

**Regulatory Update – CAFII Executive Operations Committee, February 10, 2016**

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## **Federal/National**

### **Canadian Council of Insurance Regulators (CCIR)**

#### Travel Insurance Working Group To Meet With Stakeholders In Early March

On February 2/16, Harry James, Director, Policy Initiatives with BC's Financial Institutions Commission (FICOM) and Chair of CCIR's Travel Insurance Working Group (TIWG), advised Brendan Wycks that he will be visiting Toronto in the first week of March for update meetings with CAFII and other stakeholders related to its travel health insurance review. Current target dates (to be confirmed) for the meetings, which may also involve other members of the TIWG, are Tuesday and Wednesday, March 1-2.

In that connection, CLHIA has accepted CAFII's proposal that the two organizations meet together with Harry James and the other TIWG members. The CLHIA will provide an update on its work on travel health insurance reforms and Pollara will present the results of CAFII's travel medical insurance study.

#### CCIR Annual Statement On Market Conduct

##### **CCIR To Form Industry Working Groups On Annual Statement on Market Conduct**

On January 29/16, Martin Boyle, CCIR Policy Manager with support responsibility for the Harmonized Annual Statement on Market Conduct, advised Brendan Wycks that the Council's Market Intelligence, Data Gathering & Analytics Working Group is in the process of redrafting the Statement, based on industry input received through the late 2015 consultation on the draft document.

Martin indicated that once a revised draft of the Harmonized Annual Statement is ready, CCIR intends to work closely with two industry working groups, which are being established through CLHIA (for the life and health sector of the industry) and the Insurance Bureau of Canada (for the property and casualty sector of the industry), to refine and further develop the document. He has spoken to Leslie Byrnes, CLHIA's Vice-President, Distribution and Pensions, regarding CCIR's intention to have a working group established through the CLHIA.

##### **CCIR's Implementation Timelines For Annual Statement Still Tentative**

On January 29/16, Martin Boyle, CCIR Policy Manager, advised Brendan Wycks that CCIR has not yet made definitive decisions with respect to implementation timing of the proposed Harmonized Annual Statement on Market Conduct. However, he reaffirmed the following information as indicative of the Council's thinking at this time:

- only licensed insurance companies will be required to complete and submit the Annual Statement on Market Conduct.
- submission of 2016 data in the spring of 2017 would be the earliest that compliance with the Annual Statement would be required. CCIR is considering working with a small number of insurers on a pilot test prior to implementing the Annual Statement for the entire industry.
- CCIR is considering whether insurers should all be required to submit the Annual Statement on the basis of a fiscal year that is the calendar year; or on the basis of their own fiscal/business year. The Council may implement based on the insurer's own fiscal year (allowing bank-owned insurers to report as of October 31, with the remainder of the industry reporting as of December 31).

## **Canadian Life and Health Insurance Association (CLHIA)**

### Update On CLHIA-Led Work On Travel Health Insurance Reforms

On February 1/16, Joan Weir, Director, Health and Dental Policy at CLHIA, updated Sue Manson and Brendan Wycks on CLHIA's progress in developing reform proposals, on behalf of the industry, with respect to individual travel medical insurance, for discussion with CCIR. Highlights of Joan's updates include

- CLHIA aggregated the data from all of its members who submitted in response to the CCIR TIWG's 2015 survey of travel health insurers; analyzed the data; and was able to draw some conclusions;
- CLHIA's analysis revealed a very low incidence of "voided claims"; and a very low level of consumer complaints about travel health insurance, with less than 50 official complaints over the entire year for all carriers combined. No insurer is getting complaints about the things that CCIR was focusing on, i.e. the items included in the drop-down boxes re complaints in its survey;
- two areas that the data analysis highlighted as "needing improvement" are the monitoring of training, as only about half the industry is doing this; and how insurers communicate to consumers re pre-existing conditions and exclusions generally, as there is a lot of inconsistency;
- the data analysis came out strongly in support of a standardized training/accreditation program for those who sell travel health insurance;
- it is recognized that the training/accreditation program recommendation may be problematic for banks and other direct distributors, and for some large insurers as well. However, all of the recommendations that will be brought forward to CCIR relate to individual travel health insurance only, not to group coverage nor coverage included in a credit card's package of benefits; and
- the CLHIA high level task force on travel insurance, its standing committee on travel insurance, and its Board of Directors have approved the seven recommendations for reforms related to disclosure, standardized terminology, and training, with the understanding that further work will be done to develop an additional reform proposal related to limiting the denial of claims due to unreported and unrelated medical information.

CLHIA is now in the process of forming two sub-committees, one to deal with limiting the denial of claims due to unreported and unrelated medical information; and the other to deal with standardized disclaimers and standardized information presentation.

While CLHIA is still several months away from being in a position to present the industry's reform proposals to CCIR, an early meeting with Harry James and other members of the TIWG will still be arranged so that CLHIA's data analysis can be shared -- with a view to comparing notes and informing, clarifying, or challenging CCIR's own analysis of the survey data.

In addition, an opportunity was arranged for Alex Franek of Pollara to present the results of CAFII's survey of travel insurance consumers to the CLHIA standing committee at its next meeting on March 3.

## **Provincial**

### **British Columbia**

#### FICOM To Meet With CLHIA Re CGI Bulletin's Impact On Mortgage Broker Channel

On January 19/16, Leslie Byrnes and Erica Hiemstra of CLHIA advised Brendan Wycks that Carolyn Rogers, BC's Superintendent of Insurance, has agreed to meet to CLHIA in February about the industry's concern about the viability of the mortgage broker distribution channel under FICOM's Information Bulletin of September 14/15.

In a December 4/15 letter to Ms. Rogers, CLHIA made the case that it is not clear how mortgage brokers will be able to meet FICOM's new expectation with respect to creditor involvement in effecting CGI contracts, and asserted that "FICOM has never stated that its intention is to disallow mortgage brokers from distributing CGI, but this is likely to be the effect of the bulletin."

#### Public Report On FIA Review Input Likely To Be Published Within Next Two Months

On February 3/16, Elizabeth Cole, Executive Director, Strategic Projects in the BC Ministry of Finance's Policy & Legislation Division and lead on the 10-year review of the Financial Institutions Act, advised Brendan Wycks that the Ministry's public report on input received in response to the Initial Public Consultation Paper would likely be published within the next two months, probably before the end of March.

When this high level summary report is released, the Ministry will also publicly post on its website all submissions received in response to the Initial Public Consultation Paper.

Subsequently, in late 2016, the Ministry plans to prepare and release a second consultation paper which will identify any proposed policy and legislative changes and seek further public input.

### **Saskatchewan**

#### Consultation On Draft Regulations Will Occur After April 4/16 Election

On February 3/16, Jan Seibel, Legal Counsel with Saskatchewan's Financial Consumer Affairs Authority and lead on the province's Insurance Act rewrite file, advised Brendan Wycks that she was not yet in a position to provide a target release date for the draft Regulations being developed to implement Bill 177, The Insurance Act (Saskatchewan).

However, she confirmed that the consultation period with the industry on the draft Regulations will definitely occur after the April 4/16 provincial election. She also indicated that in drafting the Regulations, the FCAA is "keeping in mind the comments we had received after the Act was tabled. Our goal is to address those concerns to the extent that we can."

## Ontario

### Stakeholder Submissions On Expert Panel's Paper Now Available

On February 4/16, Ontario's Ministry of Finance added language to its web site to indicate that stakeholder submissions in response to the Expert Panel's Preliminary Position Paper on the future mandates of FSCO, DICO, and the FST are now available upon request. The Ministry has received 46 submissions in response to the Paper, approximately the same number it received in June 2015 in response to the initial consultation paper and from nearly all of the same stakeholders.

The submissions can be requested from David McLean, Senior Policy Advisor in the Ontario Ministry of Finance and Secretary to the Expert Panel, at [fipbmandatereview@ontario.ca](mailto:fipbmandatereview@ontario.ca).

### Sun Life Financial Presses For Insurance Council In Ontario

While the release timing of the 46 submissions made in response to the Expert Panel's Preliminary Position Paper on FSCO's future mandate did not allow for a full CAFII analysis of those documents prior to this Regulatory Update, a scan of those most relevant to CAFII revealed the following.

Sun Life Financial is making a full court press to persuade the Panel to consider recommending the introduction of an Insurance Council model in Ontario. While supporting the Panel's recommended Financial Services Regulatory Authority (FSRA), Sun Life calls for the FSRA to "transfer more responsibilities to regulate insurance intermediaries to an outside entity, under the oversight of the proposed FSRA – specifically to a new insurance council for Ontario, which should be established on the model of the insurance councils in place in the western provinces, with ultimate accountability to the FSRA."

Sun Life goes on to dedicate 1.5 pages of its four-page main submission to an elaboration on the "Merits of an insurance council model under the proposed FSRA"; and also provides two pages of annex material on the "insurance council model" in Alberta, Saskatchewan, Manitoba, and BC.

In CLHIA's submission, the industry Association includes a bullet point of support for Sun Life's recommendation by stating "we support the flexibility that has been built into the proposed model which would allow an insurance council to be established as a dedicated body overseeing the licensing and discipline of life and health insurance agents."

Meanwhile, in its 34 page submission, Advocis makes the case that the Expert Panel's FSRA and its own recommended Delegated Administrative Authority (DAA) -- which would see Advocis become the designated licensure and self-regulatory organization for life and health insurance intermediaries in the province – are complementary and not conflicting.

## **New Brunswick**

### FCNB Requests Background Information On CGI From CLHIA

On January 19/16, Leslie Byrnes and Erica Hiemstra of CLHIA advised Brendan Wycks that in December 2015, Angela Mazerolle, New Brunswick Superintendent of Insurance, contacted CLHIA for some information on CGI. The information requested related to product features, distribution models, disclosure practices, and how contracts are effected. It is CLHIA's understanding that FCNB had also reached out to the Insurance Bureau of Canada, in the first instance, because the information it was seeking related specifically to CGI distributed by auto dealers.

CLHIA impressed upon Ms. Mazerolle the two-pronged solution that it has been advocating for such regulatory concerns, including in the case of BC FICOM's 'effecting of CGI' issue:

- (a) regulate against the offenders; and
- (b) if there continue to be problems, let's work together (regulator and industry Associations) to fix it.

In this context, Leslie and Erica observed that CLHIA's current review of its *Guideline G7 Creditor's Group Insurance* is very timely. They noted that CLHIA routinely sends its draft revised Guidelines to a CCIR committee for feedback. In addition to doing that in this instance, they will also likely look for other opportunities to communicate with CCIR about the review and modernization of G7, before the Council holds its next round of formal stakeholder meetings this coming Fall.