



February 29, 2024

Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6
Attention: Mr. Stuart Wilkinson

Re: FSRA's Draft Guidance on Vulnerable Consumers

Dear Sirs;

Thank you for the opportunity to provide feedback on FSRA's Draft Guidance on Vulnerable Consumers. Aviva very much appreciates that FSRA is consulting early in the process.

Treating customers fairly and ensuring protection for vulnerable customers are important issues that fall within FSRA's consumer protection mandate. The workplan proposed by FSRA is broad. There may be opportunity for FSRA to take a step back, more clearly define the problem and ensure the Guidance is operational. We note that FSRA's plan refers to both vulnerable customers and vulnerable communities. While there may be some overlap, they are not the same. We recommend that FSRA focus on vulnerable consumers in its guidance. FSRA should also seek to understand what regulated entities are already doing to protect vulnerable customers. This will help FSRA determine how much attention this topic requires. Aviva, like other regulated entities already has standards and training in place to ensure the fair treatment of vulnerable customers (see section below).

Vulnerable Consumer Guidance should be anchored in the Fair Treatment of Customers

Insurers are required to comply with FSRA's Fair Treatment of Customers Guidance, the Unfair and Deceptive Practices Act and Take-all-Comers Guidance. This may be sufficient to address most of FSRA's concerns about vulnerable customers. If not, any additional vulnerable customer guidance should be anchored in the Fair Treatment of Customers. Other regulators that have introduced protection for vulnerable customers have done so in the broader context of treating customers fairly. For example, the FCA Vulnerable Customer Guidance states:

“The key Principle underpinning the need for firms to take particular care in the treatment of vulnerable consumers is Principle 6 – Customers' interests: A firm must pay due regard to the interests of its customers and treat them fairly.”

FSRA's Protection of Vulnerable Customers Guidance should supplement the existing Fair Treatment of Customers Guidance rather than creating a separate stand-alone guidance.

FSRA should take a risk-based approach

The opportunity for harm varies amongst regulated sectors. There is less opportunity for harm in the property and casualty insurance sectors than there is in mortgage lending or deposit taking credit union sectors. FSRA should take a risk-based approach and focus on the sectors where there is the highest risk of harm.

The Definition of Vulnerable Customer

FSRA's proposed definition of Vulnerable Customer is: "A vulnerable consumer is someone who is at higher risk of experiencing financial mistreatment, hardship, or harm, due to various factors and personal circumstances."

This definition is similar but not identical to FCA's definition: "A vulnerable customer is someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care."

If FSRA is intent on introducing a Vulnerable Customer Guidance, the term "Vulnerable Customer" should be defined. We recommend adopting FCA's definition. FCA's version does not refer to financial mistreatment and therefore incorporates harm that can arise from lack of accessibility or fairness. This is more appropriate in the property and casualty insurance context. FCA's definition also ties the potential harm to the entity's actions through the phrase "particularly when a firm is not acting with appropriate levels of care".

FSRA's Guidance should also articulate FSRA's expectation of regulated sectors with respect to vulnerable customers. A regulated entity should be expected to provide additional support to a vulnerable customer. This could be achieved by revising the definition to say:

"A vulnerable customer is someone who, due to their personal circumstances, is especially susceptible to harm, particularly when a firm is not acting with appropriate levels of care **and therefore requires additional support**."

Alternatively, the expectation can be set out in FSRA's Guidance. Again, it may be useful to refer to FCA's Guidance may be useful for this purpose. The FCA sets out the following goals/ principles in its Guidance:

"We want vulnerable consumers to experience outcomes as good as those for other consumers and receive consistently fair treatment across the firms and sectors we regulate." (Section 1.3)

“When we consider our consumer protection objective, we have regard to the general principle that consumers should take responsibility for their choices and decisions. However, we know that there are very real factors that might limit their ability to do so.” (Section 1.4)

Aviva recommends that FSRA frame their expectations regarding vulnerable customers in a similar fashion.

Vulnerable Customers should Self-identify

The above noted FCA principles are noteworthy. It is important that FSRA’s Guidance similarly start with the principle that customers are responsible for their choices and decisions. It should also be the customer’s responsibility to signal the need for additional support. Although some vulnerabilities may be apparent, insurers often have no way of knowing whether a customer is vulnerable and needs additional support. There is a general prohibition against gathering information about vulnerabilities (eg. Income, health issues, education etc). The Guidance should be clear that the consumer is responsible for identifying that they need additional support and insurer is responsible for providing additional support.

Vulnerability is not Affordability

It is particularly important to property and casualty insurers, that vulnerability is not defined as affordability. Auto insurance is a mandatory and heavily regulated product. A lot of consumer dissatisfaction with insurance relates to affordability. Aviva works with its customers to offer payment plans but in the absence of product reform, including more choice, Aviva cannot address affordability concerns. Vulnerability should not be confused with affordability.

Learnings from the UK

We reached out to our UK colleagues and asked them to share their learnings. FSRA may wish to consider the following:

- *Customers do not want to be labelled as “Vulnerable Customers”*- Aviva refers to these customers as “Customers who Need Additional Support”. This is important because it signals to Aviva’s employees what is expected and this description helps to frame the Guidance.
- *Privacy implications need to be considered*- Customers do not want to disclose their vulnerability repeatedly. They want to tell the insurer once and rely on the insurer to retain this information, as appropriate. This has privacy implications. How can or should an insurer retain the customer’s information? How long is this information to be retained? Does the insurer have an obligation to refresh/ verify the information?
- *Intermediaries*- The customer may communicate their need for additional support to an intermediary, such as a broker. What is the role of the broker or intermediary who receives this information?

Aviva's Fair Treatment of Vulnerable Customers

Our parent company has introduced a global Customer Experience Business Standard that each business unit is required to adopt. The objective of the Business Standard is to specify the minimum requirements to ensure that Aviva mitigates the risk of not acting in the best interests of all of its customers, not continuously improving customer experiences and not delivering great customer outcomes. This applies to all customers throughout their relationship and interactions with Aviva, across all distribution channels and customer contact channels. The Business Standard requires each business unit to have in place a vulnerable customer definition and policy which meets the expectation of any local regulatory requirements. Annual training must be provided to all appropriate staff so they can proactively identify customers who are vulnerable and respond and adapt to support the individual needs. This includes customers who are vulnerable due to:

- channel & access issues (e.g. hearing, sight, language barriers and physical disability);
- comprehension (e.g. mental capacity, low financial awareness, age related issues);
- circumstances (e.g. bereavement, illness etc.); and
- customers whose financial resilience is low. Often this may be temporary (e.g. flood victims).

Aviva Canada has implemented the Customer Experience Business Standard. Our employees receive vulnerable customer training annually. We have also put in place a number of supports for customers, including the following:

- We spread out monthly payments;
- We reinstate policies cancelled for non-payment;
- We waive NSF fees;
- We provide accessible documents;
- We factor vulnerability impacts into underwriting decisions – for example, when a customer is cancelled for non-payment, we might make the underwriting decision not to rate for cancellation.
- We provide translation services for customers who don't speak English or French.

Thank you for the opportunity to provide feedback. We would be pleased to meet with you and provide further details.

Yours very truly,
Aviva Canada Inc.

Karin Ots
Senior Vice-President, Regulatory and Government Relations