

JUNE 2022

# Insurer Code of Market Conduct

Discussion Paper

**BCFSA** 

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# Introduction

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## BACKGROUND

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, including BC Financial Services Authority’s (“BCFSA”) approach to market conduct supervision and oversight.

These amendments were formally passed in Fall 2019 in Bill 37 – 2019: *the Financial Institutions Amendment Act, 2019*. While some of these amendments were brought into force immediately, others were deferred. One of the deferred new provisions is Section 94.1 of the FIA, which establishes the requirement for insurers to adopt and comply with a Code of Market Conduct (“the Code”) established by BCFSA. This new provision came into force in June 2022. The legislation will only apply to insurers authorized to conduct insurance business in B.C. once BCFSA has formally established the Code, which will be finalized after this consultation process.

To promote harmonization and certainty for industry, BCFSA collaborates on market conduct issues with other provincial and territorial insurance regulators through the Canadian Council of Insurance Regulators (“CCIR”). In September 2018 the CCIR released new guidance on fair treatment of customers that set out overarching expectations for how insurers and intermediaries conduct insurance business and ensure the fair treatment of customers. BCFSA has endorsed this [guidance](#).

Per the provision above, BCFSA is now required by the FIA to bring forward a Code of Market Conduct for adoption and compliance by insurers authorized to conduct insurance business in B.C. The Code proposed by BCFSA and the accompanying Guideline align with CCIR’s principles-based FTC Guidance<sup>1</sup>, codifying and embedding the principles and outcomes in the B.C. regulatory framework. Additional information included at the end of this document provides a high-level comparison of the Code and the CCIR FTC Guidance.

The requirement to bring forward the Code has been included on BCFSA’s regulatory roadmap, which set outs regulatory priorities over the near term.

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<sup>1</sup> Canadian Council of Insurance Regulators and Canadian Insurance Service Regulatory Organizations Guidance: *Conduct of Insurance Business and Fair Treatment of Customers*

## PURPOSE

The purpose of this discussion paper is to consult with B.C. authorized insurers and the public on the Code proposed by BCFSa. As part of its consultation, BCFSa is seeking feedback on the following documents:

1) The Insurer Code of Market Conduct

The Code sets out fundamental principles and desired outcomes to ensure fair treatment of customers. All insurers will be required to adopt and comply with the Code once it is established by BCFSa. The Code is 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 provides 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 are encouraged to consider the Guideline when setting or revising their policies and procedures and operating their business. BCFSa will consider the expectations in the Guideline in determining whether insurers are adhering to the principles in the Code.

## CONSULTATION APPROACH

BCFSa is consulting on both documents: the Code and the accompanying Guideline. Both documents will be posted on BCFSa’s website for a period of 45 days.

BCFSa has provided seven discussion questions in this document identifying general areas where BCFSa is seeking input from the industry and interested parties. We also welcome feedback related to specific principles identified in the Code and expectations included in the Guideline.

Industry participants and interested parties are invited to submit their written feedback by email to [policy@bcfsa.ca](mailto:policy@bcfsa.ca). Once the consultation period concludes, staff will collate input and consider revisions to both documents, as required. A Consultation Summary Report will be posted on the BCFSa website following the consultation process.

# Discussion Questions

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To assist BCFSA in developing the Insurer Code of Market Conduct and accompanying Guideline, BCFSA welcomes comments from industry participants and the public on the following consultation questions:

#	Consultation Questions
1.	<b>Are there any sections of the Insurer Code of Market Conduct (“the Code”) or in the Supplemental Guideline to the Code of Market Conduct (“the Guideline”) that are unclear?</b>
2.	<b>Are there any parts of the Code or the Guideline that are too generic and not detailed enough?</b>
3.	<b>Are there any parts of the Code or the Guideline that are too prescriptive?</b>
4.	<b>Are there principles or expectations that are missing in the Code or the Guideline?</b>
5.	<b>Are there sections of the Code or the Guideline that are redundant and should be removed without compromising the fair treatment of customers (“FTC”) outcomes?</b>
6.	<b>Are there any other considerations or amendments that are important for BCFSA to consider as it further develops the Code and the Guideline?</b>
7.	<b>Are there any implementation considerations of the Code or the Guideline that BCFSA should be aware of?</b>

Comments for the discussion questions must be submitted no later than Aug 06, 2022, to [policy@bcfsa.ca](mailto:policy@bcfsa.ca).

If you wish to submit comments on behalf of the organization you represent, please ensure to include the name of the organization in your submission.

BCFSA appreciates the time and effort you have put in to contributing to the consultation process. We look forward to receiving your feedback.

# Additional Information

## ALIGNMENT BETWEEN THE CODE AND CCIR'S FTC GUIDANCE

To ensure consistency and promote harmonization with requirements in other jurisdictions, the Code models the outcomes and expectations included in CCIR's FTC Guidance. Some of the principles in the Code elevate and put into sharper focus expectations from CCIR's FTC Guidance. The table below maps out the alignment between CCIR's FTC Guidance and the Code.

<b>BCFSA Code, Principles</b>	<b>CCIR FTC Outcomes</b>
<b>Business Culture</b>	
1.1 Governance	Governance and Business Culture
1.2 Accountability	Governance and Business Culture
1.3 Monitoring	Governance and Business Culture
1.4 Measurement and Reporting	Governance and Business Culture
1.5 Communication with BCFSA	Relationships with Regulatory Authorities
<b>Business Practices</b>	
2.1 Product Design	Design of Insurance Product
2.2 Product Promotion	Product Promotion
2.3 Product Distribution	Distribution Strategies
2.4 Product Monitoring	Design of Insurance Product
2.5 Conflicts of Interest	Conflicts of Interest
2.6 Incentives Management and Remuneration Structure (*)	Conflicts of Interest
2.7 Arrangement with Service Providers	Outsourcing
2.8 Arrangements with Intermediaries	Outsourcing
2.9 Protection of Personal Information	Protection of Personal Information
<b>Fair Treatment of Customers</b>	
3.1 Advice	Advice
3.2 Disclosure of Information	Disclosure to Customer, Disclosure to Policyholder
3.3 Online Products (*)	Distribution Strategies
3.4 Claims Handling	Claims Handling and Settlement
3.5 Complaint Handling	Complaints Handling and Dispute Resolution
3.6 Policy Decisions and Renewals (*)	Disclosure to Policyholder

(\*) – Please refer to page 5 of the Discussion Paper for additional information.

## ADDITIONAL PRINCIPLES IN THE CODE

While the Code broadly aligns with CCIR's FTC guidance, it also includes three principles that are either not covered or partially covered in CCIR's FTC guidance. These principles and the rationale for including it in the Code are provided below.

### *Incentives management and remuneration structure*

The Code includes a principle on incentives management and remuneration structures. Currently the CCIR's FTC guidance only references incentives management and remuneration structures in the Conflicts of Interest section, however, the CCIR will be issuing an incentives management guidance that will supplement the FTC guidance. In anticipation of this, BCFSA has opted to align and include expectations on incentives management and remuneration structures in its Code and the Guideline. The Code outlines BCFSA's position that insurer's incentives management and remuneration structure must consider fair treatment of customers and must not result in unfair customer outcomes.

### *Online sales of insurance products*

The Code includes a principle on online insurance products and services. This is consistent with the intent of section 92.2 of the FIA, a new provision that will, once it is brought into force, establish requirements respecting the online sale of insurance. The Code outlines BCFSA's position that fair treatment of consumers must be upheld for online insurance business. BCFSA will also continue to work towards greater harmonization and consistency with fellow regulators on any future requirements, standards, or expectations with respect to online sales of insurance products.

### *Policy decisions and renewals*

The Code includes a principle on policy decisions and renewals. This principle and the corresponding expectations in the Guideline address challenges experienced by B.C. consumers securing coverage and/or renewing policies in 2021 during a declared state of emergency, and prior to it in the strata property insurance market. BCFSA is actively working with peer regulators to address these issues at the national level. The Code outlines BCFSA's position that insurer must provide timely notice to customers whether the application for insurance policy will be accepted or a policy will be renewed, including the rationale for the insurer's decision.



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