

- Compensation paid to advisors/agents for the sale of insurance by insurance carriers,
- Incentives received by the agent throughout the lifecycle of a policy, and
- Alignment with the Fair Treatment of Clients principles.

Our Position on the proposed Guidance on Incentive Management

It is the position of FPAC that Canadian consumers deserve to be dealt with in all financial matters with qualified professionals who are fairly compensated for their efforts, and that consumers must be free to both select the professional they wish to deal with and to change that determination.

We recognize that compensation, in any form, received as a result of advice that results in any sale, represents a conflict of interest. As such, we acknowledge that there is no “perfect” form of

compensation that is free of conflicts of interest. Instead, we understand that all systems of compensation are inevitably exercises in mitigating conflicts and designing incentives to align with desired consumer outcomes.

It is our position that all incentives should be designed in keeping with the following key desired outcomes:

- Agents should be incentivized to sell the amount and type of insurance that fits the needs of the consumer's personal situation.
- Compensation arrangements should accommodate the needs of the consumer over the lifecycle of the policy, and not just at the time of sale.
- Compensation amounts should be reasonable, transparent, and paid only to those providing ongoing service to the client.
- The client should be free, at all times, to be represented by any licensed and qualified agent they choose to service their needs on both new and existing policies, regardless of the policy type, terms, or issuing insurer.

In keeping with the above principles, we believe that the market and regulators should support a framework that offers the following choices for compensation methodology:

- A maximum compensation structure set by statute.
- A "no-load" policy option, free of commissions.
- A flexible compensation option that permits the agent and client to negotiate compensation arrangements, up to the statutory maximum.
- Eliminating any and all promotional compensation, bonuses, gifts, and incentives that would encourage sales for any reason other than meeting the needs of the client.

Furthermore, while we acknowledge that more work is done by the agent at the time of underwriting than at any other point of the lifecycle, the current compensation structure disproportionately rewards the agent at the time of placement vs. any other time in the policy lifecycle. This structure incentives both selling (including overselling and inappropriate sales) and "twisting" (replacing policies that don't need to be replaced) over stewardship.

As such, we believe the only way to address compensation issues is to mandate that any compensation paid in relation to an insurance policy should be made either entirely level over the course of the life of the policy, or carry no compensation at all as an option.

Commentary Regarding Expectations of Outcomes

While the primary request for commentary does not include this section, we feel it is important to address one additional aspect related to the stated outcomes in relation to the design and management of Incentive arrangements. Namely, section 2.1.3 states that "the cost of the product to the Customer does not vary based on the distribution method."

We fail to see how this principle is fair to consumers, given that it would require that the commission component of the insurance premium remain the same, regardless of the degree of cost, effort, expertise, or client benefit derived through the work of the agent and brought to bear in the placement of a policy.

Consider the following scenarios:

- A consumer fills in an online life and/or living benefits insurance application through a direct-to-consumer website where the needs analysis and necessary data for the application are inputted online by the consumer, reviewed in a virtual meeting with the agent to ensure accuracy, and then a nurse contacts the consumer to complete the paramedical exam. The policy is issued and delivered digitally following this brief 15-minute meeting.

- A consumer works with an agent who completes a needs analysis, surveys the market for options that fit the client's needs, presents a solution to the client, completes the application, and then settles the policy.

Both scenarios are simple policy implementations that would serve the average Canadian consumer. However, in one case, the client handled much of the work that has traditionally been completed by an agent.

If a portion of the insurance premium reflects the compensation due to the agent for their work, then why should the consumer be made to pay the same premium in both scenarios, given the very different degree of expertise and work done on their behalf to gather insurance solutions that meet their needs?

Furthermore, this principle potentially eliminates the ability for an insurer to, one day, develop a "no-load" insurance policy or sales channel in the future. While we recognize that it is currently a legal requirement that all compensation pertaining to the sale of an insurance policy must be paid by way of commission from the carrier, we feel that this too is not in the best interest of the client (and consumers at large) and again it in no way ensures that the degree of cost, effort, expertise or client benefit are correlated with the level of competition.

Currently, we have no idea what the market-clearing price is for the time and effort of an insurance agent in Canada, nor the relevant inputs in such a calculation, due to the lack of no-load policies or the ability to price based on the case itself.

Unless this expected outcome is modified, we cannot be assured that the services of an agent are fairly priced to the consumer.

Commentary on the Components of Incentives

The following feedback summarizes FPAC's views on the various areas that CCIR has requested feedback on in relation to incentives.

Bonus Rates

Bonus rates that increase with predetermined sales volumes thresholds without adequate consideration to FTC

Currently, bonus rates based on predetermined sales volumes are standard in most if not all distribution channels in the insurance world. In practice, bonus rates are utilized by distribution channels as a means of ensuring cost recovery or minimum levels of review before passing on more of the total sales commission to the advisor.

In regards to bonuses, we can only see this issue being dealt with through a move away from bonus systems altogether. This could be accomplished by:

- Setting compensation at one total level regardless of production, or
- For MGAs and career channel distribution channels, ending the current method of cost- and revenue-sharing via grid by turning to alternative methods such as flat fee, a flat percentage of total production, or a combination of both.

Implementing these changes would effectively eliminate the existing conflicts while still permitting both agents and distributors to benefit from scale.

Cross-Selling

Excessive Incentives for cross-selling optional products compared to the Incentive for selling only the primary product

We at FPAC maintain the position that **there should be no additional incentives, whatsoever, for the cross-selling of optional products.**

At all times the client's actual needs should be dutifully met by the advice provided by the agent. Any products obtained in relation to said advice already provide for compensation to the agent. The addition of any form of sales promotion of any product prioritizes the needs of the insurer, distributor, and agent over those of the consumer and represents a completely unnecessary conflict.

As such, **it is our position that these types of incentives must be banned outright.**

Premium or Investment Level

Commissions linked to the premium level or the investment amount

Currently, premium levels are one of two primary factors in determining the base level of compensation paid to an agent for the sale of a policy. The second factor is the base commission rate, which is a percentage set based on the product being sold. Both of these variables create various degrees of conflict.

First of all, agents are incentivized to encourage consumers to spend as much as they can on insurance premiums. Frankly, we are at a loss for how you would correct for this conflict given that basing compensation on a variable other than premiums would disconnect compensation from the other costs (cost of insurance) of offering coverage to a consumer.

The only viable option for the elimination of this conflict is, as per our preference, the creation of no-load and flexible negotiated compensation policies. These policies would permit the creation of more transparent billing and service models, allowing clients, and the market at large, to appropriately gauge the value being offered to the consumer.

The second issue is that different types of policies have different base rates of commission. For instance: Term life pays less of a percentage of the premium in first-year commissions (approximately 40%) than permanent insurance, such as whole or universal life (approximately 50-60%). This variability is also evident when comparing different types of coverage (life and living benefits). As such, the agent is incentivized to push clients to obtain the form of coverage that offers the highest base compensation, as the same amount in premiums would result in higher immediate compensation for the agent.

This issue should be dealt with immediately by mandating that all commission rates be equalized for all policy types and different optional riders that are included.

Renewal Commissions

Renewal commission amounts that underestimate the level of continuing services, or discrepancies between commissions for initial sale and continuing services, which can cause Intermediaries to propose a replacement transaction in order to increase compensation.

The anemic level of compensation paid on in-force policies relative to first-year commissions drive negative outcomes in the industry. As previously stated, the disproportionate amount of compensation paid at the time of issue incentivizes the act of selling and potentially twisting of policies versus client stewardship.

The only way to resolve this conflict is to address the incentives themselves in order to encourage the more desirable outcome of stewardship, and to reduce the amount of twisting going on in the industry.

We believe that shifting of compensation to be more, if not completely, level across the life of the policy would incentivize agents to focus more on maintaining their relationships with existing clients rather than seeking out new ones and abandoning the old, and would disincentivise the act of twisting.

Lifetime Vesting

Lifetime vesting of renewal commissions to Intermediaries which can result in eventual client orphaning.

We believe that the existing policy allowance of **lifetime vesting is possibly the most anti-consumer policy that exists in the industry today.** We do not believe that any consumer would knowingly or willingly opt in or consent to a framework in which compensation, linked to the premiums they are paying, could not be routed to an agent that is actually providing them ongoing service and advice.

The consumer's choice to be able to deal with whomever they please, and to have all compensation flow to that agent, should, in our opinion, be enshrined into regulation if for no other reason than the principle of respecting consumer choice.

Furthermore, as you have identified through the inclusion of the concept of “orphaning” in this question, the outcomes to clients can be as bad as outright abandonment, which in itself undermines the professionalism of the industry.

In order to incentivize stewardship over sales, as previously mentioned in the renewal commission section of this document, a ban on lifetime vesting is vital. In addition, there should be no cost to the agent taking on the future servicing and commissions payable to either the insurance company or previous servicing agent.

Ending lifetime vesting would allow agents who currently service clients with policies they did not sell to be appropriately compensated for their efforts. Furthermore, new business models that focus primarily on stewarding orphaned policies and clients would be able to manifest themselves if lifetime vesting was ended.

One area of special note is the case of policies sold through insurer career agents. These policies are often, if not always, limited to servicing by an agent who is a member of that career agency, thereby eliminating the ability for an independent agent or one at another career agency to service these policies. **This practice should be immediately disallowed as it violates the client's right to choose their agent.** Therefore we believe that any licensed agent should be able to register with a career shop to service and be compensated for the maintenance of policies or to be allowed to do so through existing MGA channels.

Exit Fees

Incentive arrangements which can result in fees or penalties, (e.g., exit fees) for the Customer.

We are unclear as to exactly what you are referring to in this instance, and would welcome the opportunity to discuss further.

One area we have identified that may be related to this topic pertains to the surrender of universal life policies. These were previously a necessary component of universal life policies, as they were one of the variables that dictated the MTAR calculations. That has not been the case since 2017. These charges now constitute a relic, presenting unnecessary cost to consumers, and should be banned outright.

Intermediaries

Incentives paid to Intermediaries who are not involved in the sale and servicing, either provided or expected

We have identified two different and distinct areas for concern in regards to this topic: Internal and external referral fees.

When discussing internal referral fees we are referencing payments made in relation to a sale to a member of the agent's firm where the other member had no involvement in the placement or maintenance of said policy. The most commonly seen version of this is industry multi-level marketing structures paying agents a portion of the total compensation earned by other agents they recruited to the firm, or agents recruited by someone they recruited, and so on for multiple levels. In many cases, the agents receiving compensation are four to five people removed from the actual sale, yet still benefit monetarily from said sale. These policies reward those who have done nothing to earn this form of compensation, and they should not be permitted within the industry.

The second is that of external referrals. These are referral fees paid to someone who is not a member of the firm, but has referred the consumer for the purpose of insurance advice and sales. These referrers tend to be other professionals who are solicited to become a source of referrals to the agent in exchange for a related payment upon the sale of a policy. These include accountants, lawyers, mortgage brokers, and others. Given there is no industry standard mandated amount set for this type of fee, we believe that this calls into question the objectivity of the referrer, as the client cannot be assured that the recommendations are being made in their best interest rather than the best interest of the referrer.

As these payments are made to unlicensed people solely as a means of obtaining business for the agent, they should be banned. At the minimum, there should be a prohibition against agents offering incentives for referrals other than a flat-dollar amount, unrelated to the size or success

of a policy being placed; and referral payments should only be permitted with full disclosure and consideration of the client.

The one exception we have identified is when the sale of a policy is related to a costly strategy being undertaken by the client and professional (e.g., an estate freeze). In these types of cases, agent commissions can be substantial. In addition, the cost to the client in legal and accounting fees can also be substantial. In cases where the referral fee is used as a means of covering up to 100% of other costs (at market rate) associated with the client's implementation of the strategy, we believe this to be a net positive to the client and believe this should be permitted.

Sales Contests & Quotas

Sales contests, sales quotas, bonuses and non-monetary benefits that are based on sales of specific products over a limited period of time.

And

Contests, campaigns, promotions, loyalty or recognition programs that are designed to increase sales volumes or meet other quantitative targets to obtain bonuses, rewards (e.g., titles, gifts, goods, hospitality, trips) or privileges (e.g., access to services).

We believe all of these incentives should be immediately banned by regulatory action.

Professionals should require no incentive beyond that of earning compensation for delivering a valuable service to a client in order to do their jobs.

Offering agents more compensation or non-monetary rewards over shorter periods of time or for specific products only incentivizes those who would put their short-term gains over the best interest of the client. These compensation models serve no credible function in a profession.

Advances

Incentive paid in advance of the service expected or the achievement of performance targets.

The payment of incentives in advance of performance creates pressure on the agent to meet the stated goals and objectives in order to ensure they earn said advance.

Such payments put agents in a compromised position and create additional pressure for them to put their needs ahead of their client's best interests. Any incentive that creates such a dynamic should be banned outright.

Chargebacks

Chargeback mechanism influencing the Intermediary to advise the Customer to maintain a product that is inappropriate, so that the Intermediary is not required to repay compensation.

Chargebacks create several negative incentives for agents.

First, while they create a disincentive to oversell or push a client to buy a policy they cannot afford to maintain, it also could push them to undersell the client for fear of a chargeback in the future.

Secondly, chargebacks provide an incentive for agents to unduly influence clients to continue paying for policies they may not want, need, or be able to afford as a means of avoiding the chargeback.

Lastly, agents who have been subject to a sizable chargeback could be put in a financially compromising position that puts undue pressure on them to sell policies with a particular insurer to new clients as a means of covering their deficit.

Overall, while chargebacks serve a valid purpose in the current compensation paradigm, they also cause several negative potential conflicts with consumers. We believe the solution to this is to equalize compensation in installment payments over the life of a policy so advisors receive compensation over the lifecycle of the policy, as premiums are collected. Such a compensation framework would not require any chargeback mechanisms to be put in place as the advisor would be paid as funds flowed in, and not in advance.

Intermediaries

Agreements with Intermediaries (e.g., distribution, contingent, financial support, access to IT platforms/software, profit-sharing programs, call centre), which may allow Insurers to influence the decisions, operations and practices of Intermediaries and restrict access to markets. For example, they could:

- *impose a minimum volume or a deadline for complying with a volume, include a bonus or a share in the profits based on contract experience or productivity-based loyalty programs that may affect the independence of advice given by*
- *Intermediaries or incentivize them to place all, or a majority, of their new business with a particular Insurer.*

We believe that any structure or party that places pressure on agents to sell set quantities of coverage potentially places the agent in conflict with the best interests of the client. As such, access to resources should not be based on production. Said services are valuable and if needed, could be paid for by the agent, without unnecessary conflicts being introduced.

In addition, regarding your statement regarding incentives to place business with a certain carrier, given the trend in recent years of large MGAs being acquired by life insurers, these conflicts of interest are becoming more common. This issue needs to be addressed by potentially standardizing the compensation paid to intermediaries by all carriers.

Closing Summary

In closing, we at the Financial Planning Association of Canada thank you for the opportunity to provide commentary regarding this important issue. We hope that you have found our submission to be in keeping with the intended spirit of consumer protection and with our goal of the professionalization of the financial planning industry. It is our hope that you will see fit to implement our recommendations as outlined. We will also continue to make ourselves available for further input and support for this initiative.

Mémoire du Mouvement Desjardins

Projet de *Directive sur la gestion des incitatifs*

Présenté au Conseil canadien des responsables de la réglementation d'assurance

Avril 2022



INTRODUCTION

La publication du *Projet de directive sur la gestion des incitatifs* (ci-après le « Projet de directive ») du Conseil canadien des responsables de la réglementation d'assurance (CCRRA) s'inscrit dans un contexte de mise à jour importante du cadre réglementaire auquel le Mouvement Desjardins est assujetti, tant au niveau pancanadien que québécois. L'Autorité des marchés financiers a d'ailleurs publié récemment son projet de ligne directrice sur la gestion des incitatifs. C'est dans cette optique que nous avons pris connaissance avec intérêt du Projet de directive.

Avec un actif de près de 400 G$, le Mouvement Desjardins est le 1er groupe financier coopératif en Amérique et le 5e au monde. Pour répondre aux besoins diversifiés de ses 7,5 millions de membres et clients, il offre une gamme complète de produits et services par l'entremise de son vaste réseau de points de service, de ses plateformes virtuelles et de ses filiales présentes à l'échelle canadienne. II exerce ses activités dans les domaines suivants : Particuliers et Entreprises, Gestion de patrimoine, Assurance de personnes et Assurance de dommages. Comptant sur les compétences de ses 53 700 employés et l'engagement de 2 500 administrateurs élus, le Mouvement Desjardins affiche des ratios de capital et des cotes de crédit parmi les meilleurs de l'industrie. II fait partie des institutions financières les plus solides au monde, selon le magazine *The Banker,* et a été nommé parmi les 100 meilleurs employeurs aux niveaux canadien et mondial en 2021 par le magazine *Forbes*.

Nous saluons la publication de ce Projet de directive et souhaitons, par le présent mémoire, porter à l'attention du CCRRA des éléments de ses propositions qui auraient des incidences tant sur les assureurs et l'industrie dans son ensemble que sur les clients. Nous proposons d'abord des commentaires généraux et ensuite des commentaires spécifiques à chaque section du Projet de directive, dont nous avons reproduit certains extraits en encadré afin de faciliter la lecture.

COMMENTAIRES GÉNÉRAUX

L'une des forces du cadre réglementaire du secteur financier canadien réside dans la concertation entre les autorités et l'industrie. Le CCRRA et ses autorités membres le démontrent en consultant régulièrement l'industrie. Dans le même esprit, la collaboration entre les autorités provinciales est essentielle. Des disparités trop marquées entre les différentes règles peuvent mener à une forme d'arbitrage réglementaire et à un déséquilibre dans la protection des clients, dépendamment de l'entité avec laquelle ils font affaire ou du type de produit ou service auquel ils ont recours. Nous tenons donc à souligner l'importance d'une harmonisation et d'une coordination continues entre les autorités canadiennes de réglementation, y compris en matière de gestion des incitatifs. Le Mouvement Desjardins adhère pleinement à l'objectif du CCRRA d'arrimer la gestion des incitatifs au traitement équitable des clients (ci-après « TEC »).

Nous renforçons également l'importance du principe de responsabilité partagée entre les assureurs et les intermédiaires, car il reflète la réalité de la distribution des produits d'assurance. L'assureur peut exercer une surveillance adéquate dans le contexte de la gestion des mécanismes incitatifs pour ses produits, alors que les intermédiaires préservent leur indépendance et l'imputabilité. Les intermédiaires jouent un rôle clé dans la prévention des conflits d'intérêts liés aux mécanismes incitatifs, car ils interagissent directement avec le client et qu'ils distribuent souvent les produits de plus d'un assureur. Le principe de responsabilité partagée favorise une imputabilité en deux étapes qui bénéficiera à la protection des clients.

L'approche basée sur les principes convient bien aux objectifs du CCRRA dans son Projet de directive, car elle offre la latitude nécessaire aux assureurs et aux intermédiaires de les adapter à la réalité. En ce sens, il nous

apparait important d'éviter le recours au verbe « s'assurer » qui est trop prescriptif et renvoie à une obligation de résultat et non de moyens. Le verbe « veiller » pourrait par exemple être utilisé comme c'est d'ailleurs le cas à quelques reprises dans le Projet de directive. Nous revenons sur cette recommandation en détail dans la section portant sur la conception et la gestion des mécanismes incitatifs.

Nous encourageons également le CCRRA à tenir compte de l'importance de la relation de conseil entre le représentant et son client. Plusieurs études démontrent l'importance du rôle-conseil dans l'offre de produits et services d'assurance afin de permettre au client de prendre des décisions éclairées. Pour certains types de produits, cette relation peut s'échelonner sur plusieurs années. La rémunération se doit alors de favoriser une relation de confiance et un service en continu à long terme, qui s'étend sur l'ensemble du cycle de vie du produit ou service, et qui contribue à assurer la santé financière des clients selon l'évolution de leurs besoins. L'identification des risques potentiels en matière de TEC dans la gestion et la conception des incitatifs doit refléter cet impératif.

Enfin, nous invitons le CCRRA et les autorités provinciales et territoriales à coordonner l'entrée en vigueur de leurs directives respectives sur la gestion des incitatifs.

COMMENTAIRES PAR SECTION

Définitions/Concepts, Préambule et Portée

A. Définitions/Concepts

« Incitatifs » : rémunération, pécuniaire ou non, offerte par les assureurs ou les intermédiaires à leurs employés (notamment au personnel de première ligne et aux membres de la direction) et à d'autres personnes ou entités qui agissent en leur nom dans la vente et le service après-vente des produits d'assurance […]

« Mécanismes incitatifs » : principalement l'incitatif en tant que tel, le programme de gestion de la performance qui y est associé et différentes caractéristiques liées, notamment, au versement ou à la déduction de l'incitatif.

La définition d'« incitatifs » inclut la rémunération des employés à titre de membres du personnel de la première ligne et de la direction. Celle-ci devrait être modifiée pour viser uniquement les employés dont la rémunération découle directement de la vente de produits d'assurance et des services après-vente par l'assureur ou l'intermédiaire. De plus, bien que la définition d'« incitatifs » vise notamment les « services après-vente » offerts par l'assureur, ce concept n'est pas défini dans le Projet de directive. Cette définition mériterait d'être ajoutée afin de circonscrire la portée de la définition d'« incitatifs » et pour préciser, par exemple, si elle inclut les réclamations, les échanges du client avec le centre de contact avec la clientèle ou d'autres interactions.

La distinction entre « incitatifs » et « mécanisme incitatifs » devrait être clarifiée afin d'éviter toute confusion. Les mécanismes incitatifs pourraient notamment être définis comme étant « ~~principalement l'incitatif en tant que tel,~~ le programme de gestion de la performance ~~qui y est~~ associé à l'incitatif et différentes caractéristiques liées, notamment, au versement ou à la déduction de l'incitatif » (nos soulignés).

« Intermédiaire » : reçoit une interprétation large qui englobe les agents individuels, les courtiers et les représentants (les « représentants ») ainsi que les entités autorisées à distribuer des produits et des services d'assurance, dont les agences générales, les tiers administrateurs et les comptes nationaux, selon le cas.

Au Canada, les intermédiaires qui doivent détenir un permis et faire l'objet d'une supervision peuvent différer d'un territoire à l'autre. La présente directive s'applique à tous les intermédiaires autorisés à exercer des activités dans un territoire, qu'ils soient titulaires de permis, inscrits ou dispensés d'inscription.

Nous présumons que l'objectif n'est pas de viser, dans la définition d'« incitatifs » et d'« intermédiaire », les experts en sinistres ou entités qui effectuent de l'expertise en règlement de sinistres. Toutefois, les termes « services après-vente des produits d'assurance » et « distribuer des produits et des services d'assurance » pourraient être interprétés largement de façon à inclure les experts en sinistres. Il faudrait clarifier d'emblée que tout ce qui touche à l'expertise en règlement de sinistres est exclu.

C. Portée

La présente directive s'applique aux assureurs et aux intermédiaires qui versent une rémunération ou conçoivent des mécanismes incitatifs. L'assureur est responsable du TEC tout au long du cycle de vie du produit d'assurance, car il est l'ultime porteur du risque, ce qui ne décharge toutefois pas les intermédiaires de leurs propres responsabilités. En effet, la responsabilité du TEC est partagée entre les assureurs et les intermédiaires concernés.

Le Projet de directive met l'accent sur la responsabilité partagée entre l'assureur et les intermédiaires en matière de TEC. Il serait pertinent que le CCRRA précise ou nuance ce qu'il entend lorsqu'il affirme que « l'assureur est responsable du TEC tout au long du cycle de vie du produit d'assurance, car il est *l'ultime porteur* du risque ». Nous craignons que cet énoncé contredise le principe de responsabilité partagée. Par la nature de la relation d'affaires avec les intermédiaires indépendants, l'assureur a une vue limitée sur les incitatifs offerts par ceux-ci. Il nous semble donc pertinent d'apporter une certaine nuance surtout dans le contexte où l'intermédiaire a un degré de contrôle particulièrement accru, qu'il distribue les produits de plus d'un assureur et qu'il verse des incitatifs directement aux représentants sans que l'assureur soit impliqué.

Gouvernance

Les mécanismes incitatifs reflètent les valeurs et les objectifs que se fixent les assureurs et les intermédiaires et constituent en conséquence des éléments clés dans l'établissement d'une culture d'entreprise. Ils peuvent démontrer l'importance qu'accorde un assureur ou un intermédiaire au TEC.

Ces mécanismes ne doivent pas nuire au TEC. La responsabilité globale du TEC incombe au conseil d'administration ou à la haute direction, ou aux deux, lesquels conçoivent, approuvent et mettent en œuvre des politiques et des procédures à cette fin, et contrôlent leur respect.

Attentes pour parvenir à ce résultat (assureurs et intermédiaires)

1.1 Superviser la stratégie, la propension au risque et la culture par rapport à la conception et à la mise en œuvre de mécanismes incitatifs.

Nous sommes généralement en accord avec l'approche de la section portant sur la gouvernance. Toutefois, certains éléments pourraient causer des défis dans la pratique.

Le Projet de directive est complémentaire à la Directive du CCRRA et des OCRA sur la conduite des activités d'assurance et le traitement équitable des clients (ci-après la « Directive TEC »). Il vise à s'assurer que les attentes de celle-ci soient satisfaites, et ce, dans un contexte de gestion des incitatifs. En ce sens, il pourrait également directement référer à la section 6.1 de la Directive TEC au lieu de mettre celle-ci en note de bas de page (note de bas de page no 2, p. 5 du Projet de Directive). La complémentarité des deux directives serait ainsi mieux reflétée tout en allégeant le texte.

Dans le même esprit, la possibilité de délégation de fonction devrait être reconnue au Projet de directive, notamment pour le conseil d'administration, dont le mandat est plus stratégique qu'opérationnel. De même, bien que la haute direction demeure imputable, elle devrait pouvoir déléguer certaines fonctions dans le cadre des activités courantes de l'entreprise.

Conception et Gestion des mécanismes incitatifs

2.1 La conception des mécanismes incitatifs **assure** les résultats suivants :

2.1.1 tout incitatif octroyé est conséquent avec le niveau de service attendu et rendu tout au long du cycle de vie du produit ;
2.1.2 les cibles et les critères de performance quantitatifs et qualitatifs sont clairement définis, mesurables et propres à **assurer** le TEC ;
2.1.3 le coût du produit pour le client ne varie pas en fonction de la méthode de distribution.

2.2 Les évaluations des risques de résultats inéquitables pour les clients et les résultats des contrôles sont prises en compte dans l'approche et les procédures de conception des mécanismes incitatifs.

[…]

2.9 Rajuster ou modifier rapidement les caractéristiques des mécanismes incitatifs lorsqu'il est impossible de gérer ou de surveiller les risques de résultats inéquitables pour les clients sans pouvoir **assurer** le TEC.

Dans cette section, l'utilisation du verbe « assurer » semble imposer aux assureurs et aux intermédiaires une obligation de résultat plutôt qu'une obligation de moyens. Cela cadrerait plutôt avec une approche prescriptive, et non celle du CCRRA, qui laisse la latitude aux assujettis pour adapter les exigences réglementaires à leur réalité. Une obligation de résultat serait un fardeau significativement rehaussé et difficile à rencontrer pour l'assureur, surtout que plusieurs entités différentes interviennent régulièrement auprès de clients lors de la vente de produit d'assurance et de services après-vente. Il serait pertinent d'utiliser une autre expression se rapprochant davantage à une obligation de moyens, comme « veiller à ».

Par ailleurs, l'énoncé 2.1.3 indique que le coût du produit pour le client ne devrait pas varier en fonction de la méthode de distribution. Or, la variation du prix peut être justifiée, par exemple, par les besoins ou les caractéristiques du client et le niveau d'accompagnement offert. Si l'intention ici est d'exprimer que les incitatifs pour un même produit ne peuvent justifier à eux seuls un écart dans le coût du produit, l'énoncé devrait être reformulé en ce sens.

2.8 Prévoir des mécanismes de recouvrement, s'il y a lieu, de la rémunération lorsque celle-ci a été versée

Si les mécanismes de recouvrement incluent la rétrofacturation, cet énoncé pourrait créer une incohérence avec le point 13 de l'annexe, où l'on identifie la rétrofacturation comme une pratique pouvant potentiellement nuire au TEC, en l'absence de mesures de mitigation adéquate. Il serait pertinent que le Projet de directive apporte les précisions pertinentes.

Risques de résultats inéquitables pour les clients

3.4 Tenir compte des mécanismes incitatifs octroyés par les personnes et les entités qui agissent en leur nom et de l'accroissement possible des risques de résultats inéquitables pouvant découler de la combinaison de ces mécanismes avec les leurs, et échanger les renseignements ayant trait aux mêmes opérations pour être en mesure de répondre à cette attente.

La structure et la formulation de cet énoncé pourraient être modifiées afin d'éviter toute confusion. Ce qui est attendu des assureurs n'est pas clair ; ceux-ci ne sont pas nécessairement en mesure d'avoir un impact direct sur les opérations d'entreprises distinctes en matière de rémunération, notamment dans le contexte de leurs relations contractuelles et de la combinaison de mécanismes incitatifs concernant les produits d'autres assureurs.

La dimension du partage d'information vient compliquer davantage l'énoncé. Les assureurs ne connaissent et n'ont pas accès aux informations confidentielles détenues par d'autres entités avec qui elles n'ont pas de relations d'affaires, ce dont on ne semble pas ici tenir compte. Il y a aussi des ententes de confidentialité qui peuvent empêcher le partage d'information entre des parties qui sont externes à la relation contractuelle. En l'absence de certitudes quant à l'interprétation de cet énoncé, nous recommandons de le reformuler en entier, afin que les attentes envers les assureurs soient claires, notamment en ce qui a trait au partage d'information.

Cette attente pourrait également créer des difficultés pour les assureurs lors de la supervision de certains intermédiaires (ex. : cabinet et représentants indépendants) qui peuvent vendre des produits d'assurances de diverses institutions financières. Elle mériterait aussi d'être reformulée afin de limiter l'apparence d'immission dans le cours des affaires des intermédiaires et pour favoriser une saine concurrence.

Contrôles après-vente

Le CCRRA et les OCRA s'attendent à ce que les assureurs et les intermédiaires mettent en place des contrôles après-vente efficaces afin de détecter les ventes inadéquates qui découlent de mécanismes incitatifs

L'expression « vente inadéquate » est ambiguë et pourrait créer de la confusion. Il serait préférable de favoriser une terminologie liée au concept de convenance.

4.3.1 l'adéquation des ventes fait l'objet d'un suivi serré

Cette attente semble poser un enjeu de traduction. La version anglaise réfère à l'attente de suivi serré de « sales suitability », alors que la version française utilise l'expression « adéquation des ventes ». Considérant que ce Projet de Directive s'adresse particulièrement à des acteurs de l'industrie de l'assurance, il nous semble préférable d'utiliser l'expression « convenance » afin d'éviter tout risque de confusion.

Annexe

L'annexe présente des exemples de mécanismes qui peuvent accroître, sans attention adéquate, le risque de résultats inéquitables pour les clients. Vous trouverez ci-après nos remarques concernant certains des exemples énoncés dans le Projet de directive, qui visent à les nuancer, les clarifier ou les contextualiser.

Exemples de mécanismes qui, sans conception, gestion ou contrôles après-vente adéquat, peuvent accroître les risques de résultats inéquitables pour les clients :	Commentaires
1. Taux de bonis qui augmentent en fonction de seuils de volumes de ventes prédéterminés, sans prise en compte adéquate du TEC.	Cette pratique est fréquente dans l'industrie et peut être justifiée. L'ajout d'indicateurs liés au TEC dans l'exemple permet de réduire les risques de résultats inéquitables pour les clients, tout en donnant une flexibilité.
4. Montants de commission de renouvellement qui sous-estiment le niveau de services continus ou écarts entre les commissions pour la vente initiale et celles pour les services continus, ce qui pourrait amener les intermédiaires à proposer de remplacer un produit afin d'accroître leur rémunération.	La commission à la vente initiale plus importante peut être justifiée, notamment en raison du travail effectué, par exemple pour certains produits d'assurance de personnes. Une commission moins importante pour les services en continu n'est pas nécessairement un indicateur qu'elle n'est pas conséquente avec le niveau de service requis dans ces circonstances. Le libellé de cet exemple pourrait être clarifié. Il semble inclure les commissions qui sous-estiment le niveau de service, mais l'utilisation du mot « ou » peut donner l'impression que tout écart peut contrevenir au TEC.
7. Incitatifs octroyés à des intermédiaires qui ne participent pas à la vente et au service après-vente, que ceux-ci soient attendus ou rendus.	Dans le même sens que notre commentaire précédent sur la définition d'« intermédiaire », cet exemple devrait exclure nommément les groupes inscrits auprès des autorités qui reçoivent des commissions de référencement pour prévenir toute confusion.
8. Critères de performance qui visent principalement des cibles quantitatives.	Il peut parfois y avoir un caractère prépondérant accordé aux critères quantitatifs qui risquent de contrevenir au TEC. Cependant, d'autres mesures de contrôles peuvent être mises en place pour atténuer ces risques, notamment une surveillance adéquate et des critères qualitatifs. Il pourrait être intéressant d'obtenir des exemples de mesures de contrôle qui seraient mieux applicables, notamment en assurance collective.

CONCLUSION

Le Mouvement Desjardins, en tant qu'institution financière d'importance systémique, doit pouvoir compter sur un encadrement rigoureux, adapté et comparable à ses pairs ayant comme objectifs la protection et le traitement équitable de ses membres et clients ainsi que l'efficience de l'industrie financière québécoise et canadienne. De façon générale, le Projet de directive du CCRRA sur la gestion des incitatifs reconnaît le partage des responsabilités entre les assureurs et les intermédiaires et tend vers une approche proportionnelle aux risques.

Nous tenons à rappeler l'importance que les autorités réglementaires canadiennes se concertent afin d'éviter que tout renouvellement du cadre réglementaire n'entraîne des redondances ou des incompatibilités réglementaires pour les secteurs de l'assurance de personnes et de l'assurance de dommages, particulièrement au Québec.

Le Mouvement Desjardins demeure persuadé que l'encadrement applicable au secteur financier doit continuer d'évoluer vers une approche basée sur les principes et être harmonisé à travers le pays, et ce, afin de protéger adéquatement tous les clients canadiens, préserver l'équilibre concurrentiel, et éviter un fardeau réglementaire indu aux assujettis.

Nous remercions le Conseil canadien des responsables de la réglementation d'assurance de nous offrir l'occasion de soumettre des commentaires sur ce projet de nouvelle directive et collaborerons avec plaisir à la poursuite des travaux au bénéfice des clients et du secteur financier canadien.

***

Tony Toy

From: CCIR-CCRRA
Sent: Tuesday, February 22, 2022 9:45 AM
To: Tony Toy
Subject: FW: Incentive Guidelines

From: Gary Wardrop <gWardrop@wealthlinkfinancial.ca>
Sent: February 18, 2022 6:55 PM
To: CCIR-CCRRA <ccir-ccrra@fsrao.ca>
Subject: Incentive Guidelines

Regarding the release on Feb 17th. I understand the desire to have incentive arrangements implemented by Insurers and Intermediaries align with fair treatment of Customer (FTC) principles, however how can this be accomplished when rebating is allowed by member regulators (Insurance Council of BC and AB)?

In Alberta there is 100% rebating of compensation allowed which in my opinion allows for anything but the alignment of the FTC principles.

Until the rebating incentive is removed in all Provinces I feel it is very hypocritical to focus on “incentive” arrangements implemented by others.

Thank you for your time. Gary

Gary Wardrop CLU RHU
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INSURANCE BROKERS ASSOCIATION OF CANADA
ASSOCIATION DES COURTIERS D'ASSURANCES DU CANADA

April 4, 2022

Mr. Tony Toy
Policy Manager
Canadian Council of Insurance Regulators (CCIR)
National Regulatory Coordination Branch
Financial Services Regulatory Authority (FSRA)
25 Shepperd Avenue West, Suite 100
Toronto ON M2N 6S6

By email: Tony.Toy@fsrao.ca

Re: CCIR / CISRO Incentive Management Guidance (IMG)

Thank you for the opportunity to continue to provide input to the Incentive Management Guidance (IMG) document and for your thoughtful consideration of our recommendations from the initial consultation stage. The current public document is both clear and practical.

Given the extensive work that you have clearly undertaken on the Guidance document, we only have one section for which we would like to seek further clarification:

Section 2. Design and management of Incentive arrangements

S2.1 The design process of Incentive arrangements ensures that:
S 2.1.3 the cost of the product to the customer does not vary based on the distribution method.

The cost base for the delivery of an insurance product may differ depending on the whether the delivery is through either the Direct, Agent or Broker distribution channels. Variations can occur due to the costs associated with the physical nature of the delivery, marketing strategies and the advice and options provided, among other considerations. Currently, the costs associated with the delivery method can affect the end cost to the consumer, even for an equivalent product.

It would be helpful if you could please provide additional clarity regarding the intent of the wording of this section.

We look forward to continuing our dialogue on this topic. If you have any questions or comments, please do not hesitate to contact me.

Sincerely,



Peter Braid
IBAC CEO

IBC · BAC
Insurance Bureau of Canada
Bureau d'assurance du Canada

April 4, 2022

Submission via email: ccir-ccra@fsrao.ca

Dear CCIR Secretariat,

RE: Canadian Council of Insurance Regulators and the Canadian Insurance Services Regulatory Organizations (CCIR/CISRO) Public Consultation on Proposed Guidance on Incentives Management

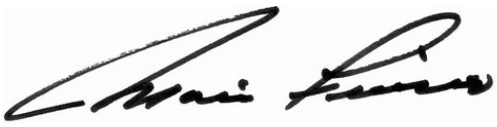
Insurance Bureau of Canada (IBC), on behalf of its member property and casualty (P&C) insurance companies operating in Canada, is pleased to participate in the CCIR/CISRO consultation seeking feedback on the proposed Incentive Management Guidance (IMG).

IBC and its members are supportive of principles-based regulations that clearly define the separate expectations for insurers and intermediaries, such as CCIR/CISRO's Guidance *Conduct of Insurance Business and Fair Treatment of Customers* (CCIR/CISRO FTC Guidance). Clear delineation of expectations for insurers and intermediaries for the management of incentive arrangements will prevent the duplication of roles and responsibilities in the distribution of insurance, creating a seamless, less cumbersome framework that will ultimately benefit the consumer. In addition, IBC members, regardless of the distribution model, request that CCIR/CISRO delete section 2.1.3 owing to its potential negative impact on a customer's right to choose the kind, level and value of service desired.

This submission addresses specific sections of the proposed IMG in the same sequence as presented in the related document.

We welcome the opportunity to discuss the IMG and our feedback with you at your convenience.

Sincerely,



Mario Fiorino
Vice President, Legal and General Counsel

Preamble

IBC membership includes insurers that distribute insurance directly and companies that opt for independent intermediaries. Insurers directly selling insurance to Canadians, manage and assume responsibility for all aspects of the customer experience, including the management of sales incentives to ensure the fair treatment of customers. Insurance business models that incorporate independent intermediary distribution, such as brokers, contain unique relationships inherent in the contractual relationships between insurers and their distribution partners, as well as involving a separate regulatory structure for the entities in certain provinces.

Similar to the direct distribution model, IBC and its members strongly agree that all aspects of the insurer and intermediary relationship, including incentive arrangements, align with the principles of the fair treatment of customers. However, a lack of recognition of the independent nature of insurers and intermediaries ignores the contractual relationships and operational realities that may limit insurers' line of sight into the behaviours of their distribution partners. IBC requests that CCIR/CISRO consider having the IMG contain a clearer distinction of roles and responsibilities of the different parties in the incentive arrangements.

Furthermore, appointing agreements are the bedrock of the insurer-broker relationship that establish not only representations, warranties, and covenants for the two parties, but also stipulate and recognize the independent relationship between the broker and customer. The appointing agreements include customer-centric provisions and obligations that supersede any incentive arrangements that encourage sales and profitability targets under quantitative measures.

Although the proposed guidance sets out expectations that are "intended to support insurers and intermediaries in achieving FTC while respecting existing laws and regulations," the IMG appears to combine the oversight of incentive arrangements across insurers and intermediaries. Considering the independent and autonomous nature of distribution models in the P&C insurance marketplace, IBC encourages CCIR/CISRO to incorporate into the proposed IMG a clear delineation of roles and responsibilities between insurers and intermediaries. This clarification will facilitate effective implementation of the guidance and lead to outcomes consistent with the fair treatment of customers.

Scope

IBC and its members agree that insurers are the ultimate risk carriers and that any conflicts of interest under incentive arrangements are to be resolved by prioritizing customers' interests as described in the CCIR/CISRO FTC Guidance. However, the proposed IMG does not consider the clear and distinguishable differences in the life-cycle of insurance products as they pertain to insurers and intermediaries.

From the perspective of insurance carriers, the life-cycle includes assumption of risks, diversifying risks through a pooling mechanism under strict regulatory requirements, and ensuring contractual obligations to policyholders are met. The insurance product life-cycle differs from a distribution perspective and entities adhere to specific regulatory regimes.

The scope of the guidance appears to pass complete responsibility for oversight of intermediaries to insurers by stating that "the insurer is responsible for the FTC throughout the life-cycle of the insurance product." IBC respectfully requests that CCIR/CISRO clarify the intent of the proposed IMG's scope.

1. Governance

No comment.

2. Design and management of incentive arrangements

IBC and its members support principles-based approaches that acknowledge the shared responsibility of industry and regulatory bodies in ensuring the fair treatment of customers. However, sections 2.1 to 2.10 appear to depart from such an approach, favouring instead prescriptive approaches in the design and management of incentive arrangements that do not recognize the independent and autonomous nature of the industry and regulators. Apart from direct insurance models, it is impractical, if not impossible, for insurers to identify and assess the myriad of potential outcomes that may be inconsistent with the fair treatment of consumers.

In addition, IBC requests that CCIR/CIRSO delete section 2.1.3, as it introduces confusion between the method of distribution and distribution models by stating that "the cost of the product to the customer does not vary based on the distribution method." Different methods of distribution are developed under different cost structures and, therefore, offer various pricing options. Such a statement would not apply, for example, to online discounts, which are outside the cost structure of the insurance product and which, importantly, benefit the consumer. IBC believes section 2.1.3 is broader than its intent and is unrelated to the management of incentive arrangements. The proposed IMG should avoid setting expectations related to methods of distribution that benefit the consumer.

3. Risks of unfair outcomes to customers

P&C insurers support and are governed by existing guidelines, such as the CCIR/CISRO FTC Guidance, which, along with appointing agreements, ensure that incentive practices between insurers and intermediaries align with optimal outcomes for consumers. Consequently, an intermediary's failure to secure the best insurance service for the customers will result in claw back or cancellation of incentives, as well as loss of commission, and ultimately a potential termination of the insurer-intermediary relationship. Given the existing principles that guide the design of incentive arrangements in the P&C insurance marketplace, and the potential for overlap with the FTC Guidance, IBC is concerned that the additional incentive guidance may set oversight expectations that insurers cannot meet, given contractual obligations owed to independent intermediaries.

4. Post-sale controls

IBC wishes to emphasize that, outside the direct distribution channel, the post-sales controls identified under this section entail significant practical challenges for insurers to implement within their intermediary relationships, given the independent and autonomous nature of the business models.

In addition, the objective of section 4.2.2 is unclear, raising the potential for inadvertent non-compliance. IBC therefore requests that CCIR/CISRO remove the section. The desired result of mitigating outcomes that are inconsistent with the fair treatment of customers is captured in section 4.2.1.

Independent Financial Brokers of Canada
740-30 Eglinton Avenue West, Mississauga, ON L5R 3E7

April 4, 2022

To: CCIR/CISRO
c/o CCIR Secretariat
25 Sheppard Avenue West
Box 21 - Suite 100
Toronto, ON M2N 6S6

Submitted by email: ccir-ccrra@fsrao.ca

Subject: Draft Incentive Management Guidance

Independent Financial Brokers of Canada (IFB) appreciates the opportunity to comment on the draft Incentive Management Guidance ('Guidance') developed by the CCIR/CISRO.

About IFB
IFB is a national, not-for-profit professional association dedicated to representing the interests of independent financial practitioners for over 35 years. IFB provides a unified voice for these independent advisors to government, regulators, and industry stakeholders.

The majority of IFB's 3000+ members are mutual fund registrants and/or life insurance licensees who own a small or medium-sized financial practice in their local community. Many are licensed in more than one provincial jurisdiction. Therefore, it is important that regulatory expectations be harmonized across jurisdictions whenever possible. IFB supports the role of the CCIR and CISRO in helping to advance this goal. The CCIR/CISRO Incentives Management Guidance is an example of a harmonized approach to regulatory expectations that will help industry and intermediaries build upon the *CCIR and CISRO Guidance Conduct of Insurance Business and Fair Treatment of Customers.*

IFB supports its members' professional needs, and the financial services industry more broadly, by offering accredited education, comprehensive professional liability insurance, regulatory updates and compliance tools, and support for industry best practices.

We note that this draft incorporates slightly different wording in some of the sections. In particular, the change from "negative outcomes" for consumers to "unfair outcomes" is more consistent with the FTC wording. We further note that the status of CISRO's draft document, *Principles of Conduct for insurers and intermediaries*, is unclear, as is any effect it may have on this Guidance in the future.

<u>Comments on the draft Guidance</u>
IFB supports the principles-based approach taken by the CISRO/CCIR in developing the Guidance. This Guidance provides a framework to assist in interpreting the principles encapsulated by the Fair Treatment of Customers into the everyday practices of insurers and intermediaries in the life insurance industry. This sets minimum standards for all insurance intermediaries across Canada, while providing the flexibility for insurers and intermediaries of various sizes and complexity to achieve the desired FTC outcomes.

IFB supports the Guidance's risk-based approach to Incentive arrangements. The life insurance industry has been built on a competitive platform which, by necessity, rewards more successful performers, over those with low performance. It's important that the CCIR/CISRO has acknowledged that insurers and intermediaries need to compensate those involved in the sale and servicing of their products, and that incentive programs that are properly designed and managed can still achieve FTC.

Scope - *This guidance applies to Insurers and Intermediaries that pay compensation and/or design incentive arrangements. Representatives who operate under an Incentive arrangement are expected to comply with their obligations to manage conflicts of interest and their duty to prioritize customers' interests as described in the CCIR/CISRO FTC Guidance.*

IFB appreciates the clarity added in the Scope for representatives. Individual life insurance agents operating as representatives, whether independent (such as IFB members), salaried or tied (captive), have little influence over the design or delivery of incentive arrangements. Incentive arrangements are developed by insurers, and to some extent MGAs, and form part of their contractual arrangements with the agents who are authorized to represent their products or services. Many IFB members would be 'representatives' under this Guidance. IFB members are required to conduct themselves in accordance with IFB's Code of Ethics and Standards of Professional Conduct, which has as its first principle that the client's interests are paramount. It also requires members to manage conflicts of interest by prioritizing the client's interest.

CCIR/CISRO's 4 Principles

1. *Governance*

Governance is an important first principle as it confirms the expectation that an insurer, or any intermediary, which designs or manages an Incentive arrangement, must set a 'tone from the top' that encourages a culture of FTC, and holds leaders accountable.

Importantly, those who are responsible for, or design, approve, implement, and monitor adherence to the incentive arrangements, should be appropriately trained and knowledgeable about the importance of FTC to these arrangements. We suggest this should include mandatory training such as on the life/health insurance industry, governance principles, and issues related to investor protection. It should also include training on their specific role and responsibilities to help foster a culture of FTC and reducing risk through effective management of potential conflicts of interests.

Training must be supported by appropriate policies and administrative procedures throughout the organization. There should be checks and balances throughout the organization to ensure employees, representatives and contractors are trained and knowledgeable about the organization's expectations, and the organization can monitor or test whether the FTC expectations are being met.

We note that the revised Governance principle no longer separates the roles and responsibilities of the Board and Senior Management. In our view, this is a better reflection of the range of organizations affected by the Guidance, as some will have more formal operational/governance structures, than others.

2. *Design and management of Incentive arrangements*

IFB agrees that the design or implementation of an incentive program can raise risks for consumers if not properly managed or controlled and tied to FTC outcomes. However, the inverse is also true – that with proper risk management systems in place, sales-related conflicts or risks to consumers can be effectively managed. Today, there are various checks and balances built into current industry practices such as client disclosures, needs analysis, 'reason why' letters, limiting rewards such as sales trips, and recovering commissions through chargebacks – all of which are designed to reduce the risk of unfair consumer outcomes.

Importantly, however, incentives can also be used to promote positive outcomes. For example, as the traditional sales role continues to transition into more of an ongoing advisory role, this presents opportunities to incorporate a variety of metrics that can reward positive behaviours to encourage the fair treatment of customers. These could include successfully completing enhanced product education and training, training on FTC expectations, monitoring client retention, persistency rates, and client complaint/satisfaction mechanisms by insurers and intermediaries, timely processing of claims and complaints, and encouraging advisor succession planning and business continuity planning. In other words, an Incentive program which is seen to reward ethical behaviour, with a balanced approach to both financial and non-financial targets, would be well-positioned to support the often, long-term nature of a life insurance product, and adapt to this advisory role.

3. *Risks of unfair outcomes to Customers*

The expectation for identifying, monitoring, and adjusting Incentive arrangements in Principle 3 appears to overlap with many of the requirements set out in Principle 1 – Governance, and in Principles 2 and 4. It is unclear to us what the CCIR/CISRO is intending to address in Principle 3 that is not covered in these other sections (and the Appendix).

Furthermore, we suggest the heading of Principle 3 seems inconsistent with the approach taken for the other Principles. Perhaps retitling Principle 3 to something like *Ongoing Evaluation and Monitoring of Incentive Arrangements* would make it clearer and more consistent, if the CCIR/CISRO does not want to consider deleting Principle 3 and adding some of the content to the Appendix.

4. *Post-sale controls*

In our view, Principle 4, which requires insurers and intermediaries to have effective post-sale controls and monitoring in place, appears reasonable. Many of these measures are routinely followed today, allowing insurers and intermediaries to flag sales that may raise questions of suitability and risk to consumers. We suggest expanding post-sale controls to include incentives paid to service existing policyholders, which is included under item #12 in the Appendix.

<u>Appendix</u>

The Appendix appears to be a comprehensive list of examples of circumstances that may increase the risk of unfair customer outcomes, if not properly designed and managed.

We draw particular attention to item #11, which identifies titles, when bestowed as part of a loyalty or recognition program for meeting sales volumes, as a possible FTC risk. In our opinion, titles used by intermediaries should accurately reflect their proficiency, licence and/or corporate position. Titles

which improperly convey someone holds an officer position at a firm, when they do not, is misleading and can engender a heightened sense of trust in the consumer.

The CSA has taken steps to control the use of misleading titles[1], and we encourage the CCIR and CISRO to do so as well. Under the Client Focused Reforms, effective December 31, 2021, registrants are not permitted to hold out in a manner that could reasonably be expected to deceive or mislead a client, or prospective client, as to:

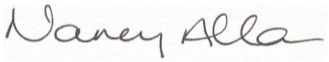
- Their proficiency, experience, qualifications or category of CSA registration;
- The nature of the client's relationship, or potential relationship; or
- The products or services provided, or to be provided.

Specifically, client-facing representatives in the securities industry are prohibited from using titles or designations that are based partly or entirely on that representative's sales activity or revenue generation (e.g., "President's Club"); or from using a corporate officer title, unless they have been legally appointed to that role (e.g., "Vice President").

The restrictions applicable to the titles Financial Planner and Financial Advisor, that have been introduced in some jurisdictions, have limited ability to restrict the wide array of other titles that can mislead consumers and undermine the FTC principles. Given these various industry developments, IFB encourages the CCIR/CISRO to undertake a review of titles, so insurance customers have similar protections.

We trust our comments on the draft Guidance are helpful. Should you have any questions, or wish to discuss any of our comments further, please contact the undersigned, or Susan Allemang, IFB's Director, Policy & Regulatory Affairs (email: sallemang@ifbc.ca).

Yours truly,



Nancy Allan
Executive Director
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[1] National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations (NI 31-103). Section 13.18

IIACACCVM
INVESTMENT INDUSTRY ASSOCIATION OF CANADA
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April 4, 2022

CCIR Secretariat
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ccir-ccrra@fsrao.ca

Re: CCIR-CISRO – Incentives Management Guidance (The Draft Guidance)

The Investment Industry Association of Canada (IIAC) is the leading national association representing investment firms that provide products and services, including insurance products to Canadian retail and institutional investors. This response represents the views of IIAC insurance dealers, who are authorized to distribute insurance products and services, and are correspondingly defined as Intermediaries[1] in the Draft Guidance.

Executive Summary

The IIAC supports the principles articulated in the Draft Guidance. IIAC insurance dealers believe their incentive practices would align with these principals.

In addition, we recommend further enhancements to incentive practices that will benefit the client, and industry. In order to realize the benefits we outline below, the Insurers' must be required to modify their incentive arrangements, as Intermediaries are limited in how they develop their incentive practices.

Overview:

The IIAC supports the CCIR-CISRO's initiative to develop guidance to enhance the alignment of incentive arrangements related to the sale and servicing of insurance products by Insurers and Intermediaries, with their obligations to provide the client with fair treatment. In addition to being licensed with various provincial regulatory bodies for insurance purposes, these Intermediaries, have affiliated companies, who are registrants of the Investment Industry Regulatory Organization of Canada (IIROC) and have been subject to extensive rules with respect to incentive arrangements, including conflicts of interest, and disclosure requirements, related to the sale of securities. These rules have also been applied to certain

[1] Terms such as Intermediary and Insurer will have the same definition provided in the Draft Guidance

related insurance products and services, like segregated funds. Consequently, IIAC insurance dealers have developed policies and procedures related to incentive arrangements that are client-centric and we believe generally align with the principles outlined in the Draft Guidance.

We do believe that improvements can be made to address some of the concerns articulated in the Draft Guidance, such as servicing of clients for the life of the insurance product.

Recommendations:

In order to make meaningful changes to incentive arrangements for products, such as life and living benefit insurance, at the Intermediary level, the Insurers must be required to change their incentive arrangements. For life and living benefit insurance products, the Intermediaries structure their incentive practices based on contractual arrangements, and the payment schedules received from the Insurer.

1. **Require more balanced incentive payments from Insurers**

We believe payments and bonuses (override percentages etc.) from Insurers should be more balanced in how they are paid out to the Intermediary and consequently how compensation is provided to the agent and/or insurance specialist. This recommendation reflects the principle articulated in Design 2.1.1 "any incentive paid is consistent with the level of service expected and provided through the product's lifecycle".

Currently, a disproportionate amount of the total compensation is paid by the Insurer in the first 2 years of the product's contract, which could be 10 years or longer, depending on the product. This limits how the Intermediary can design its own incentive arrangements and distribute compensation to its advisors, and insurance specialists etc. In some instances, after a certain number of years, there is no compensation paid by the Insurer to the Intermediary, despite the insurance product still beings in effect and the client still requiring servicing by the Intermediary. In other instances, it may be a low percentage compensation, such as 1% of the premium.

2. **Compensation should be linked to the servicing agent for the lifetime of the product**

Further, we believe the compensation should be tied to the servicing agent for the lifetime of the product. We disagree with Insurer's practice of "vested contracts" and "vested commissions". The Draft Guidance states, "the Insurer is responsible for FTC throughout the life-cycle of the insurance product as it is the Insurer that is the ultimate risk carrier. Treating Customers fairly is a shared responsibility when Insurers and Intermediaries are both involved." However, the Insurer typically delegates that responsibility to the Intermediary. Consequently, the Intermediary (and any new servicing advisor) should receive compensation for the lifetime of the product, as it required to assign a servicing agent to the client for the lifetime of that product.

It is not clear how those current practices are beneficial to the client, and the Intermediary is limited in their ability to alter the contractual arrangements between the agent and Insurer. Further, this policy negatively impacts Intermediaries when agents leave the business or transfer dealers. The initial agent may still receive compensation from the Insurer, but the contract remains with the initial Intermediary and a new agent is required to service the Insurer's contact for no compensation.

We believe this practice is problematic from both a client service and industry growth perspective. It adds barriers for Intermediaries to attract new agents, as they deserve compensation for their services

rendered. Without balancing the incentive payments from the Insurer and linking payment to service of the client, we believe that the number of "orphan clients" will increase. The servicing of "orphan clients" is typically delegated to the Intermediary and it is becoming more challenging to manage.

3. Compensation from Insurers should be consistent

It has been noted that compensation from Insurers can be inconsistent depending on the distribution channel they are paid to. We believe incentive arrangements (i.e. total compensation) should be applied consistently across distribution channels.

Intermediaries also noted that Insurers may use different terms, and interpretations in their contracts and it can further complicate how Intermediaries may develop their own incentive practices.

The IIAC would be pleased to meet with CCIR-CISRO staff to discuss this issue in more detail. Thank you.

Sincerely,

"*Adrian Walrath*"

Managing Director
awalrath@iiac.ca
IIAC

Kenmar Associates

February 22, 2022

ATTENTION: CCIR Secretariat ccir-ccrra@fsrao.ca.

Proposed Guidance on Incentives Management for Consultation
CCIR and CISRO Release Proposed Guidance on Incentives Management for Consultation (newswire.ca)

Kenmar appreciate the opportunity to comment on CCIR/CISRO incentive management guidance. Kenmar Associates is an Ontario-based privately-funded organization focused on investor education via on-line research papers hosted at www.canadianfundwatch.com .Kenmar also publishes ***the Fund OBSERVER*** on a monthly basis discussing consumer protection issues primarily for retail investors. An affiliate, Kenmar Portfolio Analytics, assists, on a no-charge basis, abused consumers and/or their counsel in filing complaints and restitution claims.

Michael Leboeuf's quote from his 1985 book *The Greatest Management Principle in the World* (Putnam), "**What gets rewarded gets done**," highlights the factors that motivate someone to behave in a certain manner. This is a truism in the financial advice industry.

Based on our 20 years' experience in the banking and securities sectors we have a few thoughts on designing ethical compensation practices. In our experience, 80 to 90% of all client complaints are traceable to management decisions, actions and inactions.

Recommendations

The CCIR has done a good job at articulating the issues and setting down some core principles. Kenmar recommend that Firms identify all potential incentive conflicts-of-interest and document their approach to mitigate each of them. If mitigation is not possible or impractical to monitor, that incentive scheme should be outlawed.

Given the blizzard of potential mis-selling incentives identified, they place client-facing representatives in a situation where they must step on the brake and accelerator at the same time. FSRA expects Representatives who operate under an Incentive arrangement to comply with their obligations to manage conflicts of interest and comply with their duty to prioritize Customers' interests per CCIR/CISRO FTC Guidance .Strong internal controls, well designed information systems, robust supervision, timely compliance monitoring and fair complaint handling are required to avoid the risk of customer harm (e.g. financial assault).

It is encouraging to see that overall responsibility for FTC is at the level of the Board Director and/or senior executive, who design, approve, implement and monitor compliance to policies and procedures to ensure that Customers are treated fairly. Management should be held accountable for failures to achieve FTC.

Define "unfair outcome" Example - An *unfair outcome* is one in which a client is sold a product or service that (a) is not needed; (b) does not represent fair value, where the benefits consumers receive are unreasonable relative to the price incurred; (c) is inappropriate for the client or (d) involves terms and conditions that are harmful to the client's best interests.

As defined, "incentives "could include base salary. Is that the intention?

Pg 3 "*This guidance provides Insurers and Intermediaries with the necessary latitude to determine the requisite strategies, policies, processes, procedures and controls in order to facilitate achieving such results and to apply them based on the nature, size and complexity of their activities, while taking into account representatives' regulatory obligations in order to facilitate achieving the Customer outcomes reflected in this guidance."* Recommend adding after … regulatory" the words **and professional**.

On pg. 5 "*Oversee strategy, risk appetite and culture in relation to the design and implementation of Incentive arrangements "We're* not quite sure what this means. Would appreciate clarification.

On pg. 6 "2.3 *Ensure that employees and other persons and entities involved are aware of Incentive arrangements applicable to them."* Recommend adding *and the associated potential conflicts-of- interest.* The criteria used by Firms to assess the performance of Representatives should be accessible, understandable and recorded.

Para 2.8 *Provide arrangements for recovering, when appropriate, the compensation once it has been paid* can be controversial if the incentive scheme is designed by management to induce misalignment and ineffectually supervised. We assume this recovery applies to executives, managers and supervisors as well as Representatives.

In our opinion and experience, sales contests, sales quotas, trips, gifts, goods, and non-monetary benefits such as President's Club Membership or titles that are based on sales of specific products over a limited period of time cannot be addressed without material risk of Customer harm. Certain practices, such as misleading titles, should be outright banned. The use of such practices guarantees that insurance salespersons will never become true professionals. The CCIR/CISRO should take steps to move the Edelman Trust Barometer rating for financial services away from near the bottom to near the top.

Para 4.1.2 *Ensure that persons conducting post-sale monitoring are sufficiently independent from the sales functions they are required to monitor to avoid being unduly influenced.* Should the word *sales be replaced with* **advice and recommendations***?* We say this because this is how the insurance industry markets and holds itself out. Is the FTC designed solely to regulate sales transactions or personalized financial advice?

We add the following thoughts for your consideration:

- The Board and senior executives must set the tone at the top. Policies and procedures as well as the Ethics Code should be clear on how to treat clients fairly and in their best interest.
- Products, such as Segregated funds, with embedded commissions, require extraordinary supervisory controls to detect and deter conflicted recommendations. The Cumming report made this very clear. DSC sold products are highly correlated with skewed advice. DSC Segregated funds should be banned as empirical research has shown the DSC sales option to be harmful to customers.
- There should be controls in place to prevent double- billing such as occurred with A series mutual funds in fee-based accounts.
- Misleading titles should not be awarded as part of an incentive compensation scheme. Representatives should not carry titles that mislead clients about a Representative's professional designation, competency or organizational status.

- Supervisors should not be incented in a way that compromises their supervisory integrity and accountability. In this regard, commission over-rides would constitute an irreconcilable incentive.
- A periodic analysis of the client complaint database can help identify how compensation conflicts are being addressed and resolved. That is where the rubber meets the road. Company complaint handling policies and procedures should incorporate Root Cause Analysis.
- Complaint data from OLHI can be a revealing source of incentive-related conflicts information.
- A balanced employee compensation scorecard, one that includes a measure of client satisfaction, can be an effective tool in discouraging incentive scheme conflicts.

- Timely Compliance sweeps can head off compensation related issues.
- Employee performance reviews should take into account employee behaviour, client satisfaction and complaint history.
- Recruitment practices should include ethics and professionalism in the evaluation of prospective employees.
- Staff selling expensive and/ or complex products should be members of a professional Association or provincially accredited Credentialing Body.

Board engagement: Ensure (a) that committees responsible for monitoring changes in business structure and identifying practices that could affect FTC are consistent with client interests and (b) that clients that are harmed by a practice that adversely affects FTC are treated fairly and in a timely manner.

Directed commissions: Such commissions should only be paid to incorporated agents or advisors, not personal corporations. The ongoing work of the CSA should be considered in this regard.

Limited time incentives: This practice encourages Representatives to try to achieve all sales in before the end of a designated payout period, which may lead to the timing of investments becoming geared to the representatives' incentives rather than the customers' needs. Limited time incentives may encourage representatives to generate revenue as quickly as possible to secure the incentive, which, according to behavioural finance principles, would encourage Representatives to focus on the easiest route to reach the target (i.e., to focus on what is easiest to sell, what generates the most revenue), rather than on what is suitable or necessary to satisfy customer needs. Kenmar do not see any practical way to mitigate the risks of mis-selling and still meet sales targets. Limited time incentives are not appropriate incentives to be offered to financial professionals especially those that carry the FA title under Ontario's Title Protection Act (or similar provincial Acts).

Use of disincentives:Product mix targets may encourage, and in the case of disincentives requires, Representatives to recommend products and services that a customer may not need and /or that are not suitable. Representatives may be only compensated for cross-selling products offered by related parties. Even when the need may not be invalid, the customer may be better served by utilizing non-proprietary products and services. Disincentives can include a poor performance review, reduced income, low chance of promotion or even termination.

Dual occupation persons: In Ontario, the FSRA should have an MOU or equivalent to share information with the OSC. A person with an outstanding unpaid fine in one regulatory regime should be denied registration in the other regime until the fine is paid and other issues are rectified. A well-crafted MOU could help reduce regulatory arbitrage. NOTE: Such persons have conflicts-of-interest above and beyond those related to incentives created by the Firm.

Cost and performance reporting: The impact of compensation incentives ultimately reaches the customer. Insurance regulators need to ensure customers have comparable information on costs, fees and performance of their segregated and mutual funds. According to Investor Economics, Canadians had more than $143-billion invested in Segregated funds as of January, 2022, of which 42 % were in funds with DSCs. The fair treatment of customers is at least as important as prudential oversight; better disclosure and reporting will empower customers to make more informed purchase decisions.

Complaint handling: Client complaint handlers should not be compensated in a manner that could compromise their ability to fairly assess client complaints. Any redress/compensation paid to clients should be fair and reasonable. If incentives are believed to be a material factor that skewed the recommendations made, this fact should be noted on internal reporting for management attention and action.

Enforcement: Guidelines without enforcement are just words. Insurance regulators will need impactful tools to enforce cases of mis-selling due to misaligned compensation incentives. The enforcement regime should prioritize focus on Firms that design and implement misaligned incentive schemes .

Kenmar agree to public posting of this letter.

We sincerely hope this feedback proves useful to Policy and decision makers.

Do not hesitate to contact us if there any questions or clarifications needed.

Ken Kivenko, President
Kenmar Associates

REFERENCES

AMF Incentive management Guideline
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https://docs.iiroc.ca/DisplayDocument.aspx?DocumentID=5365CB5BE384477F8FC08C2B9450424A&Language=en

National Instrument NI 81-105 Mutual fund sales practices: CSA

Domestic Bank Retail Sales Practices Review: FCAC
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https://www.fca.org.uk/publication/finalised-guidance/fsa-fg13-01.pdf

Licensing: Managing conflicts of interest: ASIC
https://download.asic.gov.au/media/1241003/rg181.pdf

Consultation Paper Guidelines on certain aspects of the MiFID II remuneration requirements: ESMA
https://www.esma.europa.eu/sites/default/files/library/esma35-36-2324_cp_on_remuneration_guidelines.pdf

Manulife

April 4, 2022

By email to: ccir-ccrra@fsrao.ca

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Re: *Proposed Guidance on Incentive Management*

Thank you for the opportunity to provide comments on the Proposed Guidance on Incentive Management. Manulife supports the comments submitted by the Canadian Life and Health Insurance Association.

Competition and Changes to Industry Compensation Practices

Distribution and compensation structures in the life and health insurance industry are shaped by market competition. Most insurers rely on independent, third party distributors who have contracts with multiple insurers. Competition drives compensation and incentive arrangements to be similar across insurers and across products markets.

The Proposed Guidance suggests that insurers should review compensation and incentives and make unilateral changes. In our experience, one company unilaterally changing compensation will shift sales to insurers who do not make similar changes. Where a compensation or incentive structure is common across most insurers, regulators should provide all insurers with clear instructions and timelines so that any required changes are made by all companies at the same time. Where a compensation practice is common across the industry, regulators should not expect any individual company to unilaterally change compensation where doing so would put that company at a disadvantage to competitors.

Customer Interaction

The Proposed Guidance is written with a focus on an individual sale of an insurance product to an individual customer working with a particular advisor who arranges the purchase of coverage from one insurance company. This narrowly focused, transactional perspective may not capture how consumers interact with the life insurance industry over time.

In many cases, the sales process is more complex. At point of sale, a consumer may or may not act with an intermediary. Most advisors offer products from multiple insurers and will frequently assist the customer in making applications to several different insurance companies as the price and coverage levels may not be clear until after underwriting is complete. Over their lifetime, customers may purchase different insurance policies and have different types of policies from different companies working with different advisors. Customers may also acquire insurance for

specific, short-term needs (e.g., travel insurance) or through membership in a group (e.g., workplace benefits).

A narrow focus can help identify consumer risks in a specific circumstance but how customers interact with intermediaries and insurers is more complex. Guidance that reflects this complexity may be more effective, particularly where there is an attempt to set out roles and responsibilities of regulators, insurers and intermediaries in the promoting fair treatment for customers.

I hope that these comments are helpful, and I would be happy to discuss further at your convenience.

Sincerely,



Chris Donnelly
VP and Counsel, Regulatory and Public Affairs

April 4th, 2022

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RE: Incentives Management Guideline

About Primerica

Primerica Financial Services (Canada) Ltd. is a leading distributor of basic financial savings and protection products to middle-income households throughout Canada. Our Canadian corporate group includes our life insurance company Primerica Life Insurance Company of Canada (PLICC). Primerica has been serving the Canadian public since 1986. PLICC is represented by over 11,000 licensed life insurance agents across the country. About 60% of our life insurance agents are dually licensed as mutual fund representatives through PFSL Investments Canada Ltd. (PFSL). We insure almost 550,000 lives and operate in every province and territory in Canada.

General Comments

We appreciate the opportunity to provide feedback on the CCIR and CISRO *Incentive Management Guideline (the Guideline).* For clarity purposes, we will address our comments in the order the proposed regulation was drafted. Areas not discussed in this document may not be relevant to Primerica or otherwise covered by the comprehensive response provided by the CLHIA, which we support.

Life insurance is an essential service that every Canadian should have the opportunity to access. The benefits of having individual life insurance are well documented. Products sold by life insurers provide financial security at times of unexpected loss, serious injuries, or illness. Therefore, any regulatory restrictions should be considered within the broader public policy context of their impact on access, advice and service.

Our overarching goal is to treat all our customers fairly. As an industry and as a company, we have been carefully reviewing our practices through a Fair Treatment of Customers (FTC) lens. The low levels of consumer complaints and lack of empirical evidence of systemic consumer harm suggest that the life insurance industry and our regulators are upholding a high standard of conduct.

It is critical to recognize the role incentives play in ensuring that Canadians have access to a wide range of affordable and appropriate life insurance products. Insurers offer a variety of incentives to advisors - such as bonuses - based on their sales performance, customer service and retention. In exclusive distribution

channels such as Primerica's, a company may encourage productivity through campaigns with awards and recognition of effort.

Incentives in their entirety should not be maligned as harmful or risky to consumers – more often, they encourage good service rather than cause harm. To reduce potential consumer harm, the focus of the Guideline should be on incentive practices that may pose a material conflict of interest or a material risk versus a theoretical potential for risk. Controls and oversight mechanisms on product design, sales practices, and customer service should ensure incentives are offered in a way that does not impose harm to consumers while allowing insurance agents to provide services diligently. We must reinforce the concept of maintaining rewards for effort and success.

It is equally important to consider the impact on both the insurers and the insurance representatives when discussing incentive management. Restrictions on incentives may cause an advice gap and a disincentive to entry for individuals looking to pursue a career in the life insurance industry. Individuals should be motivated to sell but do so while maintaining FTC principles.

1. **Governance**

CCIR and CISRO expect Insurers and Intermediaries' governance and business culture to place FTC at the center of decisions concerning the way Incentive arrangements are designed and managed.

1.2 Develop policies, procedures and controls which ensure FTC outcomes are integrated into Incentive arrangements.

While companies should ensure that incentive arrangements are consistent with FTC principles, the board of directors' responsibility should be approving policies and procedures and not monitoring. We recommend the responsibility of monitoring lie with senior management.

1.5 Review Incentive arrangements periodically and implement any changes required to manage risks related to the FTC. This should take into consideration input from the appropriate business functions (e.g. risk management, compliance, legal and human resources).

We understand that periodic reviews may help deter and even prevent incentives that may harm FTC principles. However, we would like to emphasize that it may not be necessary to conduct the reviews and the accompanying compliance and HR functions annually. An annual review would take a significant amount of resources when these items are unlikely to require revision that frequently or function efficiently and appropriately. Conversely, circumstances may dictate a more urgent review and adjustment. We suggest reviewing incentive arrangements on an *as-needed* basis, keeping with FTC principles.

2. Design and management of Incentive arrangements

CCIR and CISRO expect Insurers and Intermediaries to design and implement Incentive arrangements that include criteria ensuring FTC.

Design

2.1.3 the cost of the product to the Customer does not vary based on the distribution method.



We are not sure of the feasibility, scope, or goal of this element of the proposed Guideline. There are different costs, efficiencies and efforts among various distribution models. Each distribution model may serve a different client segment and/or serve the needs of a particular client better. These impact the cost to the client and are part of a competitive marketplace. We do not recommend adopting any policies that assume or impose a one-size-fits all view of distribution.

Appendix

Any consideration of risks of incentives for selling a life insurance policy needs to be weighed against the benefits of the sale - access to essential protection products and services. Generically restricting incentives based on perceived potential risks will lead to the unintended consequences of limiting access to important products that are meant to mitigate real life risks such as untimely death, income loss and insufficient retirement savings. Any restrictions on types of incentives should be made based on empirical evidence of consumer harm.

Further, it is critical to analyze within the proper context when discussing incentives and potential consumer harm. It can be circumstantial, product or distribution based, and/or dependent on institutional structure. A one size fits all incentive management guideline will create winners and losers in the marketplace without making meaningful progress in protecting consumer outcomes.

1. Bonus rates that increase with predetermined sales volumes thresholds without adequate consideration to FTC.

Providing a higher bonus rate with higher sales volumes does not necessarily conflict with FTC principles. In a needs-based sales environment, and with proper controls in place, higher sales volumes should reflect hard work and good service.

Agents who work hard and sell more by making their clients aware of their needs and/or getting referrals for their work should be rewarded. In the case of an exclusive salesforce, a bonus structure drives a desire to sell products but does not create an inherent conflict to sell one product over another. There is no harm in incenting agents to do more work and serve more clients. Incentives are only harmful when agents are incentivized to sell a product that may not suit the client's needs.

Conclusion

We appreciate the CCIR and CISRO's continued work on establishing a standard set of rules and practices to be followed by financial institutions, financial intermediaries and credit assessment agents in incentive management guidelines. While it is relatively easy to agree that incentives should be consistent with FTC principles, it is much more difficult to remedy the unintended consequences accompanying a policy that may not be fully contemplated. We look forward to working with the industry and the CCIR and CISRO to ensure that incentives in the industry can be used to drive healthy industry growth while ensuring necessary access to life insurance products and generally fair outcomes for current and future life insurance consumers.

As this Guideline may significantly impact a number of businesses activities, policies, as well as procedures, we propose a 36-month implementation period once final guidelines are published.

We appreciate the opportunity to comment on the *Incentive Management Guideline*. We are always open to discussion and are willing to contribute further insights and explanations for our recommendations.

Sincerely,

[Original signed by]

John A. Adams CPA, CA
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Primerica Financial Services Canada