The Autorité des marchés financiers (AMF) would like to thank the various stakeholders that submitted comments as part of the consultation held from November 4, 2021 to February 18, 2022 on the draft *Incentive Management Guideline*. The following are the AMF's responses to the comments received, which fall under the following themes.

Shift away from a principles-based approach

As was the case during the October 21, 2021 to January 28, 2022 public consultation on the draft update of the *Sound Commercial Practices Guideline,* the AMF was sensitized to the fact that the draft *Incentive Management Guideline* was more prescriptive. In addition to the absence of any reference to the principle of proportionality, it was mentioned that the wording of a number of expectations under "Expectations to achieve this outcome", particularly the use of certain terms such as "ensure", suggested a shift away from a principles-based approach. The importance of expressly stating that the financial institutions are free to adopt or not adopt the examples of good practices recommended by the AMF, in order not to deviate from a principles-based framework, was reiterated.

In response to these observations, the AMF reiterates that work was carried out in 2020 and 2021 to improve the usability of its guidelines. The AMF removed the redundant sections from all prudential guidelines and moved the messages on its website to the location where the guidelines can be consulted. Although the "Preamble" section stating that it is the responsibility of each institution to adopt the principles and to implement them, following the principle of proportionality, based on the nature, size and complexity of its activities and its risk profile, has been removed from the guidelines, the principle of proportionality is still fundamental for the AMF. There is therefore no shift away from the principles-based approach. Moreover, the terminology has been revised to eliminate any possible ambiguity in this regard.

Canada-wide harmonization

As was the case during the public consultation on the draft update of the *Sound Commercial Practices Guideline* and the work to align it with the *Guidance: Conduct of Insurance Business and Fair Treatment of Customers* of the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO), the AMF was sensitized to the importance of aligning the incentive management framework applicable to financial institutions with the *Incentive Management Guidance* of the CCIR and the CISRO (the CCIR and CISRO Guidance) to ensure that there were no contradictions, inconsistencies or redundancies.

In response to these comments, the AMF points out that the CCIR and CISRO Guidance is a statement of the common expectations of Canadian insurance regulators and that each jurisdiction is responsible for adapting it to its particular context using legislative and other instruments at its disposal, in accordance with its powers.

The AMF also reiterates that it contributed to the work on the CCIR and CISRO Guidance and, in this sense, was able to develop a guideline that achieves optimal harmonization while being adapted to the context and characteristics of Québec's financial sector.

Unlike the CCIR and CISRO Guidance, which is intended for insurers and intermediaries, the AMF's Guideline applies solely to financial institutions (insurers and deposit institutions). The Guideline also takes into account the recently updated *Sound Commercial Practices Guideline* as well as observations and recommendations made in the context of the AMF's supervision of financial institutions.

Division of responsibilities between financial institution and intermediaries

As was the case during the public consultation on the draft update of the *Sound Commercial Practices Guideline*, the AMF was sensitized to the fact the Guideline gave financial institutions certain additional responsibilities that went beyond the responsibilities set out in the laws that govern them. It was also mentioned that the Guideline substituted insurers for intermediaries in many respects and imposed unrealistic expectations on insurers. It was also mentioned that oversight of sales of representative falls within the purview of the firms and that it was necessary to tailor financial institutions' increased obligations in respect of intermediaries to reflect the nature of the partnership and the principles of shared responsibility and non-interference in the affairs of others.

In response to these comments, the AMF reiterated that the concept of division of responsibilities between financial institutions and intermediaries has been clarified in sections 3 and 4 of the *Sound Commercial Practices Guidelines*. Section 3 now emphasizes a financial institution's FTC obligation at all stages of the product life cycle—an obligation that continues even where intermediaries may be involved in offering the financial institution's products and those intermediaries have their own obligations. Section 4 focuses on the importance for financial institutions of establishing with intermediaries agreements enabling them to discharge their FTC obligation.

The content of the Guideline has been revised to take into account the expectations set out in sections 3 and 4 of *Sound Commercial Practices Guideline.*

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Intermediaries and the FTC obligation

The AMF was sensitized to the fact that intermediaries do not have an FTC obligation. It was mentioned, in particular, that it is preferable not to create through expectations emanating from a guideline applicable to insurers obligations for intermediaries that are not already specifically set out in legislation applicable to intermediaries. Consequently, it was suggested that the AMF consider including an FTC obligation in the framework applicable to intermediaries.

In response to these comments, the AMF reiterates that, although it is drafted differently, the framework applicable to intermediaries has the same objective of ensuring FTC. In fact, the *Act respecting the distribution of financial products and services* and its regulations and the *Governance and Compliance Guide for registrants under the Act respecting the distribution of financial products and services* are included in the framework governing the activities and practices of registrants and representative with a view to ensuring FTC.

For registrants, FTC means conducting business with honesty, loyalty, care, competence and diligence at all stages of their dealings with consumers. FTC rests on the following principles, among others: financial products and services are offered, marketed and distributed in a way that supports consumers' interests and needs, and consumers have information allowing them to be properly informed and make enlightened decisions regarding financial products and services, before, while and after purchasing them.

The AMF is continuing its discussions and work to optimize the framework for registrants with a view to enhancing FTC.

Definition of incentives

The AMF was sensitized to the relevance of revising the definition of incentives to exclude staff whose remuneration is not directly tied to offering products and services. A direct link must exist between the incentive and the offering of a product or service.

In response to this comment, the AMF reiterates that incentive arrangements reflect the financial institution's values and objectives and are a key element in establishing a business culture. They demonstrate, among other things, how much importance the financial institution places on to FTC. Limiting the Guideline's scope to staff who interact directly with clients could be detrimental to achieving this objective. For example, no consideration would be given to the influence that certain staff may exert and the possible pressures that may result from such influence when products and services are offered.

Governance

The AMF was sensitized to the fact that the expectations for the board of directors and senior management of a financial institution should be concentrated in the Governance Guideline so as to avoid overlap, redundancies and inconsistencies. It was mentioned that the Guideline confused the role of the board of directors, which is to approve policies and strategies, and the role of senior management, which is to see to the management of policies and procedures.

In response to these comments, the AMF reiterated that the *Governance Guideline* introduces the expectations for the board of directors by indicating that the board of directors oversees the managerial performance of senior management. The board of directors should therefore ensure that the mechanisms needed to achieve sound governance are put in place and see to the effectiveness of those mechanisms by, in particular, reading the relevant senior management reports that result from applying those mechanisms. The consistency of the AMF's expectations in the *Governance Guideline* with the sections of the various guidelines that address governance is important. The objective is not to reproduce the top-level expectations set out in the Governance Guideline but rather to provide clarifications based on the intent of the various guidelines.

Distribution strategies and cost of the product

The AMF was sensitized to the fact that incentives may differ for the same product across distribution strategies and that this could result in differences in the cost of the product for the client.

In response to these comments, and in keeping with the changes made to the CCIR and CISRO Guideline, the AMF has also restated its expectation to indicate that if the incentives offered for the same product differ across distribution strategies and result in differences in the cost of the product for client, such differences are consistent with the expected level of service.

Examples in the appendices

The AMF was sensitized to the fact that the wording used in Appendix A conveyed the impression that the appendix was a list of inappropriate practices to be avoided or a list of points to be verified or systematically monitored for compliance. It was mentioned that a number of indicators are not suited to all products and services and are not necessarily reliable. As for Appendix 4, it was mentioned that the incentive arrangement features given as examples do not necessarily increase the risks of practices that could adversely affect FTC.

In response to these comments, the introductory expectation in Appendix A and the content of that appendix have been revised to clarify that the examples given are examples of information and indicators that may be used to identify elements that increase the risk from incentive arrangements of practices that could adversely affect FTC. Identifying those elements enables, in particular, the establishment of risk-based controls. Appendix B has also been revised to specify, in particular, that the list of examples of incentive arrangement features that may increase the risk of practices that could adversely affect FTC is a non-exhaustive and that the examples in the list do not necessarily apply to every type of product or service offered.