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Financial Services Regulatory Authority of Ontario
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Via: <https://www.fsrao.ca/engagement-and-consultations/fsras-first-proposed-insurance-rule-released-public-consultation-unfair-or-deceptive-acts-or-practices-udap-rule>

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

I am writing on behalf of Allstate Canada Group (Allstate) comprised of Allstate Insurance Company of Canada, and its subsidiaries, Pembroke Insurance Company, Pafco Insurance Company and Ivantage Insurance Brokers Inc. We thank you for the opportunity to comment on FSRA's *Proposed Rule [2020-002] Unfair or Deceptive Acts or Practices* (UDAP Rule).

Allstate supports the comments within the industry submissions by Insurance Bureau of Canada (IBC) and Canadian Association of Direct Relationship Insurers (CADRI) and will therefore not repeat what is provided therein. However, Allstate would like to take this opportunity to comment further and more specifically on the Affiliated Insurers provision, particularly to provide awareness of some of the unintended challenges that arise from the customer experience and fair treatment of customers perspectives.

As you are aware, the current provision as provided for in O. Reg. 7/00 (UDAP Regulation) requiring insurers to offer the lowest price amongst their affiliates provides for an exception where the means of distribution is separate and distinct. The rationale for the exception makes good sense, as it would be unreasonable or practically unrealistic for affiliates with multiple means of distribution to offer the lowest premium amongst the affiliates. From an operational perspective, a broker distribution channel cannot realistically have access to the direct distribution channel. However, the strict application of the rule means that the two channels must maintain very separate and distinct operations at all times. The unfortunate reality of this for the customer is that a direct channel insurer that offers a standard auto insurance product is unable to provide a quote or bind insured risks of an affiliated broker channel insurer that offers non-standard auto products, unless the affiliates can also be distinguished based on declination

grounds or rates and risk classification systems. The latter is also difficult to attain or sustain from a true compliance perspective. Therefore, to be compliant under the UDAP Regulation as it currently exists, where the customer does not qualify under the direct insurer's filed rules, the best outcome for the customer is a referral. However, this outcome often leads to delays and upset in the form of duplication. More specifically, the result is that the customer has to start the process from scratch with another agent of the affiliated non-standard insurer, despite that the direct channel insurer has the customer's information and capability to provide a quote and bind the policy on behalf of the non-standard insurer.

The above noted scenario not only results in a poor customer experience, but could also lead a customer to believe that an insurer is not complying with the Take-All-Comers rule, when in fact, the strict application of the UDAP Regulation prevents the insurer from providing a better experience for the customer.

Allstate further notes that this unintended consequence of the UDAP Regulation also conflicts with the spirit of CCIR/CISRO's *Guidance Conduct of Insurance Business and Fair Treatment of Customers* (FTC Guidance), which FSRA officially adopted earlier this year. For instance, amongst many other things, the FTC Guidance requires that customers are provided with clear, adequate, timely and high quality information so that they can make informed decisions. At the same time, the FTC Guidance requires compliance with laws, regulations and guidelines. While there are exceptions within the FTC Guidance that would allow for this conflict, the end result is to the detriment of the customer and insurers who genuinely want to ensure that they are providing the best quality and service to their customers. At Allstate, we pride ourselves as trusted advisor, but in instances like these, we find ourselves with a conflict that cannot be resolved if we are to also maintain our deeply rooted compliance culture.

Allstate respectfully submits that it is not entirely clear from the redrafting of the Affiliate Insurers provision in the Proposed Rule that the above-noted scenario is resolved to the benefit of the customer. While FSRA has redrafted the rule to state that,

"lowest rate available" is the lowest rate amongst an insurer and its affiliates which is *reasonably available* to be offered to the insured or potential insured, having regard to all of the circumstances, ...

FSRA has also stated that the redrafting was not meant to revisit the intent of the existing UDAP Regulation. Allstate submits that the intent of the rule, as far as it relates to protecting the customer, is not being satisfied where the result is the scenario outlined above. Allstate is encouraged by the use of the new language, "reasonably available" and the resulting discretion that this suggests FSRA will be granted. Allstate further submits that the scenario outlined above is an instance in which discretion can be applied. Allstate would be pleased to receive

confirmation that FSRA agrees that its proposed redrafting is intended to offer a solution to customers who find themselves disadvantaged by the strict application of the existing rule in these types of scenarios.

Again, we thank you for the opportunity to comment on FSRA's UDAP Rule.

Sincerely,

A blue digital signature consisting of a stylized, cursive scribble.

Julie N. Singh
JNS/