

November 18, 2019

Mr. Mark White, CEO; and  
Mr. Bryan Davies, Board Chair  
Financial Services Regulatory Authority of Ontario  
5160 Yonge St., 16<sup>th</sup> Floor  
Toronto, ON M2N 6L9  
<https://www.fsrao.ca/engagement-and-consultations/draft-2020-21-fsra-priorities-and-budget#comment>

**RE: CAFII Feedback on Draft Fiscal Year 2020-21 FSRA Priorities and Budget**

Dear Sirs:

The Canadian Association of Financial Institutions in Insurance (CAFII) thanks the Financial Services Regulatory Authority (FSRA) of Ontario for the opportunity to provide comments on FSRA's *Draft Fiscal Year 2020-21 Priorities and Budget*.

In this submission, we have restricted our comments to those sections of FSRA's *Draft Fiscal Year 2020-21 Priorities and Budget* which are germane to CAFII members, i.e. to the consultation document's sections on Cross-Sectoral Priorities, the Life and Health Insurance Sector-specific Priorities, and FSRA's Proposed Fiscal Year 2020-21 Budget.

**General Observations**

CAFII congratulates FSRA's management team and Board on a relatively seamless and successful launch as Ontario's new financial services regulator, and on already achieving a number of the key milestones related to 2019-20 Priorities. We applaud the fact that a highly competent and experienced FSRA executive team has been appointed and is tackling the operational and strategic challenges of a start-up regulator with an ambitious transformation mandate. FSRA and its leaders are indeed "walking the talk" in doing the right things and doing things right -- by planning and acting in accordance with principles-based and outcomes-focused regulation which benefits industry and consumers alike, and by having a prominent initial focus on burden reduction and regulatory effectiveness.

**Draft 2020-21 Cross-Sectoral Priorities**

CAFII strongly agrees that a regulatory framework that imposes unnecessary costs (e.g. by not being risk-based and evidence-based), or has unclear or unnecessary guidance and requirements, can negatively impact Ontario's economy, regulated businesses, and individual Ontarians. Hence, cross-sectoral priorities related to burden reduction and regulatory effectiveness make complete and good sense as FSRA's early focus.

**4.1 Burden Reduction**

**Priority 1.1 Review Inherited Guidance**

CAFII agrees that a well-designed, consistent and unambiguous guidance framework with relevant guidance documentation for regulated entities contributes to operational efficiency and reduced burden. We concur that regulated entities and the public are best-served when guidance is necessary (e.g. provides consumer protection; produces more benefit than the costs it imposes), consistent, accessible, actionable, and when its intended effect is well-understood.

Therefore, our Association is pleased that FSRA has developed a cohesive, principles-based regulatory guidance framework and is pilot-testing it at this time. In keeping with FSRA's commitment to open, transparent communication and meaningful consultation with stakeholders, we are also pleased that the Agency has set up a consultation opportunity around the New FSRA Guidance Framework and we intend to provide comments to you on it by the January 31, 2020 deadline.

***Priority 1.2 Establish Meaningful Service Standards***

CAFII agrees that stakeholders, both industry and consumers, are adversely affected if timely, reasonable, predictable, and well-understood delivery of regulatory activities does not consistently occur. Therefore, we support this FSRA priority which calls for the Agency to work with stakeholders to develop and implement service standards that will measure its effectiveness in meeting objectives, including responsive processing of regulatory matters in a timeframe that supports the cost-effective delivery of financial services to consumers.

***Priority 2.1 Protecting the Public Interest***

CAFII agrees with and supports this FSRA priority around engaging with consumers to tap into their perspectives and insights, which will be critically important to the Agency's success.

Our Association is very encouraged by FSRA's clear recognition that consumers' expectations for choices and services are high and continuing to elevate, which is driving new technologies, business models, products, and services; and we are also pleased with the Agency's commitment to embracing consumer perspectives to support innovation, investment and growth, and ensure competition and continued new product availability.

With respect to the Refreshed Milestone of "Develop and publish consumer profiles on sector-specific issues," we strongly encourage FSRA to consult with the relevant industry stakeholders – and to use them as feedback/vetting sounding boards, for accuracy and context -- whenever such about-to-be-posted consumer profiles focus on a particular product or service being offered in the marketplace (e.g. term life insurance, universal life insurance, whole life insurance, credit protection insurance, travel medical insurance).

***Priority 2.2 Enable Innovation***

CAFII strongly agrees with FSRA's observations that older, inflexible regulatory frameworks hold back innovators and limit consumer choice and the economic benefits of industry competition and innovation. FSRA's stakeholders are indeed concerned about future disruption and falling behind in a rapidly changing business environment, and about the extent of available support for technological advances that enable new business models and products.

Therefore, we are pleased to see that the three articulated objectives for FSRA's Innovation Office relate to imbuing FSRA with an "open for business" approach and supporting opportunities to foster innovation and business transformation.

More specifically, we are encouraged by the Innovation Office's commitment to facilitating the process for regulated entities which are seeking to bring innovative products and services to market (i.e. help navigate regulatory requirements; and, where FSRA has the authority, develop and implement customized trials and new product/service offerings using available waiver grants and exemptions).

We are pleased, in particular, by the latter Innovation Office commitment around direct facilitation and support for innovation, as we view that as somewhat akin to a regulatory sandbox.

CAFII is strongly of the view that FSRA should indeed have a concrete and specific mechanism in place which gives innovators and disruptors an initial “lighter regulatory touch” to allow them to test their new product/service offering or business model and confirm its viability before launching to market. Similarly, lighter touch regulatory relief for the new products, services, distribution channels, etc. of established industry players would also promote innovation and be beneficial to consumers.

With respect to this priority, we were also pleased to see the strength and determination behind FSRA’s commitments in this area, as evidenced by the inclusion of a milestone which speaks to securing new rule-making and exemptive relief powers as part of implementing an overall Innovation Framework.

### ***Priority 2.3 Modernize Systems and Processes***

CAFII supports this priority and concurs that having modernized IM/IT systems and processes in place is key to the Agency’s overall success and, in particular, to delivering on the burden reduction priority.

In that connection, our Association strongly encourages FSRA to take advantage of this priority and the resources that will be dedicated to it in order to “leapfrog” to the achievement of a grander vision which will deliver greater benefits to the industry and consumers. One example of the bigger picture thinking we advocate for FSRA is in the area of licensing. While we applaud the related Life & Health Insurance Sector-specific priority of “improve licensing effectiveness and efficiency” (addressed in more detail under Priority 6.2 below), we also believe that that is something that can be most effectively accomplished at an inter-jurisdictional, national level.

Nearly all CAFII members’ products and services are offered nationally, even if they are regulated provincially/territorially, and the same is true of the vast majority of the life and health insurance industry. A national insurance licensing system would be a tremendous efficiency boost for the industry. In our view, FSRA’s current opportunity to invest in new IM/IT systems – now that it has left the Ontario government’s shared services model and is investing in its own technology infrastructure, software, and processes – is the ideal moment to push for such a national licensing system.

## **4.3 Burden Reduction & Regulatory Effectiveness**

### ***Priority 3.1 Transition to Principles-Based Regulation (PBR)***

CAFII strongly agrees that to be more efficient and effective, FSRA must transition to a principles-based regulatory approach to facilitate innovation and modernize its processes and systems. We congratulate FSRA on the commitment to a PBR approach which it has consistently articulated and demonstrated in the Agency’s first year of operations.

We also strongly concur with FSRA’s view that meaningful consultation is central to any PBR approach. In that connection, CAFII looks forward to participating in the Agency’s planned Consultation with Stakeholders around *Proposed PBR Principles* in 2020-21 (Milestone B).

### ***Priority 2.7 Improve Information-Sharing with Regulators***

CAFII supports this FSRA priority, particularly as we believe that addressing existing impediments and roadblocks in this area will enable FSRA, as the financial services regulator in Canada’s most populous province and the economic engine of the country, to play a strong national leadership role at CCIR and CISRO. In that connection, we were encouraged to see that Huston Loke, FSRA’s Executive Vice-President, Market Conduct, has become a Vice-Chair of CCIR; and we strongly advocate continued senior-level FSRA engagement in the two national co-ordinating bodies of insurance regulators in the future.

Similarly, we encourage FSRA to pursue, as a near-term priority, senior leadership participation on the international stage, through bodies such as the International Association of Insurance Supervisors (IAIS).

### **5.3.2 2020-21 Draft Life and Health (L&H) Insurance Priorities**

#### **Priority 6.1 Enhanced Market Conduct Oversight to Protect Consumers**

CAFII agrees with and supports this FSRA priority, including the initial predominant focus on the MGA distribution channel and working closely with the industry-regulatory G4 task force to consider issues and solutions in that channel.

We are pleased by FSRA's commitment to lead in the exploration and potential implementation, at the CISRO table, of a nationally harmonized industry *Code of Conduct For Intermediaries*, recognizing that there will be meaningful stakeholder consultation on the possible Code of Conduct under FSRA's leadership at CISRO.

We also encourage FSRA to maintain ongoing engagement with the industry around the implementation/application of *CCIR/CISRO's Guidance: Conduct of Insurance Business and Fair Treatment of Customers*. As FSRA already appreciates, the industry strongly supports Fair Treatment of Customers, in principle and in practice, but FTC precepts are focused largely on aspects of "business culture" which are difficult to measure and demonstrate.

#### **Priority 6.2 Improve Licensing Effectiveness and Efficiency**

CAFII strongly supports this FSRA priority and, in particular, we acknowledge the critical nature of developing a common process for capturing and consolidating licensing statistics and of ensuring that effective licensing processes are in place and framed around market conduct risk.

However, we again stress that having to participate in and comply with 13 different licensing processes at the provincial/territorial level for insurance products and services that are offered to a national consumer marketplace is inherently inefficient. As a start-up regulator with enhanced powers and resources, FSRA is ideally positioned to provide national leadership towards a Canada-wide insurance licensing system.

Our Association has also long-advocated the position that, if all provincial/territorial licensing bodies agree, a licensee who meets the requirements and standards to be licensed in one Canadian jurisdiction should be able to become automatically licensed in all other Canadian jurisdictions, without further cost or requirements, through a system of mutual, reciprocal recognition.

As a contingency consideration in this area, if mechanisms cannot be put in place in the near future to allow for a harmonized, national insurance licensing system, CAFII strongly encourages FSRA to build its licensing portal with that bigger picture goal in mind, by making it scalable and capable of supporting a harmonized, national licensing system in the future.

#### **2019-20 Priority 5.3 Harmonize Treating Consumers Fairly Guidance**

CAFII was very encouraged by, and fully supports, the recent indication by FSRA CEO Mark White that FSRA will shortly issue an official communication to advise that the *CCIR/CISRO Guidance: Conduct of Insurance Business and Fair Treatment of Customers* will become FSRA's own and official Guidance for the life and health insurance sector, thereby eliminating the duplication and confusion caused by having FSCO's Guideline also at play in this sector.

That move on FSRA's part will allow the industry to focus on meeting CCIR/CISRO/FSRA's FTC expectations rather than having to devote considerable time to "exception management," driven by competing Guidance documents. We believe that this is another example of FSRA's leadership "walking the talk" and we applaud the Agency for making this reasonable and prudent decision.

### **Fiscal Year 2020-21 FSRA Budget**

With respect to FSRA's proposed 2020-21 budget, CAFII members are comforted by the fact that the year-over-year overall percentage increase is a reasonable 2%. We recognize that for the Life & Health Insurance sector, the year-over-year percentage increase is somewhat above 5%, as a one-time provision to fund the hiring of additional market conduct staff expertise.

In our view, the proposed budget demonstrates prudent and responsible fiscal management and suggests that FSRA has reasonable cost controls in place and has its fiscal house in order.

Our Association was pleased by the indication that technology investments will now be recovered from the sectors over a five-year period, as that approach better matches the costs and benefits for fee rule purposes.

### **Conclusion**

In conclusion, we note that while FSRA has certain rule-making authority, the extent of that authority in the life and health insurance sector is limited. CAFII believes that FSRA's securing of greater rule-making authority for life and health insurance will give the Authority the nimbleness and flexibility required to respond to industry developments more quickly. We therefore encourage FSRA to work on obtaining additional rule-making authority for life and health insurance through the appropriate government channels.

By way of a constructive suggestion related to FSRA's much-appreciated commitment to open, transparent communication and consultation, CAFII encourages the Authority to send all regulatory consultation documents directly to industry and consumer stakeholder groups – or, at the very least, send email notification to stakeholder groups of such -- rather than just post them on the FSRA website.

Thank you again for the opportunity to provide input and feedback on *Draft Fiscal Year 2020-21 Priorities and Budget*. Should you require further information from CAFII or wish to meet with representatives from our Association at any time, please contact Brendan Wycks, CAFII Co-Executive Director, at [brendan.wycks@cafii.com](mailto:brendan.wycks@cafii.com) or 647-218-8243.

CAFII and its members remain committed to supporting FSRA in its critically important mission and mandate; and we look forward to continuing our involvement as key stakeholder contributors to the Authority's ongoing success.

Sincerely,



Martin Boyle  
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 travel, life, health, property and casualty, and credit protection insurance across Canada. In particular, credit protection insurance and travel health 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 that helps ensure Canadian consumers get the insurance products that suit their needs. Our aim is to ensure appropriate standards are in place for the distribution and marketing of all insurance products and services.

CAFII's members are the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Financial Security; National Bank Insurance; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players Assurant, Canadian Premier Life Insurance Company/Valeyo, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and The Canada Life Assurance Company.