

March 18, 2021

Financial Services Regulatory Authority of Ontario
Auto Insurance Sector
25 Sheppard Avenue West, Suite 100
Toronto, ON
M2N 6S6

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

On behalf of Desjardins General Insurance Group (DGIG), I am pleased to respond on the Financial Services Regulatory Authority of Ontario's (FSRA) [Proposed Rule \[2020-002\] Unfair or Deceptive Acts or Practices \(UDAP\)](#).

DGIG is a subsidiary of Desjardins Group, which is the leading financial cooperative group in Canada with over 7 million members and clients. We are the leading insurer of personal use vehicles in Ontario and the 2nd largest Property & Casualty insurer in Canada.

As members of the Insurance Bureau of Canada (IBC) and Canadian Association of Direct Relationship Insurers (CADRI) we have also contributed to their submissions and are in support of their observations and recommendations. We wish in this submission to bring our emphasis to key considerations of your analysis.

The current UDAP regulation is too prescriptive and is a barrier to innovation. Ultimately, we recommend the adoption of the Fair Treatment of Customers (FTC) guidance by the Canadian Council of Insurance Regulators as FSRA's consumer protection principle-based guidance.

As a first step, we support FSRA's effort to draft a principles-based rule that can provide FSRA with additional flexibility in supervision of conduct in insurance and can enhance consumer protection.

Please find our answers to FSRA's four targeted questions on the [Notice of Proposed Rule and Request for Comment](#) below. We look forward to working together to better serve Ontario insurance consumers.

Sincerely,



Sam Palmerio
Manager, Government Relations
Desjardins Group

1. Are there parts of the draft rule that are too general or require further detail?

Rebates/Rewards

DGIG welcomes the new rule that allows insurers to offer rewards to their customers while ensuring that purchase decisions remain in the customer's best interests.

We recommend that FSRA does not require insurance providers to provide unrequested and detailed explanations of how the amount of the rebate or any value of payment would be calculated. Instead we propose that insurers should be required to communicate to insurance consumers where they can learn more about the details of the rebate. This would help to reduce the paperwork that consumers receive.

Reasonable Person Definition

We would appreciate further clarity on the definition of a "reasonable person". In section 1(2)(i) of the act it states that "the reasonable person will be deemed to have a level of knowledge and expertise commensurate with that insurers size and type of business".

We suspect that this speaks to a heightened capability expectation of an insurance market leader such as Desjardins versus a very small insurer with very few employees. But could it also mean different expectation standards, for example, between a Top 3 insurer and a Top 20 sized insurer? If so, greater clarity of the various size segments to be used and the corresponding "reasonable person" expectations would be welcomed.

The reference to "tied selling" in the prohibitions may be interpreted as an expanded prohibition on all P&C insurance products, not just the mandatory auto insurance products. If so, the proposed rule may endanger existing small and specialized P&C insurance offerings.

Auto Insurance Quotations, Applications or Renewals

The detection and prevention of insurance fraud is an important way to keep premiums affordable and fair for consumers. We trust that reasonable fraud prevention and risk management processes related to increased information validation would continue to be acceptable and not considered to be a UDAP (i.e. "variance of formal or informal processes and procedures which make it more difficult for certain persons to interact with an insurer, broker or agent for the purpose of discouraging or delaying such persons from applying for, renewing or obtaining insurance").

Scope of UDAP's

Desjardins employs a multi-faceted and rigorous approach to safeguard that everything we do is in the best interests of our clients. Our employees and agents are expected to meet our high standards.

The proposed rules states that "if a person has committed an unfair or deceptive act or practice, then every director, officer, employee or legal representative of that person shall be deemed to have committed an UDAP". Is it FSRA's future intention for administrative penalties to potentially also be applied to front line employees of an organization?

2. Are there any implementation considerations, such as transition issues?

As a general practice, once the final rule has been approved, we would anticipate that insurers would be given at least six months to review their practices relative to the new rule and make any necessary adjustments. We also assume that an insurer may approach FSRA with a plan to comply with the new rule in a reasonable time frame if they feel that they can not be ready on the established effective date.

3. Are there parts of the draft rule that are redundant and that FSRA could remove without compromising consumer protection?

It is our understanding that this first stage is intended to simply replicate the UDAP regulation and so not concerned with the possibility of redundancy. However, as we have shared with FSRA in the past, it is our view that the UDAP regulation and by extension this proposed FSRA UDAP rule be eliminated and that insurer market conduct be managed by the Canadian Council of Insurance Regulators (CCIR)'s Fair Treatment of Customers principle-based guidance.

4. Are there any other issues or amendments that FSRA should consider at it proceeds to the second stage of transforming the Unfair or Deceptive Acts or Practices Regulation?

Change Management

Our broader transition effort to principle-based regulation will require change management efforts by both regulators and insurers. We recommend that FSRA partner with industry to create learning forums where roadmaps for a successful transition can be shared perhaps including presentations by leading domestic and international practitioners of principle-based regulation.