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## Submitted VIA FSRA Website

### RE: Proposed Rule [2020-002] – Unfair or Deceptive Acts or Practices

Canada Life appreciates the opportunity to provide input on Proposed Rule [2020-002] – Unfair or Deceptive Acts or Practices (the “Proposed Rule”).

Founded in 1847, Canada Life is a leading insurer in Canada, offering a broad portfolio of financial and benefit plan solutions for individuals, families, businesses and organizations. Canada Life serves the financial security needs of more than 13 million Canadians and collectively manages investments in excess of \$109 billion in Canada. In 2019 we employed more than 11,000 Canadians, paying \$3 billion in salaries, commissions and taxes. In the same year, \$9.7 billion in benefits were paid to our customers. Our commitment to Ontario is substantial with almost \$240 million in taxes paid in 2019. We employed more than 5,500 Ontarians directly in 2019 with more than half of our 22,000 distribution associates, most of whom are small business owners, also calling the province home.

While Canada Life is supportive of efforts to better define and regulate unfair and deceptive practices, the Proposed Rule validates our long-held concerns that public policy changes motivated by the property and casualty insurance sector (P&C) can spill over and have unintended consequences on the life and health sector. For instance, we understand that s. 7 of the Proposed Rule, that would expand the scope of allowable incentives and inducements, is intended to promote greater innovation and competition in the P&C sector. However, regardless of the policy intention, the Proposed Rule, including the expanded scope for incentives and inducements will be applicable to both the P&C and life and health sectors of the insurance industry. Therefore, a cautious approach that spells out the impact of the rule change on both advisors and insurers in the life and health sector is warranted.

#### Impact on Life and Health Advisors

The consultation document states that the proposal on incentives is, “not meant to address standalone advisor conduct requirements related to offering incentives in the L&H sector (prohibitions on inducements in the Agents regulation under the Insurance Act are not in scope for rulemaking).” We understand this statement, and the reference in s. 7(1)(ii) of the Proposed Rule to, “otherwise prohibited under the Act, Regulations or Rules” to be referring to Ontario Regulation 347/04 s. 17 (a) (the “Regulation”). To this end, we note the Regulation states an agent who holds a life insurance licence shall not, “offer **inducement** or use coercion or undue influence in order to control, direct or secure insurance business”. The proposed rule on the other hand refers at s. 7(1)(i) to an “**incentive or inducement**” (emphasis added). The use of the word “incentive” in the Proposed Rule could be read as

expanding the scope of what is allowed to go beyond that which would remain prohibited on the part of life agents under the Regulation, that being only inducements.

Canada Life is of the view that expanding the scope of what is allowed with regard to incentives and inducements by way of a FSRA rule applicable to both the P&C and life and health sectors while relying on a regulation with inconsistent wording to continue to prohibit the practice on the part of life and health advisors, is confusing at best. At worst, there is scope for what we believe would be a misinterpretation on the part of some life and health advisors that inducements and incentives will now be allowed, subject to the suitability of the product being sold.

We therefore propose that s. 7 of the Proposed Rule contain an explicit reference to the continuing priority and applicability of Ontario Regulation 347/04 s. 17 (a) with regard to those who hold a life insurance licence. Plain language explanatory notes that the prohibitions applicable to life and health agents remain in place would also be useful.

#### Impact on Life and Health Insurers

The proposed rule would replace Ontario Regulation 7/00 and its restriction on insurers offering rebates. In place of the current regulation, the new rule would allow insurers to offer incentives subject to the product sold being considered suitable by a reasonable insurance licence holder. Again, we understand that the policy motivation is to encourage greater competition and innovation in the P&C sector. However, unlike the analysis of the impact on life and health advisors, where a regulation prohibiting incentives would remain in place, upon the repeal of Regulation 7/00, no such restriction would continue to apply to life and health insurers. Therefore, the comments that follow are offered on the assumption that FSRA's policy intention is to remove the prohibition with regard to insurers in both the P&C and life and health sectors. In addition to these specific comments, we submit that it would also be helpful for FSRA to clarify this point.

Consideration of the impact of the proposed change on the life and health sector can be thought of under two headings, impacts on individual insurance customers and impacts on group insurance customers.

#### Impact on Individual Insurance Customers

If it is FSRA's intention to allow life and health insurers to offer incentives subject to the sold product being suitable, this could be a positive development for individual insurance consumers assuming certain parameters are respected. The most important of these would be any discount or incentive should be offered on the same terms by the insurer to customers of a particular product across all its distribution channels. There should be no circumstances of incentives being offered on an ad hoc or preferential basis, or of an agent having discretion to offer the incentive. It also merits mention for absolute clarity that the benefit associated with any incentive offered must accrue to the customer.

Suitability and needs analysis will become even more crucial to ensure the sale is not due to lower initial pricing or other incentive. This may be a more important consideration in life and health than in P&C as P&C products tend to be more commoditized and more easily replaced. The sale of an unsuitable life

and health product can have serious and long-lasting consequences and may not be easily replaced as health status changes. While suitability is and will remain an important consideration regardless of the Proposed Rule, any incentive programs created by life and health insurers should be guided by fair treatment of customers principles to make sure customers continue to receive a suitable product for their needs.

The requirement in the Proposed Rule that the product sold be considered suitable by a reasonable person licenced to sell the product in question effectively means that the current, easily understood blanket prohibition, would be replaced by a prohibition subject to two subjective elements. Therefore, we would encourage FSRA to consider further guidance as to the meaning of suitable product and reasonable advisor.

### Impact on Group Insurance Customers

Per the above comments, Canada Life can see the Proposed Rule on incentives offering some potential benefit for individual insurance customers. However, it is more difficult to see how the proposed rule would be applicable to the group insurance space. This remains true with regard to both group benefit customers and group retirement customers (“group insurance”).

Unlike individual insurance products, that while underwritten to the circumstances of an individual, remain the same contract with the same terms, conditions and benefits, each group insurance contract is tailored to the requirements of the plan sponsor and the characteristics of the group. Each group plan and the basket of benefits offered is a result of a process of the insurer working with the plan sponsor and/or their advisor to determine the most appropriate plan design for that group. Group insurers compete for the sponsor’s business on the basis of a number of factors including service levels, additional benefits that can be provided (for example access to an employee assistance program) and importantly, on pricing. Competitive dynamics mean insurers are incented to offer the most attractive package compatible with the viability of offering the product at the proposed price.

There are other aspects of group insurance including the role of plan sponsors and group advisors that make it distinct from individual insurance and even more distinct from P&C products. Group products are often the bedrock of many Ontarians’ physical and mental health, financial security and retirement planning. For these reasons, we suggest that FSRA proceed with extreme caution in making any changes applicable to group insurance. We strongly advise carving group insurance products out of the proposed rule change and that any consideration of modifications to this important aspect of Ontarians’ well-being be undertaken only after a thorough analysis focused exclusively on this space and not as part of broader changes applicable to P&C insurance and individual life and health insurance.

### National scope

Finally, we would point out that while FSRA is an important regulator in Canada’s most populous province, any changes made by FSRA will impact only Ontario. Canada Life and other insurers operating across the country will continue to be subject to rules and regulations in each jurisdiction where they do business. It is for this reason that we prefer to operate under consistent rules and practices throughout the country and that any greater scope for incentives being allowed in Ontario may be challenging to operationalize.

We would be happy to discuss any of the matter raised herein at your convenience.

Regards,

A handwritten signature in black ink, appearing to read 'A. Fitzpatrick', followed by a horizontal line with several parallel strokes underneath it.

Andrew Fitzpatrick  
Assistant Vice-President, Government Relations & Public Policy