

August 11, 2021

Financial Services Regulatory Authority of Ontario
Auto Insurance Sector
25 Sheppard Avenue West, Suite 100
Toronto, ON
M2N 6S6

Re: Proposed Rule [2020-002] Unfair or Deceptive Acts or Practices

On behalf of Desjardins General Insurance Group (DGIG), I am pleased to respond on the Financial Services Regulatory Authority of Ontario's (FSRA) [Proposed Rule 2021-008](#) Unfair or Deceptive Acts or Practices (UDAP).

DGIG is a subsidiary of Desjardins Group, which is the leading financial cooperative group in Canada with over 7 million members and clients. We are the leading insurer of personal use vehicles in Ontario and the 2nd largest Property & Casualty insurer in Canada.

As members of the Insurance Bureau of Canada (IBC) and Canadian Association of Direct Relationship Insurers (CADRI) we have also contributed to their submissions and are in support of their observations and recommendations. We wish in this submission to bring our emphasis to key issues related to your effort

Consumer Protection - Long-term Vision

As we shared during the first consultation opportunity, the current UDAP regulation is too prescriptive and is a barrier to innovation. Ultimately, we recommend the adoption of the Fair Treatment of Customers (FTC) guidance by the Canadian Council of Insurance Regulators as FSRA's consumer protection principle-based guidance.

As a first step in this journey, we continue to support FSRA's effort to draft a principles-based rule to replace the current regulation that can provide FSRA with additional flexibility in supervision of conduct in insurance and can enhance consumer protection.

Reasonable Person Definition

We welcome the additional clarity provided and the wording refinement of the rule's definition of a "reasonable person" in section 1(3)(i).

Variance of Formal and Informal Processes

We understand from your published comments that "variance of formal or informal processes and procedures which make it more difficult for certain persons to interact with an insurer, broker or agent for the purpose of discouraging or delaying such persons from applying for, renewing or obtaining automobile insurance" will not deter or inhibit insurers from keeping premiums affordable and fair for consumers through reasonable fraud prevention and risk management processes related to increased information validation.

Responsibility for Committing a UDAP

We understand that the proposed language is intended to prevent persons from escaping liability for committing a UDAP by deflecting responsibility to employees or otherwise hiding behind a corporate structure.

In our view, the existing UDAP regulation and regulatory oversight practices sufficiently mitigate the opportunity for organizations to deflect responsibility to their employees. The proposed broader concept of “committing” an unfair or deceptive act or practice could unintentionally create an atmosphere of potential direct liability for many employees.

Change Management – Principle-based Regulation

Beyond this UDAP rule effort, our broader transition effort to principle-based regulation will require change management efforts by both regulators and insurers.

We appreciate your openness to the possibility that FSRA partner with industry to create learning forums where roadmaps for a successful transition can be shared perhaps including presentations by leading domestic and international practitioners of principle-based regulation. It will be important for a common understanding of the changing regulatory environment and with that changes to expectations, practices and responsibilities for both the regulator and the regulated entities.

Thank you for the opportunity to provide our comments. We look forward to working together to better serve Ontario insurance consumers.

Sincerely,



Sam Palmerio
Manager, Government Relations
Desjardins Group