

Approach



Effective Date: September 23, 2020

Identifier: No. GR0008APP

Fair Treatment of Consumers in Insurance

Purpose

This Approach confirms that the Financial Services Regulatory Authority of Ontario (FSRA) will use *Guidance: Conduct of Insurance Business and Fair Treatment of Customers* (Guidance), adopted jointly by the Canadian Council of Insurance Regulators and the Canadian Insurance Services Regulatory Organizations on September 27, 2018, to supervise the conduct of insurers, and other entities FSRA regulates under the Insurance Act (Ontario), with respect to the fair treatment of consumers.

FSRA will assess whether such entities follow the Guidance in setting and maintaining business policies and practices that are effective in ensuring fair treatment of consumers.

Superintendent's Guideline No. 03/18: Treating Financial Services Consumers Fairly, issued by the FSRA's predecessor agency the Financial Services Commission of Ontario (FSCO), remains in place for the supervision of conduct in the mortgage brokering, loan and trust, and credit union and caisse populaire sectors.

Scope

This Approach guidance affects the following entities regulated by FSRA:

- insurance companies
- insurance agents
- corporate/partnership insurance agency businesses
- insurance adjusters
- corporate/partnership insurance adjusters businesses

Rationale and Context

The Guidance is based on *Insurance Core Principle 19, Conduct of Business* (ICP 19), set by the International Association of Insurance Supervisors.¹ ICP 19 prescribes the elements that must be in place if insurers and intermediaries are to be deemed as treating their customers fairly, from before an insurance contract is entered into and through to the point at which all obligations under that contract have been met.

FSRA's statutory mandate includes promoting high standards of business conduct and protecting the rights and interests of consumers in the sectors it regulates. Although many requirements for insurance licensees are already contained in legislation, regulation and accepted industry best practices, the Guidance sets a common understanding between FSRA and its licensees of the principles that underpin fair treatment of consumers throughout the lifecycle of insurance contracts.

Canadian insurance regulators developed the harmonized Guidance through the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO). As a member of both CCIR and CISRO, FSRA (through its predecessor FSCO) played an active role in the work.

FSRA plans to continue conducting regulatory reviews in collaboration with other CCIR members. Full harmonization with the Guidance will help bring uniformity to these efforts and reduce burden on licensees.

¹ International Association of Insurance Supervisors, *Insurance Core Principles*, www.iaisweb.org/page/supervisory-material/insurance-core-principles.

Processes and Practices

FSRA's conduct supervision of insurance licensees regarding fair treatment of consumers predate the Guidance. The Guidance catalogues the elements that FSRA considers when examining licensees' internal policies, procedures and mechanisms that identify and manage risk arising from their dealings with consumers.

FSRA expects licensees to assess themselves against the Guidance when setting or revising policies and procedures, and operating their businesses. While FSRA expects compliance with the Guidance, since the Guidance is principles-based, licensees have some latitude to determine how best to achieve the expected outcomes, and reasonably demonstrate application of the principles in ways appropriate to the nature, size and complexity of their business operations and activities.

FSRA's market conduct reviews of insurers continue to focus on the alignment of business functions with fair treatment of consumers principles. In these, FSRA assesses insurers':

- corporate governance
- agent training and outsourcing arrangements
- incentives and remuneration
- product marketing and advertising
- point-of-sale information
- claims handling
- complaint handling and dispute settlement

Where FSRA finds evidence of non-compliance with the Guidance, FSRA may use any of the statutory powers at its disposal to execute on this supervisory Approach. Such measures shall include remedies ranging from education and remediation to regulatory discipline and intervention.

Background

In 2018, FSRA's predecessor, FSCO, issued *Superintendent's Guideline No. 03/18: Treating Financial Services Consumers Fairly Guideline* (TCF Guideline). The TCF Guideline covered the mortgage brokering, loan and trust, and credit union sectors, along with insurance.

Also in 2018, CCIR and CISRO jointly issued the Guidance, which applies only to the insurance sector. At the time of issue, it was confirmed that the TCF Guideline was well aligned with the Guidance and that Ontario insurance licensees could look to either document for assistance in ensuring that their business frameworks support the fair treatment of consumers. However, stakeholders sought additional clarity from FSRA on which of the two potentially applicable standards should be followed.

FSRA prioritizes the reduction of regulatory burden for financial services licensees and the adoption, where available, of a single or national standard for a sector. Harmonizing guidance regarding the fair treatment of consumers in insurance with the Guidance supports this priority.

The TCF Guideline remains in place for the mortgage brokering, loan and trust, and credit union and caisse populaire sectors.

Effective Date and Future Changes

This Approach takes effect [TBD].

The CCIR/CISRO Fair Treatment of Customers Working Group continues to actively engage stakeholders on potential improvements to the Guidance. Therefore, this Approach shall be deemed to incorporate any future version of the Guidance adopted by CCIR and CISRO as issued by FSRA, replacing any previous version of the Guidance. Any such updates shall be effective as of the date the revised version of the Guidance is published on CCIR's website.

This Approach will be reviewed no later than [TBD].

About this Guidance

This Guidance is an Approach. Approach Guidance describes FSRA's internal principles, processes and practices for supervisory action, and application of Chief Executive Officer discretion. Approach Guidance may refer to compliance obligations but does not in and of itself create a compliance obligation.

Appendices and References

Guidance: Conduct of Insurance Business and Fair Treatment of Customers is available at www.ccir-ccrra.org and www.cisro-ocra.com.