

**Regulatory Update – CAFII Executive Operations Committee, February 12, 2015**

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## **Federal/National**

### **Canadian Insurance Services Regulatory Organisations (CISRO)**

#### CAFII Follow-Up Letter Of Support For LLQP Modernization Well-Received

On January 19/15, CAFII disseminated a follow-up letter of support for LLQP modernization to the Minister responsible for insurance regulation in each of the country's provincial/territorial jurisdictions, with a c.c. to relevant Deputy Ministers and CCIR and/or CISRO members. Ron Fullan, as Chair of CISRO, was c.c.'d on the 13 letters.

Thus far, CAFII has received an acknowledgement and thanks during the Association's Stakeholder Meeting with CCIR on January 28/15; a thank you e-mail from Ron Fullan; and a response letter from Tony Cornect, Minister of Service Newfoundland.

Ron Fullan's e-mail to Brendan Wycks said *"Thank you for CAFII's follow-up letter of support to the Ministers across the country. If one has to receive copies of 13 identical emails, those were a very nice baker's dozen to receive!"*

Newfoundland Minister Cornect's letter reads as follows: *"I write in reply to your letter of January 19, 2015. I would like to thank you for your support of the new Life Licence Qualification Program being introduced. With regard to your organization's position for the mutual recognition of insurance licenses across jurisdictions and a national online system for licensing, I advise that your views will certainly be taken under consideration during any future harmonization initiatives and changes to address modernization of the legislation in recognition of changes in the industry and technology. I thank you for your interest in these very important matters."*

#### Next LLQP Stakeholder Information Session: February 27/15

Ron Fullan, Chair of CISRO and its LLQP Committee, has confirmed that his committee will hold a Stakeholder Information Session for CAFII and CLHIA members and LLQP course providers, on Friday, February 27/15 from 10:30 a.m. to 12 Noon at the FSCO offices in North York. The agenda will include an expected schedule of events leading up to the January 1/16 implementation, and also a discussion about transition to the harmonized program.

### **Financial Consumer Agency of Canada**

#### Input Invited On Stakeholder Engagement and Consultation Framework For Compliance and Enforcement Issues

On February 6, the FCAC announced that it is seeking input into its [stakeholder engagement and consultation framework for compliance and enforcement issues](#).

One of the FCAC's key strategic priorities for 2014–19 is to "strengthen collaboration and engagement with stakeholders." To support its goal to be more proactive and transparent, the Agency has proposed a framework that the Compliance and Enforcement Branch will follow to engage stakeholders and strengthen and formalize its consultation process.

The FCAC has therefore published the proposed framework for public consultation and is inviting comments from interested parties by March 6/15.

## **British Columbia**

### Financial Institutions Commission (FICOM) Expects To Issue Directive Letter On CGI By End Of February

In an update provided to Brendan Wycks on February 11, Harry James, Director, Policy Initiatives with BC's FICOM, advised that he had no further news to report, beyond what he had previously communicated on January 6, on the planned "directive letter" re the 'effecting' of CGI in BC.

In January, Harry advised that he is currently 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. He expects that the letter – which will ultimately be issued by FICOM, with or without the endorsement of the other three jurisdictions -- will be sent out sometime before the end of February.

Harry advised that the letter will 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.

In a related development, CAFII has learned, through a meeting on February 12, that CLHIA is planning to send Harry James a proposal on the 'effecting' of CGI in BC issue in the near future. CLHIA has been working on a proposal, intended to contain recommendations and solutions, for some time. That said, Harry has been consistent in what he has communicated to CAFII about his plans; essentially he is telling us that he has not altered his plans to issue a directive letter on the 'effecting' of CGI issue because he may receive a proposal from the CLHIA. (If he does receive CLHIA's proposal before he issues the directive letter, he may adjust course but he's not 'waiting' on the CLHIA letter and planning to factor it into his directive letter.)

### Consultation Paper On 10-Year Review Of BC FIs Act To Be Released Shortly

In an update provided to Brendan Wycks on February 11, Harry James advised that the BC Ministry of Finance intends to issue a discussion paper sometime in the near future on the 10-Year Review of the province's Financial Institutions Act, which will launch the formal consultation phase of the review. When released, 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.

On February 5, CAFII received an invitation from Minister De Jong's office, to have a representative attend a budget lock-up in Victoria on February 17 where a new provincial budget will be released. While it's possible that an announcement about the formal consultation phase of the FI Act Review may be made as part of the Minister's budget release and it's encouraging that CAFII now seems to be a permanent fixture on the Ministry of Finance's list of key stakeholders, we politely declined the invitation.

### Insurance Council Publishes Conflict Of Interest Guidelines

The Insurance Council of BC recently finalized and published Conflict of Interest Guidelines For Insurance Agents, Adjusters, and Salespersons on its website, stemming from a consultation in the first quarter of 2014. The Guidelines have been incorporated into the Council's Code of Conduct as Appendix A.

One key area of the Conflict of Interest Guidelines, which received a significant number of comments during the consultation, is “Other Employment Or Business Activities Held By Licensees.”

The Council has identified a number of Business Activities for which it believes the potential for a conflict is so great that it would not be prepared to issue an insurance licence. Therefore, the Council has published a list of those Business Activities and how it has decided to address such situations. The list, for the benefit of existing licensees and licence applicants, will be updated as new decisions on Business Activities are made.

## **Saskatchewan**

### CAFII Receives Extension On Submission Deadline For *Bill 177, The Insurance Act*

On February 9, CAFII asked Jim Hall -- the province’s former Superintendent of Insurance who is currently serving in a semi-retired capacity as Senior Crown Counsel, Legislative Services with the Ministry of Justice and Attorney General, and is the point person for the consultation with industry on Bill 177 – for an extension on the deadline for its response submission, in line with similar extensions that had been granted to other industry stakeholders. CAFII was granted a one week extension to Monday, February 23.

On December 8/14, *Bill 177, The Insurance Act* was posted on the Saskatchewan legislature’s web site, after undergoing second reading. The Bill will now serve as a consultation document with the industry, with February 16/15 being the deadline for input before the legislation is brought back to the House for third reading.

When passed and proclaimed, Bill 177 will replace the current Saskatchewan Insurance Act. New regulations will also replace the existing regulations, but work on them has not yet begun.

### New FCAA Chairperson and Superintendent of Insurance Appointed

CAFII has learned – via Ron Fullan, Executive Director of the Insurance Councils of Saskatchewan and Ian McIntosh, Deputy Superintendent of Insurance – that Roger Sobotkiewicz, former Director of the Financial Consumer Affairs Authority (FCAA)’s Legal Branch, became Interim Chairperson and Superintendent of Insurance effective February 1/15.

Mr. Sobotkiewicz succeeds David Wild who left the FCAA CEO position to lead Saskatchewan’s Public Employees Benefits Agency as Associate Deputy Minister of Finance).

As Superintendent of Insurance, Sobotkiewicz will be a key contact for CAFII around the province’s Bill 177, *The Insurance Act (Saskatchewan)*, along with Jim Hall, Senior Crown Counsel, Legislative Services, and Janette Seibel, Lawyer with the FCAA.

## **Manitoba**

### Financial Services Agency Decides Not To Fill Superintendent Of Insurance Position

In a conversation with Brendan Wycks at CAFII’s Stakeholder Meeting with CCIR on January 28/15, Scott Moore, Deputy Superintendent of Insurance, advised that, at this time, the Manitoba Financial Services Agency has decided that the Superintendent of Insurance position will not be filled, following the retirement of Jim Scalena at the end of 2014. Therefore, Scott will be assuming the Superintendent of Insurance’s duties until further notice.

### Insurance Council Publishes New Documents On Restricted Insurance Agents (RIA) Licensure

The Insurance Council of Manitoba has recently published two new documents on its website related to the province's new RIA/ISI licensing regime:

- a license application form for "Restricted Insurance Agent (RIA) Employees of Other Entities": and
- an FAQs document re "Incidental Sale of Insurance" which contains answers to 20 questions related to the RIA regime.

The Council began accepting applications for RIA licenses effective February 1, 2015. Applications must be received by April 30, 2015 to ensure processing prior to the May 31, 2015 deadline.

### **Ontario**

### CUMIS Calls For Expanded Credit Union Powers In Submission To Ontario's Five-Year Review of Credit Unions and Caisses Populaires Act; (CUCPA)

CAFII member CUMIS has shared the final version of its submission to Ontario's five-year review of the Credit Unions and Caisses Populaires Act (CUCPA) with Executive Director Brendan Wycks.

In its submission, CUMIS strongly supports empowering Ontario credit unions to acquire greater ownership interests in insurance brokerages and agencies. Credit unions and caisses populaires in British Columbia, Saskatchewan, Manitoba and Quebec have the power to own insurance brokerages and/or insurance companies, but Ontario is one of the few remaining provinces, and the only one of significant population, to prohibit broader credit union ownership of insurance entities.

The submission notes that federally regulated banks are permitted to engage in the underwriting and the distribution of insurance through insurance company and insurance brokerage subsidiaries. CUMIS asserts that enabling credit unions to engage fully and directly in the distribution of insurance is a good middle ground between today's current restrictions and full in-branch retailing powers.

CUMIS also calls for the expansion of credit unions' business powers to permit in-branch promotion and retailing of insurance and group retirement solutions by licensed advisors. But if the Government is not prepared to fully expand the powers of credit unions to permit in-branch sales of insurance products, CUMIS encourages it to consider permitting credit unions greater flexibility to promote insurance products within branches as credit unions in British Columbia are permitted to do. Such promotional, versus sales, activities would include greater in-branch access to and provision of insurance information, member referrals to licensed insurance advisors outside of the branch and, with the permission and consent of members, information sharing between credit unions and insurance brokerages and advisors to better meet the insurance needs of credit union members.

### Advocis Recommends Status Quo Restrictions In Submissions On Ontario/Nova Scotia Credit Unions Legislation

In its submissions to Ontario and Nova Scotia on their respective current reviews of credit unions legislation, Advocis takes a position strongly opposed to CUMIS' views.

In a letter dated January 15/15 to the Ontario Ministry of Finance, Advocis states that *“as credit unions progressively resemble banks, the protections offered to their consumers should increasingly mirror those established to protect bank clients. One key area of consumer vulnerability pertains to the sales of insurance products, either directly in-branch or online, and this is the focus of our comments in this submission. . . . We commend Ontario for its past decisions to restrict the in-branch sale of insurance products, thereby protecting the consumers of credit unions. . . . We strongly recommend that, upon the completion of the current review, Ontario maintain and restate this restriction and, further, extend it to online sales.”*

In a nearly identical letter sent to Nova Scotia on January 27/15 on that province’s consultation on its Credit Union Act, Advocis says *“. . . our position is consistent with the conclusion reached by the federal government in regards to the banking sector in its 2006 review of financial institutions legislation: it determined that banks should not be permitted to sell insurance in-branch or share customer information with their insurance subsidiaries. We strongly recommend that, upon the completion of the current Review, Nova Scotia maintain an analogous restriction for credit unions and, further, explicitly extend the restriction to their online activities.”*

Advocis’ submissions to Ontario and Nova Scotia can be found on its web site at <http://www.advocis.ca/regulatory-affairs/submissions.html>.

#### Independent Financial Brokers of Canada Recommends Licensure For Anyone Involved In Incidental Sales of Insurance

The Independent Financial Brokers’ (IFB) submission on Ontario’s CUCPA goes much further than Advocis’. It contains a lengthy section on “Consumer Protection Framework” and links concerns in this area directly to incidental sales of insurance.

In a letter dated February 5/15, the IFB recommends that *“any seller of insurance products, including incidental insurance, should be licenced. . . . We note, in closing, that these issues apply to a wide variety of sellers of incidental insurance – including, but certainly not limited to, credit unions. Given this, the Ministry of Finance may wish to consider not only how credit unions are dealing with this matter, but other relevant financial entities, so it can be confident that there are no gaps in consumer protection, and that consumers are being well-served in the distribution of these products.”*

Given its highly germane, directly relevant content for CAFII members, the three-page IFB letter is reproduced in its entirety as Appendix A to this Regulatory Update.

#### **International**

#### International Association of Insurance Supervisors (IAIS) Launches Market Conduct Review On ICPs 18 and 19

The IAIS has launched a “thematic self-assessment and peer review” on market conduct for its regulatory authority members, focused on its Insurance Core Principles (ICPs) 18 and 19. The deadline for regulators’ responses to a detailed questionnaire on compliance with these two ICPs is March 2/15.

## Appendix A



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February 5, 2015

Dear Ms. Albanese:

**Subject: 5 Year Review of the *Credit Unions and Caisses Populaires Act, 1994* and regulations**

Independent Financial Brokers of Canada (IFB) is pleased to offer our comments to the Ministry of Finance as it undertakes its 5 year review of the *Credit Unions and Caisses Populaires Act* and regulations. IFB is interested in this consultation as we represent approximately 4,000 licensed financial advisors across Canada - a large proportion of whom live and work in Ontario.

IFB recognizes the important contribution credit unions make to the financial well-being of their members in communities across Ontario. Similarly, many IFB members live and work in those same communities, and compete with local bank branches and credit unions to provide consumers with products, services and advice related to life and health insurance, and investments.

Separation of life insurance from banking

Under the existing rules, the federal *Bank Act* and Ontario legislation governing credit unions have prohibited the sale of insurance in retail branches, other than those specifically authorized under their respective Acts. Neither Act prevents banks or credit unions from providing insurance from a separately owned entity – a provision which exists for the protection of consumers, in recognition of the potential risks if retail banking and insurance were to be fully integrated.

Specifically, these risks relate to conflicts of interest arising from cross-selling of financial products, risk of tied-selling and inappropriate use of personal data. The acquisition of life or disability insurance often requires an individual to disclose sensitive medical information. This information needs to be protected from the risk that it might be used to adjudicate a credit application (i.e. approving or denying a mortgage or loan).

The current regulatory approach serves consumers well and contributes to a healthy and competitive financial marketplace.

#### Consumer protection framework

The paper asks for input on any additional areas of consumer protection that could be addressed “to ensure that consumers are well-informed and understand the costs, risks and suitability of the products and services they are purchasing”. Of particular interest to IFB, as it concerns this consultation, is the disclosure provided to credit union customers relating to insurance sold incidental to another financial transaction (for example, the purchase of mortgage disability insurance in conjunction with a mortgage).

The Canadian Council of Insurance Regulators (CCIR) and Canadian Insurance Services Regulatory Organization (CISRO) undertook a broad study of how incidental insurance products are sold to consumers, and published the recommendations made by its working group in November 2008<sup>1</sup>.

The 4 recommendations to improve consumer outcomes were:

1. Improve the application forms and other documents;
2. Improve the training and supervision of sellers;
3. Provide consumers with the opportunity to reassess the purchase of the product; and,
4. Obtain statistical information (such as, consumer complaints, changes in the annual filings of insurers, and a market survey of insurers selling incidental insurance products).

This consultation defined an incidental seller of insurance as “a person who, in pursuing activities in a field other than insurance, offers as an accessory, for an insurer, an insurance product which relates solely to goods sold or services offered by the person or secures a client’s enrolment in respect of such an insurance product.” Furthermore, “the definition relates, but is not limited to, insurance sold by automobile dealers, by travel agents and agencies, by mortgage brokers, by retailers and through branches of lending institutions such as banks, credit unions, finance companies and pay-day lenders. These insurance products may pay off the balance of, or make payments on, a loan, a credit card or a credit line in case of disability or death. They may also be out-of-Canada health insurance or even prepaid funeral expenses. The common factor is the context in which the insurance product is offered.”<sup>2</sup>

In response to the recommendations referred to above, the Canadian Life and Health Insurance Association (CLHIA) developed industry guidance for its member companies in 2009 aimed at improving the consistency of information provided to consumers when they are being presented with the option of purchasing these products. The guideline is entitled “Guideline 7, Creditors Group Insurance”<sup>3</sup>, a copy of which is available on the CLHIA website, [www.clhia.ca](http://www.clhia.ca).

<sup>1</sup> [http://www.ccir-ccra.org/en/init/isi/ISI\\_Nov2008EngFinalReport.pdf](http://www.ccir-ccra.org/en/init/isi/ISI_Nov2008EngFinalReport.pdf)

<sup>2</sup> Ibid.

<sup>3</sup> [http://www.clhia.ca/domino/html/clhia/CLHIA\\_LP4W\\_LND\\_Webstation.nsf/resources/Guidelines/\\$file/Guideline\\_G7.pdf](http://www.clhia.ca/domino/html/clhia/CLHIA_LP4W_LND_Webstation.nsf/resources/Guidelines/$file/Guideline_G7.pdf)



Also in 2009, the Consumer's Council of Canada undertook a comprehensive study of creditor insurance entitled "Creditor's Insurance – Are Consumers Being Well Served"<sup>4</sup>. Representing the consumer viewpoint, the study makes a number of recommendations and observations related to improving consumer protection, including the need for better disclosure of the terms and conditions.

IFB, in its submission to the CCIR/CISRO consultation, recommended that any seller of insurance products, including incidental insurance, should be licensed. Licensing provides regulatory oversight and opportunities for consumer redress. Our members who are life insurance licensed must successfully complete the Life License Qualification Program (an educational program specific to insurance), pass a competency exam, and be licensed by their respective provincial insurance regulator (FSCO in Ontario) prior to engaging in any insurance activities. We believe this standard should be in place for anyone selling insurance products. We note that Manitoba, Saskatchewan and Alberta have enacted forms of a restricted license for this purpose.

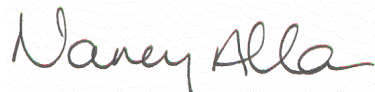
Life insurance agents and brokers licensed in Ontario by FSCO are required by law to provide consumers with written disclosure related to actual and potential conflicts of interest, including how they are compensated. We believe similar disclosure standards should be required in relation to these other products. When insurance is sold alongside another product, it must be made clear to the consumer that the approval of a loan, for example, is not contingent on the purchase of an insurance product.

Much emphasis has been placed by financial services regulators on whether the consumer is in a position, at the point of sale, to make an informed decision about a purchase. Key to this is the availability of plain language documents, so consumers can more easily understand the product they are considering purchasing, their rights (such as rescission periods and cancellation policies), and the underwriting process. Without this knowledge, the purchaser may not understand the impact of an error, which may arise from an inadvertent misunderstanding, on his/her application. For example, an error made when completing the medical questions required to obtain mortgage disability insurance may lead to denial of a claim years later, despite the purchaser having made premium payments and believing coverage was in place.

We note, in closing, that these issues apply to a wide variety of sellers of incidental insurance – including, but certainly not limited to, credit unions. Given this, the Ministry of Finance may wish to consider not only how credit unions are dealing with this matter, but other relevant financial entities, so it can be confident that there are no gaps in consumer protection, and that consumers are being well- served in the distribution of these products.

IFB appreciates the opportunity to contribute our comments. Should you have any questions, please contact me, or Susan Allemang, Director Policy & Regulatory Affairs (email:sallemang@ifbc.ca).

Yours truly,



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<sup>4</sup> [http://www.consumerscouncil.com/site/consumers\\_council\\_of\\_canada/assets/pdf/CI\\_Report.pdf](http://www.consumerscouncil.com/site/consumers_council_of_canada/assets/pdf/CI_Report.pdf)