

8 March, 2024

Mr. Stuart Wilkinson
Financial Services Regulatory Authority of Ontario 25 Sheppard Ave W Suite 100
North York, ON M2N 6S6
Stuart Wilkinson Stuart.Wilkinson@fsrao.ca

RE: Consultation on FSRA's Proposed Approach to Strengthening Protection of Vulnerable Consumers

Dear Mr. Wilkinson:

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 Proposed Approach to Strengthening Protection of Vulnerable Consumers***.

CAFII commends FSRA for engaging in this exercise, and for consulting with key stakeholders about the proposed approach. We are of the view that there are better regulatory outcomes when regulatory authorities consult widely with interested parties including industry, and that such an approach promotes key regulatory objectives including the protection of consumers. The consultation approach on this critical initiative is appreciated, including the information webinar held on February 8, 2024 at which a remarkable 1000 people were in attendance, which is certainly a testament to the importance of this initiative.

We note the imperative for this initiative, which is that research by FSRA shows that “in all its regulated sectors, vulnerable groups tend to be less trusting.” We also agree that efforts in this area are aligned with FSRA's statutory objectives, including contributing to public confidence in the regulated sectors, promoting education and knowledge about the regulated sectors, promoting high standards of business conduct in financial services, and protecting the rights and interests of financial services consumers.

CAFII's members are distributors and insurers offering health and life insurance products, an industry that is foundationally based on trust and treating customers fairly. We are fully aligned with FSRA's objectives, but we do believe that the details will be critically important in achieving your stated objectives and outcomes. In that vein, we think further discussion of the definition of “vulnerable” is essential. The definition proposed in the consultation document from FSRA is:

A vulnerable consumers is someone who is at higher risk of experiencing financial mistreatment, hardship, or harm, due to various factors and personal circumstances.

We would suggest that the focus not be on the **concept of a vulnerable consumer**, but instead on **the components of vulnerabilities** which are a more effective point of reference. Vulnerabilities often exist and are prevalent in the context of social inequities. As an example, what are the unintended negative consequences and consumer experiences that could come about by treating all customers over an arbitrary age as a vulnerable, elderly population? Adding in extra steps to protect such a group, whether they have vulnerabilities relative to their financial interaction with financial institutions or not, could result in unintended negative consequences. Some such customers might not view themselves as vulnerable, and some might be offended at being so characterized.

By way of comparison, the AMF paper on this subject speaks to factors that can cause customers to be vulnerable.¹ By taking this approach, the AMF is **not** starting with a presumption that the person is vulnerable and therefore certain actions need to be taken. Rather, the AMF is saying there are *situations* that could make a person vulnerable. FSRA's definition is saying there is *something inside* the person that makes them vulnerable, and the AMF is saying there are *situations outside* of the person that could generate vulnerability. The AMF and FSRA definitions are not totally aligned and it is our recommendation that FSRA should focus more on "situations of vulnerability."

By way of further comparison, the UK Financial Conduct Authority (FCA) definition of a vulnerable consumer is:

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.

On balance, CAFII would suggest that the FCA definition might be more appropriate, as it focuses on outcomes ("*higher risk of experiencing financial mistreatment*") as opposed to characteristics of a person ("*personal circumstances*") which may or may not make that person vulnerable and moves the focus away from one of attributes to one of avoiding undesired outcomes.

The UK guideline identifies 4 drivers of vulnerability: health, life events, capability and resilience. An example provided in the Guideline is illustrative:

Firms should understand that characteristics of vulnerability are likely to be complex and overlapping. For example, a life event like a relationship breakdown or bereavement may lead to further vulnerability such as mental ill-health or low resilience. This may be made worse if the consumer has low or limited capability to engage with financial services or to manage their finances (page10).²

This example demonstrates that there are external components of vulnerabilities that at times a person has limited control of.

¹ The AMF report can be found at: [AMF Report on Protecting Vulnerable Clients](#).

² The FCA report can be found at: [FCA Guidance for firms on the fair treatment of vulnerable customers](#).

In that same regard, we note the instructive comment from an individual on your website's comment section specifies:

It is crucial to avoid stigmatizing specific groups such as "seniors" (however that is defined) or the "disabled" (ditto) by describing the group as a whole as "vulnerable."

To further the discussion on the definition and the approach, we encourage FSRA to move forward on some of its proposed actions, such as "dialogues with regulated entities" including the possibility of a cross-sector technical advisory committee. Additional research is another worthwhile activity that we would support.

CAFII would also encourage FSRA to align its approach with other, existing regulatory guidance on vulnerable consumers and try not to create additional, burdensome expectations or obligations, with a particular focus on the CCIR/CISRO Guidance on the Fair Treatment of Customers.³ We believe that harmonization across provincial regulators is critical and encourage FSRA to seek as consistent an approach as possible, and to share its work with the CCIR and CISRO.

Thank you again for the opportunity to provide input and feedback on *FSRA's Proposed Approach to Strengthening Protection of Vulnerable Consumers*. Should you require further information from CAFII or wish to meet with representatives from our Association at any time, please contact Keith Martin, CAFII Executive Director, at keith.martin@cafii.com or 647.460.7725.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rob Dobbins', followed by a horizontal line extending to the right.

Rob Dobbins
Board Secretary and Chair, Executive Operations Committee

³ The Guidance on the Conduct of Insurance Business and Fair Treatment of Customers can be found at: [CCIR/CISRO FTC Guidance.](#)

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

CAFII's 14 members include the insurance arms of Canada's major financial institutions--BMO Insurance, CIBC Insurance, Desjardins Insurance, National Bank Insurance, RBC Insurance, Scotia Insurance, and TD Insurance, along with major industry players Assurant Canada, The Canada Life Assurance Company, Canadian Tire Bank, Chubb Life Insurance Company of Canada, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and Securian Canada.