

JULY 2023

Insurer Code of Market Conduct

Consultation Summary Report

BCFSA 

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Introduction

Following a review of the *Financial Institutions Act* (“FIA”) that involved consultation with stakeholders and the public in 2015 and 2018, the B.C. government introduced a series of legislative amendments aimed at modernizing the FIA. This included providing additional authorities to BC Financial Services Authority (“BCFSA”) to support its market conduct supervision and oversight.

In June 2022, the B.C. government brought into force section 94.1 of the FIA, which set out a requirement for insurers to adopt and comply with a Code of Market Conduct established by BCFSA (the “Code”). The legislation applies to insurers authorized to conduct insurance business in B.C. once BCFSA has formally established the Code.

BCFSA developed an initial proposed Code and on June 21, 2022, launched a consultation on the following:

1) The Insurer Code of Market Conduct

The Code set out fundamental principles and desired outcomes to ensure fair treatment of customers (“FTC”). The Code was designed to provide insurers with the necessary latitude to determine the requisite strategies, policies, processes, procedures, and controls that apply to the offer of insurance products to customers.

2) A Supplemental Guideline to the Code of Market Conduct (the “Guideline”)

The Guideline provided insurers the flexibility to implement BCFSA’s expectations in a risk-based and proportionate manner given the differences in size, scale, and complexity of each insurer. Insurers were encouraged to consider the Guideline when setting or revising their policies and procedures and operating their business.

Consultation Process Overview

On June 21, 2022, BCFSA hosted a virtual information session introducing the proposed Code and the Guideline. This was followed by a planned 45-day consultation period ending on August 5, 2022. Following requests from industry, BCFSA extended the consultation until September 10, 2022.

Upon receiving and analyzing the consultation feedback, BCFSA sent follow-up questions to four industry associations.

Input received during the consultation period and follow-up questions was used to create the final version of the Code.

This report summarizes the consultation feedback received from industry and the public and includes BCFSA’s responses.

For information on the initial proposed Code and Guideline see the [Consultation on Insurer Code of Market Conduct](#) page in the Consultations and Engagements section of BCFSA’s website.

Summary of Feedback

BCFSA received aggregate written feedback from four industry associations, including the Insurance Bureau of Canada, the Canadian Life and Health Insurance Association, the Canadian Association of Financial Institutions in Insurance, and the Canadian Association of Direct Relationship Insurers. In addition, BCFSA received direct written feedback from the Insurance Council of B.C., one insurance company, and one member of the public.

The majority of comments received were related to the Guideline, rather than the Code.

STAKEHOLDER FEEDBACK TABLE

Based on the feedback received, BCFSA has redrafted its Code and has opted not to proceed with an accompanying Guideline at this time. The following table summarizes the feedback received specifically on the Code and categorized by key themes.

#	Common Theme	Summary of Issue/Comment	BCFSA Response
1	Harmonization	<p>Stakeholders suggested that BCFSA adopt the Canadian Council of Insurance Regulators (“CCIR”) and the Canadian Insurance Services Regulatory Organizations’ (“CISRO”) joint Guidance, Conduct of Insurance Business and Fair Treatment of Customers (“CCIR FTC guidance”) as the Insurer Code of Market Conduct.</p> <p>Stakeholders also suggested that BCFSA not introduce any new principles and expectations for B.C. insurers to avoid inconsistencies with other jurisdictions and increased administrative burden.</p>	<p>BCFSA cannot adopt the CCIR FTC Guidance in whole for several reasons including that the Guidance:</p> <ul style="list-style-type: none"> - covers both Insurers and Intermediaries, and - contains a mixture of principles and corresponding expectations that are not appropriate to elevate to the level of a mandatory code. <p>Instead BCFSA is adopting outcomes from CCIR FTC Guidance as principles and has revised the Code accordingly.</p> <p>BCFSA did not include any new principles or expectations in the Code.</p>
2	Market conduct supervision	Stakeholders suggested the Code should include an auditing framework that ensures insurer compliance with statutory responsibilities.	<p>BCFSA conducts regular examinations and investigations of insurers’ compliance with statutory responsibilities.</p> <p>The market conduct supervisory approach is a separate process and does not form part of the Code.</p>
3	Principles-based vs compliance-based regulation	Stakeholders expressed support for insurance regulators, including BCFSA, to be more principle-based and, at the same time, requested regulators to be specific and detailed-oriented in their expectations.	<p>BCFSA has taken this feedback on the initial proposal and further developed a principles-based Code that signals the importance of embedding FTC principles in insurers’ governance and practices. The approach provides latitude to insurers to determine requisite strategies, policies, processes, procedures, and controls to achieve the embedded principles depending on the nature, size, and complexity of an insurer’s activities.</p>

			BCFSA will monitor insurers' adherence to the Code in B.C. and may develop additional guidance in the future if it sees significant gaps in insurers' adherence to the Code.
4	Transitional period	Stakeholders commented that the Code does not provide timelines for implementation and, if established as is, insurers will need three years to become compliant.	<p>BCFSA adopted outcomes from CCIR FTC Guidance as principles in its Code. CCIR FTC Guidance has previously been endorsed by insurance regulators across Canada. BCFSA (previously Financial Institutions Commission) endorsed the guidance in 2018.</p> <p>BCFSA will enforce the Code starting April 1, 2024.</p> <p>During the engagement with the industry in 2022 and 2023, BCFSA heard that insurers align their compliance regime with the CCIR FTC guidance. Therefore, BCFSA expects minimum effort will be required for insurers to adopt the Code as the language closely aligns with long-standing CCIR FTC Guidance.</p>
5	Duplication of expectations between the Code and the Guideline	Stakeholders commented on the duplicative expectations included in the Code and the Guideline.	BCFSA adopted language from CCIR FTC Guidance in the Code and will not be releasing an additional Guideline at this time. Should BCFSA release additional guidance in the future, it will ensure there is no unnecessary duplicative language.
6	Arrangement with insurers, intermediaries, and service providers	Stakeholders suggested clarifying expectations of insurers, intermediaries, and service providers in ensuring the FTC.	<p>BCFSA's expectation, which is aligned with CCIR FTC guidance, is that insurers remain responsible for servicing policies throughout their life cycle and ensuring that intermediaries have appropriate policies and procedures in place in respect of the policy servicing activities performed on the insurer's behalf.</p> <p>BCFSA will discuss with CCIR if there is a need for further guidance on the roles and responsibilities of parties involved in issuing and servicing insurance policies.</p>
7	Business culture	Stakeholders expressed concerns that assessments of business culture related principles would require an assessment of abstract and subjective values leading to increased regulatory burden. Stakeholders suggested that the focus should be on the insurer's implementation of FTC-related policies, objectives, and measurable outcomes.	<p>BCFSA conducts regular examinations and investigations of insurers' compliance with statutory obligations.</p> <p>To assess business culture, including if FTC is a core component of insurer's governance and corporate culture, BCFSA will use expectations included in the CCIR FTC-related guidance and reports.</p>
8	Advice	Stakeholders suggested that BCFSA clarify when the principle related to "Advice" is applicable given that some sellers are not qualified to give advice.	The Code is a principles-based document that provides insurers with latitude to implement principles in a flexible manner proportionate to insurers' operations. Insurers, upon request, are expected to provide a reasonable justification on how

			they have implemented the Code's principles.
9	Protection of personal information	Stakeholders suggested BCFSAs take a harmonized, cross-regulator approach to protection of personal information and avoid overlap or duplication in expectations between existing B.C. privacy legislation and the Code.	BCFSAs have adopted language from CCIR FTC Guidance in the Code. The protection of personal information principle is intended to support insurers in achieving FTC, while respecting existing legislation related to privacy protection.

Consultation Outcomes and Next Steps

BCFSAs value the feedback received and thanks the insurance industry, including associations and insurance companies, members of the public, and others that actively participated in the dialogue throughout the consultation process.

BCFSAs has finalized and released [the Code](#) and set an effective date for insurer compliance with the Code as of April 1, 2024.



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