

Regulatory Update – CAFII Executive Operations Committee, April 21, 2015
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Federal/National

Canadian Council of Insurance Regulators (CCIR)

Travel Insurance Working Group Revising Insurer Survey

Harry James, Chair of CCIR's Travel Insurance Working Group (TIWG), has advised Brendan Wycks that the TIWG is working on a revised survey of travel health insurers, based on the feedback received from industry stakeholders, including CAFII, in March. TIWG expects to be in a position to send out the survey in the late Spring.

In a related development, CLHIA's new senior level committee on travel insurance held its first meeting on April 21/15. The committee's mandate is to continue and advance the work begun by the Travel Insurance Pan-Industry Project Group (TIPIP) and represent the industry in interactions with CCIR's TIWG with respect to the Council's review of travel health insurance.

CAFII Director Isaac Sananes, Vice President and Managing Director of Canadian Premier Life Insurance, was invited by CLHIA to serve on the new senior level committee and has agreed to do so.

The agenda for the committee's first meeting focused on member introductions, setting the stage, and discussion of potential areas for reform and next steps. It is believed that an initial starting point for the committee, in terms of potential areas for reform, will be a review of the Travel Health Insurance Association's recommendations for changes and enhancements to policy terms, definitions, and related disclosures, which are aimed at better educating consumers about the coverage they're purchasing.

Frank Swedlove, CLHIA's President and CEO, is serving as Chair of the committee; and Stephen Frank, Vice-President of Policy Development and Health, is serving as its Secretary.

New CCIR Executive Officers Elected

At CCIR's March 26/15 meeting, the following were elected to executive positions for a two-year term ending March 31, 2017:

- Chair: Patrick Déry, Quebec
- Vice-Chairs: Robert Bradley, PEI; Brian Mills, Ontario; and Carolyn Rogers, BC

Committee's Work Leads To Memorandum Of Understanding Among Regulators

Arising from the work of CCIR's IAIS Insurance Core Principles Implementation Committee (ICPiC), a new Memorandum of Understanding (MOU) among provincial insurance regulators has been drafted, which the CCIR hopes will be signed by all parties this Spring.

The MOU stems from ICPiC's recently presented work plan for a new Co-operative Market Conduct Supervisory Framework. The purpose of the framework is to assist CCIR member jurisdictions in improving their compliance with the International Association of Insurance Supervisors' Insurance Core Principles (ICPs).

ICPiC was also charged with operationalizing CCIR's "Keeping Regulators Informed" initiative -- part of the market intelligence gathering work that will be necessary to support the new framework.

Standards Of Practice Committee's Work Suspended

CCIR has suspended the work of its Standards of Practice Committee, which is reviewing industry guidelines, until such time as the IAIS Insurance Core Principles Implementation Committee makes recommendations on how market conduct guidance can best be provided in Canada.

Carolyn Rogers To Chair OmbudServices Oversight Committee

Carolyn Rogers, BC Superintendent of Insurance, has assumed the role of Chair of CCIR's OmbudServices Oversight Standing Committee (OOSC), effective immediately.

Previous OOSC Chair Mark Prefontaine, Alberta Superintendent of Insurance, has taken on the role of Chair of the General Insurance Statistical Agency (GISA).

CCIR To Expand Secretariat Resources

CCIR members have agreed to expand their Secretariat over the next several months, to enable the Council to move forward better with its many current initiatives; and, in particular, to resource the work of its IAIS Insurance Core Principles Implementation Committee (ICPic).

Office of the Superintendent of Financial Institutions (OSFI)

OSFI Appoints First Assistant Superintendent, Deposit-Taking Supervision Sector

Jeremy Rudin, Superintendent of Financial Institutions, has appointed Jamey Hubbs as OSFI's first Assistant Superintendent, Deposit-Taking Supervision Sector, effective April 7/15. Hubbs brings more than 25 years of experience in the financial services industry to the role, most recently as Senior Director, Credit Operations, Market and Model Risk within OSFI's Supervision Support Group. Prior to joining OSFI in May 2012, he was Executive Vice President and Managing Director, Co-Head of Global Markets CEO for HSBC Securities (Canada) Inc. He has also served in senior management positions at TD Securities, National Bank Financial, and Scotia Capital, both in Canada and London, England.

OSFI To Appoint First Assistant Superintendent, Insurance Supervision Sector Imminently

Jeremy Rudin, Superintendent of Financial Institutions, has announced that in the coming months, he will appoint someone to the newly-created OSFI position of Assistant Superintendent, Insurance Supervision Sector. Rudin advised that the two new Assistant Superintendent positions for deposit-taking and insurance replace the position of Deputy Superintendent for Supervision, which has been eliminated.

Provincial

British Columbia

CAFII Awaiting Update On "Effecting Of Creditor's Group Insurance" Issue

Brendan Wycks has contacted Kristine Mactaggart Wright, BC FICOM's new Executive Director, Conduct Supervision, by phone and e-mail for an update on the "effecting of Creditor's Group Insurance" issue, but has not yet heard back from her at this time.

In March, Harry James FICOM's Director, Policy Initiatives, who had previously been responsible for this file, advised that the directive letter he had been working on related to the 'effecting' of CGI in BC had been further delayed, as the file had been transferred to a new Executive Director on the Commission's management team.

Earlier in January and February, Harry had advised that he was working on a draft communique on the effecting of creditor's group insurance issue in concert with counterpart regulators from the other three Western Canada provinces. The letter would ultimately be issued by FICOM, with or without the endorsement of the other three jurisdictions. Harry indicated that the letter would clarify FICOM's position on 'effecting'; expectations about ensuring appropriate controls and oversight are in place over CGI; and about the structure of CGI contracts.

Consultation Paper On 10-Year Review Of BC Financial Institutions Act Expected Shortly

In an update provided to Brendan Wycks on April 20/15, Harry James advised that approval to release the discussion paper drafted to launch the formal consultation phase of the province's 10-Year Review of its Financial Institutions Act is still pending from the Office of the Minister of Finance. But approval is expected shortly.

When the green light is given, the Ministry of Finance's Financial and Corporate Sector Policy Branch (FCSPB) will be releasing the consultation paper and managing the review. The consultation paper will be sent to all industry stakeholders that participated in the November 21/14 pre-consultation roundtable discussion in Vancouver with Finance Minister Michael De Jong, where EOC Chair Greg Grant represented CAFII.

Insurance Council Clarifies Residency Requirement To Serve On Council

On March 31/15, Gerry Matier, Executive Director of the Insurance Council of BC, sent Brendan Wycks this follow-up communique with respect to representation for the banks-in-insurance sector on the Council:

I am following up on our meeting last month, where we discussed representation on Council from banks-in-insurance. I have followed up on whether it would be possible for a person not resident in B.C. to be appointed and have been advised that it would be highly unlikely that such an appointment would be approved by the government.

If CAFII or one of its member companies has someone located in B.C. who would be interested in serving on Council, we will be pleased to consider them and put their name forward. As a reminder, a candidate must either be a licensed insurance agent or an officer or employee of an insurance company.

Saskatchewan

Ministry Of Justice Highlights Regulations In Support Of Revised Insurance Act (Bill 177) As A Priority

In the Ministry of Justice's Plan for 2015-15 – recently published on its web site – the following *Key Action* is found under the Strategy of "Foster and protect the Saskatchewan economy and its prosperity":

- *work with stakeholders to develop regulations under the new Insurance Act, which will modernize the regulation of the Saskatchewan insurance industry in accordance with the regulatory frameworks in place in other Canadian jurisdictions, primarily Alberta.*

This aligns well with the information that was conveyed to CAFII on March 2/15 by Jim Hall and Jan Seibel in a follow-up teleconference about the Association's submission on Bill 177, The Insurance Act (Saskatchewan). They advised that Saskatchewan wants to limit the number of changes to Bill 177 itself so that it can be passed by the House by May 8/15, the last day of the current session. However, necessary changes can be addressed through the Regulations or a Superintendent's Directive. And they are planning a thorough, comprehensive consultation on the Regulations beginning in about November 2015, after they are drafted over the summer and early Fall.

CLHIA Pressing For Withdrawal Of Bill 177, The Insurance Act (Saskatchewan)

The Canadian Life and Health Insurance Association remains adamantly opposed to Bill 177 and is pressing to have the draft legislation withdrawn for substantive amendments before it proceeds further.

CLHIA's view on the Bill's status is that two or three additional letters of opposition from other industry stakeholders will result in a decision by the Minister of Justice to remove the Bill from the legislative timetable that would see it approved by the House by May 8/15, the last day of the current session.

CLHIA believes that Bill 177 is full of both major flaws – including TPA and MGA licensing that raises much uncertainty for the industry, and will make Saskatchewan an outlier among Canadian jurisdictions – and rife with drafting errors, causing many sections to be open to mis-interpretation.

In March, Frank Swedlove, CLHIA's President and CEO, and Frank Zinatelli, Vice President and General Counsel, spent two full days in Regina with Jim Hall, Senior Crown Counsel, Legislative Services, and Jan Seibel, Lawyer with the Financial Consumer Affairs Authority, going over the issues and problems that the Association sees in Bill 177. The CLHIA representatives pressed for a commitment that the Bill would be removed from the accelerated legislative timetable that it is on – to allow time for further consultation with the industry on major problem areas – but that they did not receive that commitment.

In follow-up correspondence from Jim Hall, CLHIA received a commitment that only a handful of minor housekeeping issues would be addressed via amendments to Bill 177. The legislation would proceed forward for passage in the House by no later than May 8, and other matters would have to be addressed in the Regulations.

Frank Swedlove therefore sent a letter to Minister of Justice Gordon Wyant, outlining CLHIA's significant concerns about Bill 177 and asking that it be withdrawn for further review and substantive amendments.

Subsequently, Mr. Swedlove sent a follow-up letter to Minister Wyant on Friday, April 17, communicating the industry's continued concern with Bill 177 and advising that CLHIA is unable to support the Bill at this time. To date, CLHIA has not received a response to its letters from the Minister.

Manitoba

Manitoba Confirms There Is No Residency Requirement For RIA Employees

Following a teleconference which CAFII representatives Greg Grant, Derek Blake, and Brendan Wycks had with Scott Moore, Deputy Superintendent of Insurance, on April 15 to bring an issue of uncertainty and concern for the Association to his attention, Brendan Wycks submitted the following written request to Scott on April 16:

Scott: Thanks very much for taking the time to speak with Greg Grant, Derek Blake and me yesterday to discuss our concern about a key clause in Section 380.1(3) of the amended Manitoba Insurance Act. As we discussed, we are concerned about the intent of “through its employees in Manitoba” as highlighted below.

Section 380.1(3): Subject to the regulations, a restricted insurance agent licence authorizes the holder, through its employees in Manitoba, to act or offer to act as an agent in respect of the class or type of insurance specified in the licence.

This would be problematic for CAFII members’ call centre operations if interpreted to mean that employees must be resident in Manitoba, as the call centres are typically staffed by financial institutions’ own employees and located in different jurisdictions throughout the country. (This is not a concern for financial institution branch and mortgage specialists who are physically located in Manitoba.) If interpreted to mean that employees must reside in Manitoba, the applicable call centre employees would not be able to offer and enroll Manitoba consumers in creditor’s group insurance.

In addition, neither of the RIA/ISI regimes on which Manitoba’s is modeled, namely Alberta and Saskatchewan, imposes such a residency requirement.

Throughout the consultation process on the establishment of a Manitoba RIA/ISI regime, it was never indicated or suggested that a residency requirement was being contemplated, so we hope that you will be able to confirm that our concern is misplaced.

On April 22, Scott Moore sent CAFII the following response:

Mr. Wycks: Your understanding is correct that similar to non-resident agent and adjuster licences which Manitoba currently issues, it is not our intent to not licence non-resident Restricted Insurance Agents (RIA). For your reference, The Insurance Act states,

Not to act without licence

369(1) *No person shall act, or offer or undertake to act, as an insurance agent in this province without having first obtained a licence under this Act.*

Thank you for bringing this matter to our attention. I trust our office has been of assistance by way of clarification. If you have any further questions, please do not hesitate to contact me.

In a phone conversation with Brendan Wycks prior to sending the message above, Scott advised that it was never Manitoba’s intention to impose a residency requirement upon the employees of RIA licence holders (nor upon RIAs themselves as corporate entities). He acknowledged that the five words in question in 380.1(3) of the Act could give rise to an unintended interpretation of the province’s intent.

Manitoba will be looking at tweaking that clause in the Act at the next appropriate opportunity. There is an annual window of opportunity to do what are called “statutory corrections and minor amendments” to existing legislation. However, that window has already closed for 2015. So they will look at doing the tweak when the window opens again in 2016.

Scott thanked CAFII for bringing this matter to his attention, noting that “we haven’t heard from anyone else in the industry about this issue.”

Manitoba Reviewing CLHIA Proposal To Saskatchewan For RIA Advisory Committee

Erica Hiemstra, Director, Distribution and Consumer Affairs at CLHIA, has advised Brendan Wycks that CLHIA's "Proposal On A Restricted Insurance Agency Licensee (RIAL) Advisory Committee Of The Saskatchewan Insurance Councils" has been shared with Erin Pearson, Executive Director of the Insurance Council of Manitoba.

This resulted from a conversation in which Erica asserted that there is an apparent conflict of interest in the looming situation under which policy and regulatory matters related to Restricted Insurance Agents in Manitoba would be decided upon by the Insurance Council's five-member Incidental Sellers of Insurance Sub-Committee, who are all distribution channel adversaries to RIA licensees.

When Erica then mentioned CLHIA's recent RIA Advisory Committee proposal to Saskatchewan, Erin Pearson requested a copy and was keen to consider it.

Quebec

AMF Releases Final Report On Electronic Commerce In Insurance

On April 2/15, the AMF released its final report on electronic commerce in insurance titled "Internet Insurance Offerings in Quebec – Presentation of Consultation Findings and Orientations."

The report sets out 11 "Orientations" or guidelines as outcomes from the 13 Proposals that it originally published for consideration in its consultation paper on Electronic Commerce in Insurance.

In a media release that accompanied the report, Louis Morisset, AMF CEO, said "today we present eleven guidelines aimed at balancing the orderly development of electronic commerce in insurance and public protection. It is up to the government to decide whether regulatory changes are needed in order to implement these guidelines."

In a heads-up phone call to Brendan Wycks on April 1, Louise Gauthier, the AMF's Director, Distribution Practices and Self-Regulatory Organisations, shared the following with respect to the Report on E-Commerce in Insurance:

- the decision to move directly to issuing a final Report, rather than a consultation paper, was made in consultation with CEO Louis Morisset and largely because there are some things that the Quebec government has to take action on more quickly.
- some of the Orientations could be implemented by the industry immediately whereas others cannot because the Act is unclear or ambiguous/murky in certain areas. For example, the Orientation with respect to whether or not an advisor must be involved in an insurance transaction falls into the unclear category and the Act will need to be amended to remedy this. In contrast, the Orientation on what the AMF would like to see on an insurance e-commerce web site can be implemented immediately.

- the AMF will not be looking for immediate compliance with the Orientations. It will not be going around three months from now to every insurance entity doing e-commerce with Quebec consumers and doing audits/inspections. “We will be giving everyone time to digest everything in the Report and an appropriate amount of transition time. The deadlines for being in compliance with the Orientations is something we will be discussing with CAFII and other industry stakeholders.”
- the AMF doesn’t believe that anything in the Report will be a surprise to CAFII. Other than a couple of minor differences, everything in it is well-aligned with the final CCIR Report on E-Commerce in Insurance.

Based on a preliminary review of the AMF’s final e-commerce report, the guidelines set out therein are indeed well-aligned with CCIR’s final position paper on e-commerce in insurance products. However, in a few instances, the AMF has added prescriptive detail related to its expectations.

CAFII’s Market Conduct Committee will review the AMF report in detail, and determine whether the Association should issue a response to the AMF.

Nova Scotia

Nova Scotia Unlikely To Review Insurance Act In 2015

In response to a follow-up query from Brendan Wycks, Doug Murphy, Superintendent of Insurance, advised that he is unlikely to initiate a review of the life and accident & sickness provisions in the province’s Insurance Act in 2015. He noted that he has “had some informal discussions with other Maritime regulators and while they all concur that a review of the Nova Scotia Act would be constructive and advantageous for industry and consumers alike, no formal plan of action has been initiated to date. Resources continue to play a very significant role in the decision to proceed. I will keep you apprised should plans change.”

Earlier, during CAFII’s meeting with the Atlantic Canada insurance regulators in Fredericton on October 1/14, Doug had indicated that a review of the life and the accident & sickness provisions of the Nova Scotia Insurance Act was a possible objective for his office in 2015.

Doug Murphy To Retire As Superintendent Of Insurance

Doug Murphy’s imminent retirement as Nova Scotia’s Superintendent of Insurance was announced at CCIR’s March 26/15 meeting, where he was thanked and recognized for his contributions to CCIR.

New Brunswick

CAFII Submits Letter To Opportunities New Brunswick

On April 16/15, CAFII submitted a letter to Jay Reid, Investment Attraction Officer with Opportunities New Brunswick, on “Insurance Act Amendments And Other Changes To Facilitate The Sale Of Insurance In New Brunswick.” The letter was shared with Angela Mazerolle, Superintendent of Insurance, and David Weir, Deputy Superintendent of Insurance.

The letter – which makes six recommendations for improvements -- was in response to an invitation from Invest New Brunswick, a predecessor organization, to outline the Association’s views on Insurance Act amendments and other changes that we see as necessary to reduce red tape, improve the efficiency of business operations, and promote additional jobs in New Brunswick.

In a reply e-mail, Jay Reid said “thank you for this letter. . . . I will share this with our senior management as we are working to improve the licensing system as we speak. I will also seek some dates that can work for a face to face meeting in Fredericton as requested.”

In a related development, Brendan Wycks contacted David Weir and requested an update on how the development of New Brunswick’s online registration system for licensing was coming along; and whether the FCNB had a target launch date. David Weir replied that he should be able to provide an update by Friday, April 24.

CAFII Submits Two “Myth Versus Reality” Statements For FCNB Annual Report

In response to a request from David Weir, Deputy Superintendent of Insurance, CAFII submitted two “Myth Versus Reality” statements about the insurance industry in Canada for possible publication in the Financial Consumer Services Commission of New Brunswick’s (FCNB) Annual Report . In making this request, Mr. Weir advised that “the Commission is working on publishing its next Annual Report. We were planning on including a little piece for consumers on common myths about the industries that we regulate. I was hoping that you could share some common myths about the insurance industry and/or products.”

CAFII’s first myth is that Canadian households generally have adequate life insurance coverage. The reality is that life insurance ownership in Canada is at a 30-year low and many households have insufficient coverage. Additional facts and data were provided to support this reality, drawn from LIMRA’s 2013 Canadian Ownership Study.

CAFII’s second myth is that the only way to buy life insurance is through a life insurance agent. The reality is that while, historically, life insurance was only available through an agent who came to you home or place of business, today consumers have many additional choices. Additional facts and data were provided to support this reality, drawn from LIMRA’s The Role of the Internet in Canada, 2012.

Prince Edward Island

PEI May Review Life And Accident & Sickness Provisions Of Insurance Act In Late 2015

In response to a follow-up query from Brendan Wycks, Robert Bradley, Superintendent of Insurance, advised that a review of the life and accident & sickness provisions of his province’s Insurance Act may get underway in late 2015. More specifically, he indicated that “we are currently in the midst of an election and our office is working to implement the auto reforms which were passed in the legislature in 2014. After that point in the Fall, unless the government sets a new priority, those provisions are something which our government may approve as a priority project.”

“I do suspect this project will go forward at some point and when it does, due to the work completed both by Atlantic Regulators and elsewhere in Canada recently, I also suspect limited consultation would be appropriate/required as groups are already on government record as to where they stand on the various issues. Of course, any relevant new information provided at any point would be considered and I believe a final draft would be posted for final consultation.”