

Regulatory Update – CAFII Executive Operations Committee, May 19, 2015

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Federal/National

Canadian Council of Insurance Regulators (CCIR)

Travel Insurance Working Group (TIWG) Plans To Send Out Insurer Survey In Early June

On May 19/15, Harry James, Chair of CCIR's Travel Insurance Working Group (TIWG), advised Brendan Wycks that the TIWG has nearly completed the process of revising its survey of travel health insurers and expects to be in a position to send it out in early June. He indicated that the TIWG may not have sufficient time to vet the revised survey with relevant industry Associations again before disseminating it.

CAFII has also learned that Harry James shared the following information about the TIWG's plans during a recent CLHIA standing committee meeting:

- The industry will have 45 to 60 days to complete and submit the insurer survey. CCIR will also be asking for industry-gathered consumer satisfaction data, if available. CCIR will share the survey results with the relevant industry stakeholder Associations.
- CCIR will prepare a Discussion Paper based on the data from the insurer survey and open-ended input from the public by the Fall of 2015 (likely October).
- CCIR will seek submissions on the Discussion Paper in the Fall and, if necessary, issue a Position Paper in the May/June 2016 timeframe, following the April 2016 CCIR quarterly meeting.
- the Position Paper is likely to include content that addresses the following:
 - consumer education (involving the industry and the FCAC)
 - control and oversight of distribution channels and training by insurers
 - application process enhancements (eligibility screening and improving "certainty of coverage")
 - product enhancements (both coverage and clear language disclosure)
 - complaint process enhancements (ensure TPAs are escalating to insurers and making consumers aware of an efficient complaint resolution process).

CCIR Happy With Formation Of CLHIA High Level Committee On Travel Insurance

On April 29/15, CCIR Chair Patrick Dery and Vice-Chair Carolyn Rogers advised CAFII that CCIR was pleased with the formation of CLHIA's high level committee on travel health insurance, given that the industry had itself decided that such a group would be more responsive and able to make quicker progress than the Travel Insurance Pan-Industry Project Group it had replaced.

Carolyn Rogers noted that Frank Swedlove, Chair of the CLHIA high level committee, had informed her that the committee was hoping to get ahead of the anticipated timelines for completion of CCIR's review of travel health insurance, by having recommendations for reforms and enhancements to travel health insurance in the hands of the TIWG before the end of 2015.

Article Provides Insights Into CCIR Mindset On Travel Health Insurance

On May 11/15, the Insurance & Investment Journal published an article on CCIR's review of travel health insurance, quoting extensively from Carolyn Rogers as Vice-Chair of CCIR; Stephen Frank, CLHIA's Vice-President, Policy and Secretary to its high level committee; and Alex Bittner, President of the Travel Health Insurance Association (THiA). The following excerpt is particularly germane to CAFII:

"Our intention is to hear from the public about their concerns," says Carolyn Rogers, CEO and superintendent of the British Columbia Financial Institutions Commission, and vice chair of the CCIR. "This is

a product which generates more complaints from consumers than other products. You can have an increase in complaints (that is) not necessarily an indication of systemic issues. But when those complaints seem to have a consistent theme, that indicates there may be a systemic issue.”

“Every member of the CCIR identifies this as something we should spend resources on,” Rogers says. “Consumers seem to not understand the coverage they’ve bought, and there are too many times where the consumers seem surprised about the outcome. It’s important that we gather the facts.”

The review will include a look at product design and the sales process – the product is often sold through exempt channels attached to other products like credit cards or association memberships.

“We have not formed a view on the issues,” she adds. “This is why we have phase one (the invitation to submit comments). We have anecdotal evidence and the headlines, but that’s not something you can regulate on.” Next steps of that process will be to publish comments, and perhaps pose questions, in a discussion paper, due out this fall.

CCIR Making Progress With MOU For Market Conduct Supervisory Framework

On April 29/15, CCIR Chair Patrick Dery and Vice-Chair Carolyn Rogers advised CAFII that the Council’s six largest members are expected to sign a recently drafted Memorandum of Understanding (MOU) among provincial insurance regulators this Spring.

Arising from the work of CCIR’s IAIS Insurance Core Principles Implementation Committee (ICPIC), the MOU relates to ICPIC’s work plan for a new Co-operative Market Conduct Supervisory College 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).

The MOU will enable CCIR members to take a nationally co-ordinated approach to supervisory issues, led by a cross-jurisdictional team, but it will not fetter the regulatory discretion of any province or territory. CCIR is not requiring each jurisdiction to sign the MOU in order to gain the benefits of the Supervisory College, “but rather just not to get in the way.”

Financial Literacy Initiative In CCIR Strategic Plan A Low Priority

On April 29/15, CCIR Chair Patrick Dery and Vice-Chair Carolyn Rogers informed CAFII that the financial literacy initiative in the Council’s 2014-17 Strategic Plan is a low priority, given limited resources. At this time, CCIR does not plan to do anything on a nationally co-ordinated basis related to consumer financial literacy and sound decision-making with respect to insurance.

The CCIR leaders noted that financial literacy is a space where a lot of organizations are already active. CCIR will therefore take a more passive approach in this area by promoting such fundamental principles as plain language and clear communication among industry participants.

In a related development, Patrick Dery advised CAFII that Singapore’s insurance regulator, the Monetary Authority of Singapore (MAS), had recently launched a Web-Aggregator in which all life insurers are required to participate. He praised this new industry aggregation and direct purchase web site, which also refers the consumer to a licensed representative.

CCIR To Expand Secretariat Resources By Hiring Two New Policy Managers

On April 29/15, Patrick Dery and Carolyn Rogers informed CAFII that CCIR expects to announce the hiring of two new Policy Managers shortly. These individuals, who will work out of FSCO's offices, will succeed Carol Shevlin who is retiring at the end of 2015. The new Policy Managers will have a half year period of overlap with Carol, for orientation, training, and introductions to industry stakeholders.

At their March 26/15 meeting, CCIR members agreed to expand their Secretariat resources, 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).

Financial Consumer Agency of Canada

Jane Rooney To Launch Financial Literacy Month 2015 At Toronto Conference

National Financial Literacy Leader Jane Rooney will launch Financial Literacy Month 2015 on Monday, November 2 at the *ABLE Financial Empowerment Conference* at the Allstream Centre in Toronto. The ABLE conference is a biannual national conference for all stakeholders interested in fostering financial empowerment for people who live on low incomes. The theme of this year's two day conference, *Aligning for Impact*, will engage stakeholders from all sectors around a common vision for financial empowerment.

FCAC Commissioner Exhorts Life Insurers To Strengthen Plain Language

FCAC Commissioner Lucie Tedesco devoted a significant portion of her remarks to CLHIA's 2015 Compliance and Consumer Complaints Conference to the "Industry's Role In Financial Literacy." The following is an excerpt.

"... When consumers have a clear idea of what they are getting into, of what they are entitled to and what they are responsible for, there will likely be fewer complaints and compliance issues downstream. Clear communication and disclosure—through plain language means better communication and disclosure in the end. If it's easier for consumers to understand what's being sold, it may be that it's easier and faster for them to buy it.

"Federally regulated financial institutions are required by law to use plain language in their disclosure documentation for consumers. As I said before I believe this is good for your business. Better than any advertisement, you signal to prospective customers that you care about their interests.

"I know that the financial sector, including many insurers, is working toward making it easier to read and understand information about their products. I also know that there is room for improvement."

Office of the Superintendent of Financial Institutions (OSFI)

Financial Institutions Turn Down Regulatory Updates From OSFI Via Twitter

Financial institutions that follow the Office of the Superintendent of Financial Institutions (OSFI) web site have informed the regulator that, given the choice between email and Twitter, email remains their preferred method of receiving information. OSFI notes that social media has aroused little interest among financial institutions, and very few of them believe that it would be useful to receive opinions by Twitter.

These findings come from OSFI's *Financial Institutions Survey*, which asked financial institutions to assess its performance as a prudential regulator and supervisor. The survey also revealed that financial institutions would like to be able to submit information to the regulator on-line.

CLHIA Publishes Advertorial Supplement In The Globe and Mail

The Canadian Life and Health Insurance Association published an advertorial supplement in *The Globe and Mail* on April 27/15. The supplement provided a range of articles focused mainly on insurance and financial security advice for Canadians. One article headlined "Investing in financial literacy an investment in Canadians' financial well-being" describes how the life and health insurance industry has taken a leading role in a multi-sector drive to help improve Canadians' financial literacy.

Provincial

British Columbia

FICOM To Issue Bulletin On "Effecting Of CGI" By June 1/15

On April 30/15, Carolyn Rogers, CEO of BC's Financial Institutions Commission, advised CAFII that an Information Bulletin would be disseminated to the industry on the effecting of creditor's group insurance issue by June 1, 2015, after a courtesy vetting with other CCIR members.

Ms. Rogers noted, as a side issue, that FICOM has learned that some of the CGI policies it has concerns about are being sold as "portable," so long as the consumer remains with the same mortgage broker. This particular issue will be dealt with either in the same Information Bulletin or in a separate communique.

FICOM Expects 10-Year Review Consultation Paper To Be Released By End Of May

On April 30/15, Carolyn Rogers advised CAFII that she expects the Ministry of Finance's Financial and Corporate Sector Policy Branch (FCSPB) to release the consultation paper that will launch the formal phase of the 10-year review of the province's Financial Institutions Act by the end of May.

She indicated that the consultation paper will lay out several big questions that the government believes should be addressed; and industry stakeholders will have 90 days to make a submission.

She expressed some surprise when told that the Insurance Council of BC intends to make a recommendation, as part of its submission, that a dollar amount limit be imposed upon the amount of creditor's group insurance that can be sold under the existing licensure exemption that CGI currently has in the province. However, she stated that a review of the exempt channels definitely needs to be part of the review of the overall Act, noting that some of the concern that FICOM has around CGI relates to lack of oversight, albeit not with respect to the financial institutions' CGI space in which CAFII members operate.

She advised that to prepare for the 10-year review, FICOM engaged an outside consultant, KPMG, to do a gap analysis; and the results of that analysis were provided to the Ministry a year ago. With respect to the review, FICOM sees its role as being part of the policy advisor team, alongside Ministry officials, but the Commission may decide to make a submission itself.

Insurance Council Publishes Confidentiality Guidelines

The Insurance Council of BC has published guidelines to help advisors understand the steps they must take to keep client information private and confidential. In a notice published May 13/15, the Council said it

continues to uncover instances where insurance advisors have collected, used, or disclosed clients' personal information contrary to Council rules. The new confidentiality guidelines have been incorporated as an appendix to the Council's Code of Conduct.

Saskatchewan

Bill 177 Passed But Won't Be Proclaimed In Force Until Regulations Finalized

On May 7/15, Jim Hall, Senior Crown Counsel, Legislative Services with Saskatchewan's Ministry of Justice and Attorney General, advised Brendan Wycks that

- Bill 177, The Insurance Act (Saskatchewan) and approximately 38 House Amendments received Third Reading in the legislature on May 6/15 and were passed.
- However, the legislation will not be "proclaimed in force" until all of the Regulations have been developed (over the summer and fall of 2015), and a thorough, comprehensive consultation with the industry on the Regulations has occurred.
- the expected timeline from this point on is

– May 6, 2015	Bill 177 and House Amendments Passed
– Spring/Summer/Early Fall 2015	Regulations Drafted By Saskatchewan FCAA
– Late Fall 2015 and Winter 2016	Consultation With Industry On Draft Regulations
– Spring/Summer 2016	Regulations Finalized and Passed
– Latter Half of 2016	Industry Transition Period
– Late 2016 or Early 2017	Revised Act and Regulations Proclaimed Into Force
- There is an important distinction to be made between passage of the Act, on the one hand, and its proclamation into force, on the other. Even though legislation has been passed, it is of no force and effect until it has been proclaimed. That distinction is key to the approach that Saskatchewan will be taking to deal with some of the changes that CAFII and other industry stakeholders have highlighted as necessary.

For example, re Section 5-79, *Recommendations for Restricted Licensee – Life Insurance*, part of which seems to limit a Restricted Insurance Agent to selling insurance solely on behalf of the sponsoring insurer, thereby requiring a financial institution to place all of its creditor's group insurance business with one insurer: subsection 5-79(2) **will not** be proclaimed in force; it will be repealed via the Regulations. This subsection that will **not** be proclaimed reads as follows: "A restricted licensee for life insurance may act as a restricted insurance agent only for the licensed life company that recommended that the licensee be issued a restricted insurance agent's licence."
- In the version of the revised Act which comes out shortly from the Queen's Printer, it will still show 5-79(2) as part of the Act. However, that will be of no force and effect because the legislation has not yet been proclaimed. When a subsequent version of the Act is published, after the Regulations have been finalized, it will show that 5-79(2) has been repealed.

Jim thanked CAFII for its submission on Bill 177, for following up, and for being a pleasant and co-operative industry Association to work with. He noted that any further or clarifying comments that CAFII wants to

make will be taken into account in the development of the Regulations. Jim will be retiring from the Ministry at the end of May; and leadership of the Insurance Act and related Regulations file will then transfer to Jan Seibel, Lawyer with the Financial and Consumer Affairs Authority.

Ontario

Advocis Wants To Take Over Life Insurance Agent Regulation From FSCO

Advocis is hoping the Ontario government's review of FSCO's mandate will lead to a shakeup of life insurance regulation.

Greg Pollock, CEO of Advocis, has said that "what we might see is the government divesting itself of the responsibility of day to day oversight of these insurance agents and Advocis could certainly take on that kind of responsibility. So that would relieve governments of that responsibility. Obviously they would audit an organization like Advocis to ensure that we're carrying out those responsibilities appropriately. We think at the end of the day that would be more efficient in terms of this oversight."

FSCO came under fire in late 2014 in a scathing report from the Auditor General of Ontario that found issues with the regulator around licensing and E&O insurance for life insurance advisors.

"In that report, the auditor general did suggest there might be some opportunities for government to download some of the responsibilities that currently exist within FSCO to some of the established professional associations currently in existence," Pollock said.

Ontario Superior Court Allows Primerica Case Against FSCO To Proceed

The Ontario Superior Court of Justice has rejected a bid by the Financial Services Commission of Ontario (FSCO) to dismiss a case brought against it by Primerica Life Insurance Company of Canada, which seeks declaratory relief from the court.

According to the decision released in late April, Primerica alleges that FSCO breached its commitment to "consult and communicate with course providers" before making changes to curriculum or exams required to licence life insurance agents. It also seeks a declaration that FSCO acted without authority when entering certain agreements related to CISRO's current Life Licence Qualification Program (LLQP) modernization effort.

The allegations have not been proven but the court ruled that the case can go ahead. The court found that, without assessing the merits of the case, Primerica is entitled to seek declaratory relief. Declaratory relief is typically sought to clarify status; it does not involve awarding damages.

Quebec

AMF Will Not Prescribe "Importance Of Obtaining Advice" Disclosure In Online Sales

In a meeting between CAFII representatives and AMF executives on April 29/15, Eric Stevenson, the AMF's Superintendent, Client Services and Distribution Oversight, provided a clarification on a component of Orientation 2 in *"Internet Insurance Offerings In Quebec: Presentation of Consultation Findings and Orientations,"* which is of direct interest to CAFII members.

He advised that the AMF will allow providers some discretion as to how they inform the consumer of the importance of obtaining the advice of a certified representative, and will not be prescriptive on this point.

He agreed that this consumer disclosure does not necessarily have to be 'in your face' on the provider's web site pages; nor repeated on each and every screen.

In a related observation, he indicated that the AMF's final e-commerce paper, published April 2/15, will probably not be the end of the debate on internet insurance offerings in Quebec, as the brokers will probably want to raise the issues again.

The formal review of the province's Distribution Act, expected to be announced by the Ministry of Finance in the near future, may give the brokers a forum for rehashing objections to internet sales of insurance without a representative; but it will also provide an opportunity for supporters of the final e-commerce paper to submit a letter to the Minister.

AMF Updates Plans To Develop Regulation On Distribution Guide Template

On April 29/15, Louise Gauthier, the AMF's Director, Distribution Practices and Self-Regulatory Organisations, advised CAFII that within the next 12 months, she expects to develop a draft Regulation on the Distribution Guide – under the auspices of the current Distribution Act if necessary. The draft Regulation will then be put out to the industry for a brief consultation period.

She noted that the AMF is currently prioritizing the regulatory changes that it needs to make to introduce the nationally harmonized LLQP on January 1, 2016; and then the Distribution Guide (Distribution Without Representation) Regulation will be next in line.

She also confirmed that when the new Distribution Guide template comes into effect, the AMF will continue its current "file and use" approach to industry monitoring.

AMF Fines Foresters For CGI Distribution Violations

The AMF recently imposed fines totaling \$25,000 on the Foresters Life Insurance Company for violations related to the distribution of creditors group mortgage insurance products in Quebec.

The AMF sanctioned Foresters for selling creditors group mortgage insurance through a distributor in Quebec without having furnished the regulator with its distribution guide for these products. The regulator is reprimanding the insurer for having sold between 241 and 264 of these products over a period of three years and nine months. The AMF also rebuked Foresters for either failing to meet its demands or for not having done so adequately, for having given responses that were late, incomplete, incorrect, or inconsistent.

As a result, Foresters has withdrawn its distribution guides for creditors group mortgage insurance and general leasing creditors group insurance. The insurer has agreed with the AMF that it should file new distribution guides that comply with the applicable laws and regulations if it wishes to distribute these new products in Quebec.