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Regulatory Update – Executive Operations Committee, May 22, 2014

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Executive Summary of this Issue

- **CAFII Meeting With Manitoba Minister Of Finance Confirmed For April 29. Page 2:** April 29/14 meetings With Manitoba’s Minister of Finance and Superintendent of Insurance gave CAFII a timely opportunity to deliver key messages about its support for the province’s inter-provincially harmonized Incidental Sellers of Insurance Regulation and the critical need for sufficient lead time for implementation.
- **AMF Disseminates Questionnaire On Compliance With Sound Commercial Practices Guideline. Page 3:** In early May, the AMF sent its promised Questionnaire on Compliance With Sound Commercial Practices Guideline to all insurers and deposit-taking institutions operating in Quebec. At the CLHIA Compliance Conference, AMF staff executive Helene Samson commented on the questionnaire and characterized the Guideline as the AMF’s bible on Fair Treatment of Customers.
- **CCIR’s 2014-17 Strategic Plan Initiatives. Pages 3-4:** Carolyn Rogers, CCIR Chair, gave a high level overview of the Council’s new Strategic Plan at the CLHIA Compliance Conference; and commented on related regulatory developments.
- **Financial Consumer Agency of Canada Outlines National Financial Literacy Strategy and Unveils New Three Year Business Plan. Pages 4-5:** Jane Rooney has been promoted into the role of Financial Literacy Leader, working within the Financial Consumer Agency of Canada (FCAC).
- **Borden Ladner Gervais Presentation on Market Conduct Issues: Trends in Industry and Self-Regulation. Page 6:** Jill McCutcheon gave some poll-based prognostications on market conduct regulation trends at the recent CLHIA Compliance Conference.

British Columbia

FICOM Awaiting Stragglers' Responses to Open Letter and Two Question Survey On "Creditor's Group Insurance Issue"

In late May, Brendan Wycks made a follow-up call to Harry James, FICOM's Director, Policy Initiatives, to find out if there was any news he could share based on responses to the Commission's open letter send in early April to all entities licensed to offer creditor's group insurance in the province. The deadline for responses was May 9.

Harry advised that it was premature for him to respond, as there were still a number of straggler respondents who had yet to submit a response to the letter. He expected to be in a position to communicate FICOM's findings and next steps in early to mid-June.

As previously indicated, the open letter includes a questionnaire consisting of two high level filter questions intended to ascertain the prevalence in the market of CGI products which may contravene BC insurance legislation with respect to the "structuring and effecting" of creditor's group insurance.

Earlier, on March 12, Harry James had contacted Brendan Wycks to provide heads-up information about an issue related to creditor's group insurance which had led the Commission to impose a Consent Order and fines totaling \$150,000 on Manulife Financial and its subsidiary company Benesure Canada.

Manitoba

Meeting With Minister of Finance On April 29/14

On April 29, Moira Gill, Paul Yeung, and Brendan Wycks met in Winnipeg with Manitoba Minister of Finance Jennifer Howard, Deputy Minister Jim Hrichishen, Superintendent of Insurance Jim Scalena, and Deputy Superintendent Scott Moore.

And immediately prior to that meeting, the CAFII delegation had a pre-meeting with Jim Scalena, Scott Moore, and Erin Pearson, Executive Director of the Insurance Council of Manitoba.

In addition to face-to-face relationship-building, the meetings provided an opportunity for CAFII to communicate its support for Manitoba's ISI Regulation, given that its current form reflects a high degree of harmonization with the existing ISI regimes in Alberta and Saskatchewan. The delegation stressed the importance of providing – whenever such new Regulations are introduced – sufficient lead time to enable our member Financial Institutions to implement the required changes in an efficient, effective and consumer-friendly manner. We noted that significant regulatory changes inevitably become major projects within member organizations and it takes considerable time to ensure that necessary IT systems changes are made, forms revised, staff re-trained, and consumers notified of how the changes affect them.

Other highlights of the meetings are set out in a Regulatory Visit Report and thank you letters sent to Minister Howard and Superintendent Scalena.

Quebec

Compliance Questionnaire on Sound Commercial Practices Guideline

Helene Samson, Director, Prudential Oversight of Financial Institutions at the AMF, presented as part of CLHIA Conference panel on Fair Treatment of Customers, along with Moira Gill and John Lewsen.

In her remarks, Ms. Samson advised that the following through that week, by Friday, May 9, on its promise to issue a Questionnaire on Compliance with the AMF's Sound Commercial Practices Guideline, which came into force in June 2013. She indicated that the Guideline was inspired by best practices and ICP 19 in the IAIS' Insurance Core Principles, is outcomes-based, and is effectively the AMF's policy manual and bible on Fair Treatment of Customers.

She indicated that the questionnaire would be sent to all financial institutions operating in Quebec, both insurers and deposit-taking institutions. The survey is designed to give the AMF a "big picture assessment" of the current level of compliance, which will permit it to measure the degree of progress towards compliance with the Guideline. Insurers and DTIs doing business in Quebec will be given several months to complete and submit the Questionnaire on Compliance with the Sound Commercial Practices Guideline.

Federal/National

Canadian Council of Insurance Regulators (CCIR)

CCIR Update at CLHIA Compliance Conference, May 7-9/14 in Ottawa

Carolyn Rogers, CCIR Chair, gave a CCIR Update presentation on the opening morning of the recent CLHIA Conference. The key insights from her presentation were:

-Review of Third Party Administrators. Having concluded its pre-consultation and found no significant issues of concern, CCIR has decided to suspend further consultation on insurers' use of TPAs. However, this investigation has resulted in an issue related to White Labeling of Travel Insurance making its way into the 2014-17 CCIR Strategic Plan.

As well, CCIR is reminding insurers that their oversight of TPAs may be addressed by Conduct of Business Review in the future; and insurers are expected to ensure that their TPAs make information about the complaint and dispute resolution process clear to claimants who are denied for any reason.

-Market Conduct Supervisory Framework: CCIR is currently drafting a paper detailing the issues and options for the development of a common Supervisory Framework. The Council has reached agreement that the common Framework must be rooted in the following principles:

- comprehensive with respect to international standards;
- cost-effective for CCIR members;
- efficient in regard to administrative burden on the regulated industry; and
- shared and equitable distribution of responsibility among participating jurisdictions.

-2014-17 Strategic Plan: The overriding feedback received from stakeholders with respect to CCIR's new plan was a desire for increased harmonization in

- laws and regulations;
- licensing requirements;
- implementation of CCIR recommendations; and
- guidance on the use of new technologies.

Therefore, CCIR's high level strategic priorities for the next three years are

- align supervision with international best practices to enhance consumer protection;
- work collaboratively with regulatory partners to increase regulatory capacity across all jurisdictions; and
- partner with industry stakeholders to identify opportunities to improve harmonization and reduce inter-jurisdictional barriers.

Canadian Insurance Services Regulatory Organizations (CISRO)

LLQP Modernization

On April 28, Ron Fullan, Chair of CISRO and its LLQP Committee, issued an open letter to LLQP Stakeholders on the subject of "LLQP Updating Project." The letter has been widely shared throughout the life insurance industry, including by FSCO and the AMF.

The main purpose of the three-page letter – which details the process followed by the LLQP Committee to date, plans and timelines for seeing the project through to completion, and the benefits of the modernization effort to all stakeholders, including consumers – is to address "misconceptions concerning some of the details of the project." The misconceptions referenced, no doubt, include those held by the industry stakeholder whose opposition to key aspects of the project caused the LLQP Committee to ask CAFII for a "letter of support," since delivered, which could be shared with Ministers across the country.

CAFII has another one-on-one stakeholder meeting with the LLQP Committee confirmed for May 28, 2014 from 10:15 to 11:00 a.m. Some of the focus of the meeting, at the committee's behest, will be on providing feedback on curriculum documents, as well as the criteria to be approved as a course provider.

Financial Consumer Agency of Canada

FCAC Outlines National Strategy On Financial Literacy

On April 15/14, Jane Rooney, a seasoned FCAC policy-maker in domestic and international financial literacy issues, was appointed Canada's first-ever Financial Literacy Leader. At the CLHIA Compliance Conference on May 9, Ms. Rooney presented as part of a panel on financial literacy. The title of her presentation was "Financial Literacy: A Powerful Market Force." The highlights of her remarks are as follows.

The goal of the National Strategy for Financial Literacy is to strengthen Canadians' knowledge, skills and confidence to make responsible financial decisions throughout their lives.

Phase 1 of the National Strategy will focus on Seniors and near-Seniors. Phase 2 will focus on other vulnerable groups such as low income Canadians, aboriginal people, and newcomers to Canada. Phase 3 will focus on children and youth.

A National Steering Committee on Financial Literacy comprised of sector leaders and champions of the National Strategy will be formed. There will be an online application process for the committee this Spring and she hopes to be in a position to select and name the members of the committee before the end of summer. She will be engaging with stakeholders to promote participation on the committee.

Financial Literacy Month, which will continue to be held every November. In 2014, a new element will be a National Financial Literacy Conference, to be held in Vancouver on November 6-7, to share knowledge and best practices.

FCAC Unveils New Three Year Business Plan

On April 30, 2014, FCAC Commissioner Lucie Tedesco unveiled the Agency's 2014-17 "Report on Plans and Priorities." The six priorities outlined in this business plan for the Agency for the next three years are:

- lead and co-ordinate the implementation of the National Strategy on Financial Literacy;
- increase the Agency's contribution to financial consumer policy discussions;
- expand efforts to promote public awareness of the obligations of federally regulated financial entities (FRFES);
- conduct proactive and transparent supervision;
- strengthen collaboration and engagement with internal and external stakeholders;
- leverage the Agency's resources and optimize its infrastructure to enhance efficiencies.

In a May 9/14 briefing/planning meeting with CAFII representatives Maria Sanchez-Chung, Moira Gill, Brendan Wycks, and Leya Duigu, Brigitte Goulard, recently appointed FCAC Deputy Commissioner who will be the speaker at CAFII's June 10 Reception event, Ms. Goulard advised that some of her remarks will focus on explaining the Agency's new business plan. She characterized the three-year plan as having five externally-focused priorities and one internally-focused priority. She noted that the CAFII speaking engagement presents an excellent opportunity for FCAC to address one of its external priorities, by connecting with a key industry stakeholder and improving the relationship.

Federal Financial Consumer Code To Proceed

In a briefing meeting with CAFII representatives on May 9/14, Brigitte Goulard, Deputy Commissioner of the FCAC, advised that the proposed Federal Financial Consumer Code, for which a consultation with industry was held between December 2013 and February 28, 2014, will definitely be proceeding ahead.

She advised that many industry stakeholders are not aware of just how much international issues impact domestic market regulatory policy and market conduct regulation. The consultation around the proposed Federal Financial Consumer Code, for example, was borne out of a commitment that Canada made at a G20 meeting. Many people don't realize how difficult it is to change the Government's mind, particularly when international commitments have been made, she advised.

Office of the Superintendent of Financial Institutions (OSFI)

OSFI Wins High Performance Marks In Qualitative Research Findings

In the Executive Summary of a qualitative research report published in March 2014 by public opinion research firm The Strategic Counsel, OSFI wins high marks for effectiveness in discharging its mandate.

Overall, satisfaction with OSFI is very strong which is attributed to perceptions of how it interacts with those it regulates. OSFI is perceived to

- be willing to engage in dialogue with both individual companies and the industry;
- have established good communications with the life insurance industry through consultation, regular meetings with some companies, and participation in presentations and seminars;
- be professional in its dealings with life insurance companies; and
- focus on appropriate areas of risk for the most part.

OSFI is viewed to be among best-in-class regulators worldwide for its efforts to consult with the industry on the development of guidance; principles-based approach to regulation; and generally, being seen as fair and reasonable to deal with.

Canadian Life and Health Insurance Association (CLHIA)

Highlights of 2014 CLHIA Compliance and Consumer Complaints Conference, May 7-9/14 In Ottawa

Market Conduct Issues: Trends in Industry and Self-Regulation

Jill McCutcheon of Borden Ladner Gervais gave a presentation at the CLHIA Conference on this subject. She reported that she had recently conducted an informal poll of industry experts (both regulators and others) in which she posed this question: "What is the most important market conduct issue facing the life insurance industry today and in the near future?"

While this straw poll gave rise to a variety of answers and a remarkable lack of consensus, the following themes emerged:

- higher regulatory expectations rooted in the international mantra of "Fair Treatment of Customers" and related pressure points
- consumer protection standards are increasingly being driven by international views and/or adopted local views, and not by law-maker views
- increased regulator supervision of market conduct
- increased pressure for insurer supervision of the independent life agent/MGA channel
- increased use of Administrative Monetary Penalties as a sanction