



Canadian Life & Health
Insurance Association
Association canadienne des
compagnies d'assurances
de personnes

June 30, 2023

Mr. Huston Loke
Executive Vice President, Market Conduct
Financial Services Regulatory Authority of Ontario (FSRA)
25 Sheppard Ave West, Suite 100
Toronto, ON M2N 6S9

Submitted by email to: huston.loke@fsrao.ca

Re: Amendment 2 to the Unfair or Deceptive Acts or Practices Rule for Deferred Sales Charges

Dear Huston:

The CLHIA is pleased to respond to FSRA's consultation regarding Amendment 2 to the Unfair or Deceptive Acts or Practices Rule related to requirements for deferred sales charges (DSCs) in individual variable insurance contracts (Amendment 2).

The CLHIA agrees that Amendment 2 supports fair treatment of customer outcomes for continuing DSC contractholders and an appropriate model for notifying customers of what will happen to their DSC contracts. Including an option for simplified notice requirements for new sales charge options that are deemed to be unequivocally better for an insured is an important improvement to the rule.

Our detailed comments regarding Amendment 2 are set out below.

About CLHIA

The CLHIA is a voluntary association whose member companies account for 99 per cent of the life and health insurance business in Canada. These insurers are significant contributors to Ontario and its economy. They provide financial security to about 11.1 million Ontarians and make over \$50 billion in benefit payments (of which 90 per cent goes to living policyholders as annuity, disability, supplementary health, or other benefits with the remaining 10 per cent going to life insurance beneficiaries). In addition, life and health insurers have more than \$380 billion invested in Ontario's economy. A large majority of life and health insurance providers are licensed to operate in Ontario, with sixty-two headquartered in the province.

Notice to Continuing DSC Contractholders

Given the practicalities of providing notice to continuing DSC contractholders, it would be helpful for the wording in section 12 (8) to be updated to be consistent with the wording in section 12 (4) and allow flexibility for notice to current contractholders to be provided either “before **or promptly after**” accepting a DSC deposit. Please consider the following suggested wording adjustment for section 12(8):

“An insurer accepting a deposit to an individual variable insurance contract that may be subject to a deferred sales charge, unless the insured receives written disclosure from the insurer before or promptly after the insurer accepts the deposit, that is reasonably designed to help the insured understand the sales charge options available to them and whether making a deposit on a deferred sales charge basis is suitable for the insured.”

Development of Explanatory Document

Amendment 2 is quite detailed in its requirements and it is difficult for a reader to easily connect one section to another. It would be helpful for FRSA to publish an explanatory document along with the final rule. The flow chart in “Appendix D – Effects of UDAP Rule Amendment 2 on Existing IVICs” from the Notice of Changes and Request for Comment document would be helpful to include in an explanatory document.

We would note that FSRA intends to adopt a simplified approach by redrafting these requirements into a segregated fund specific rule. We would be supportive of this initiative.

No Retroactive Application

It should be noted that in some cases, insurers have already provided notice to their customers and implemented changes related to current DSC contracts. If notices have already been provided to contractholders and were generally aligned with the initial proposed rules or the new proposed rules, we understand that no supplementary notice needs to be provided related to switches from DSCs.

Implementation Timeline

Many insurers are in the process of making changes for currently in-force DSC contracts. It is important they are allowed to have sufficient time to implement the requirements of Amendment 2 following the publication of the final rule requirements. Generally, we believe an implementation timeline of 18 to 24 months should be allowed following publication of a final rule requirement. In particular, it is our view that no administrative monetary penalty should be levied for non-compliance for a period of at least one year following the later of the publication or effective date of the Amendment 2 requirements.

Legacy Systems

As previously noted, for contracts administered on a legacy IT system, it may not be possible to switch the sales charge option taking into account the practicality of making IT system changes. As noted in the Response to Comments document, we agree that in such a circumstance, an appropriate approach is for the insurer to contact FRSA and agree on a solution that will ensure customers are treated fairly.

Harmonized Approach to Implementation

Insurers plan to implement the changes related to Amendment 2 in the most efficient way possible by adopting a national approach. We would encourage FRSA to continue to work with CCIR to maintain a harmonized approach.

Thank you for the opportunity to comment on this important regulatory change for the industry.

Sincerely,



Brent Mizzen
Assistant Vice President, Market Conduct Policy and Regulation

cc. Erica Hiemstra, Head, Insurance Conduct, Market Conduct, FSRA
Chris Caldarelli, Senior Policy & Technical Lead Policy, Policy - Market Conduct, FSRA