

Regulatory Update – CAFII Executive Operations Committee, April 18, 2016
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Introduction

Federal/National

- **Government of Canada:**
 - Federal Government Proposes Delaying Mandatory Bank Act Review To 2019 **(page 2)**
- **CCIR:**
 - CCIR To Publish Further Draft Of Annual Statement For Industry Feedback **(page 2)**
 - CCIR To Release Four Consultation Papers In Spring And Summer 2016 **(page 2)**

Provincial

- **British Columbia:**
 - Ministry Publishes Summary Report On FIA Review Stakeholder Input **(page 3)**
 - CAFII Meeting With FICOM Clarifies CGI Information Bulletin Issues **(page 4)**
- **Saskatchewan:**
 - FCAA To Conduct Consultation On Insurance Act Regulations In Two Parts **(page 4)**
- **Ontario:**
 - FSCO Invites Comments On Draft Statement Of Priorities By May 31 **(page 4)**

International

- **United States**
 - Life Insurance Industry Under Investigation In U.S. **(page 5)**

Federal/National

Government of Canada

Federal Government Proposes Delaying Mandatory Bank Act Review To 2019

In its March 22/16 budget, the Government of Canada proposed delaying by two years the next mandatory review of the *Bank Act*, which was slated to occur in 2017. The governing Trudeau Liberals said they propose “to provide the Department of Finance with \$4.2 million over five years, starting in 2016-17, and to extend the current statutory sunset date by two years to March 29, 2019.”

The budget also recalls that federal laws governing financial institutions “contain sunset provisions mandating renewal of banking and insurance legislation by Parliament every five years, providing an opportunity to examine the legislative and regulatory framework in light of emerging trends and developments, to ensure it remains robust and technically sound.”

Since 2012, the *Bank Act* prohibition against FIs retailing non-authorized insurance products from their branches has also applied to their websites.

Canadian Council of Insurance Regulators (CCIR)

CCIR To Publish Further Draft Of Annual Statement For Industry Feedback

In a liaison meeting with CAFII on April 12/16, CCIR Policy Managers Martin Boyle and Sean Jacobs advised that in late April or early May, CCIR intends to circulate another draft of its Harmonized Annual Statement on Market Conduct to industry stakeholders for comment. The feedback period will likely be 45 days.

Martin Boyle noted that CCIR has been working over the past several months with industry working groups led by CLHIA (for the life and health insurance sector) and the Insurance Bureau of Canada (for property and casualty insurance) on refining the draft Annual Statement. He indicated that based on the feedback points raised by the CLHIA, the revised version to be circulated for comment will be substantially different from the original version circulated in 2015.

Martin confirmed that the industry’s concerns around “self-evaluative privilege” of information submitted through the Annual Statement, especially when a number of provinces do not have legislative provisions to provide such privilege, had been communicated forcefully by CLHIA during the review and refinement deliberations.

With respect to implementation, Martin advised that because CCIR accepts that some insurers either aren’t currently tracking at all the information that regulators seek or they aren’t tracking it in the manner that regulators want, a preliminary version of the Annual Statement will be introduced and used for the first year in 2017. This will ensure that insurers will be able to provide regulators with some of the information requested. A more substantive version of the Statement will be implemented for the following year.

CCIR To Release Four Consultation Papers In Spring And Summer 2016

In a liaison meeting with CAFII on April 12/16, CCIR Policy Managers Martin Boyle and Sean Jacobs advised that the Council would be releasing the following four consultation papers over the spring and summer:

- a Travel Health Insurance Review Issues/Discussion Paper in early summer, for a 90 day consultation;
- a paper on IVICS/Seg Funds in early May, for a 60 day consultation;
- an e-commerce consultation paper related to electronic proof of automobile insurance and cyber security in early May, for a 45 day consultation; and
- a paper related to property insurance in the summer, for a 60 day consultation.

Provincial

British Columbia

Ministry Publishes Summary Report On FIA Review Stakeholder Input

On March 24/16, the BC Ministry of Finance released a high level, summary report on “Input Received from Stakeholders in Response to FIA/CUIA Review Initial Public Consultation Paper” and also published 41 stakeholder submissions on its website.

In the Insurance Sector section, the report provides an extensive summary of the comments and recommendations made by the Insurance Council of BC. A reading of the summary for that section makes it plain that there are two opposed camps of stakeholders on the Insurance Retailing and Licensing Exemptions and Regulation of Insurance Intermediaries issues. CAFII, CLHIA, CADRI, CBA, and IBC are well-aligned in favouring the status quo in these areas, while the Insurance Council of BC, Advocis, the Independent Financial Brokers of Canada, the Insurance Brokers Association of BC, and the Canadian Association of Independent Life Brokerage Agencies (CAILBA), a national Association of life-focused Managing General Agents, are aligned in calling for an end to the current system of licensing exemptions for insurance sold incidentally in BC.

In contrast to the Insurance Council of BC’s submission, BC FICOM’s submission, now published online, was completed independent of the Superintendent and staff, and focuses exclusively on the powers and resources necessary for FICOM to discharge its mandate in a manner that reflects best practices in prudential supervision. Even though the Commission has responsibilities for insurance supervision, FICOM’s Board chose not to address any of the Insurance Sector issues in the consultation paper.

In the summary report’s preamble section, the Ministry stresses that “while stakeholder input is an important part of the review process and will be used to inform analysis of the issues, this summary of the feedback received from stakeholders about each issue is not intended to represent or signal future government policy, or to suggest that any particular changes will be proposed.”

The transmittal letter accompanying the report confirms that “after analysis of the issues and input received during the initial consultation period, the Ministry plans to prepare and release a consultation paper which identifies the proposed changes and seeks further public input.”

With respect to timing for completion of the review, the report notes that in the case of the previous 10-year review, legislative amendments were introduced about two years after the release of the Initial Public Consultation Paper. Regulations were completed and came into force about six to eight months after that, with the entire process taking between 2.5 and 3 years. The Ministry expects that completion of the current review will take at least the same amount of time.

CAFII Meeting With FICOM Clarifies CGI Information Bulletin Issues

On April 14/16, CAFII met by teleconference with representatives from BC's FICOM to discuss CAFII's March 15/16 follow-up letter related to FICOM's Information Bulletin of September 2015 on the Effecting of Creditor's Group Insurance in BC.

In the meeting, FICOM provided clarification and comfort to CAFII on two points raised in the letter related to existing certificates of insurance; and there was a full and frank discussion on the issue of auto dealers being the creditor for a moment-in-time when CGI is offered to consumers purchasing or leasing a vehicle. CAFII committed to do some more research into this issue and get back to FICOM with further information.

On a less positive note, CAFII learned via an April 13/16 e-mail update from Leslie Byrnes, CLHIA's Vice-President, Distribution and Pensions, that there has been no further progress made with FICOM on the industry's CGI Information Bulletin issues related to the mortgage broker market, since January when CLHIA managed to elevate this issue to the level of Superintendent of Insurance Carolyn Rogers.

Saskatchewan

FCAA To Conduct Consultation On Insurance Act Regulations In Two Parts

On April 18/16, 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 now that the April 4/16 provincial election has been completed, she is in a position to provide more details about the process planned for developing Regulations in support of Bill 177, The Insurance Act (Saskatchewan).

The FCAA plans to conduct its consultation with the industry on the Regulations in two parts. First, they will ask for comments on "some of the more complex issues that arose in the new Act, in particular viatical regulation, TPAs, and employee benefit plans." The FCAA hopes to have something out on this to the industry later this Spring.

Thereafter, the FCAA is targeting having draft Regulations ready for dissemination to the industry for comments by late summer or early fall.

Ontario

FSCO Invites Comments On Draft Statement Of Priorities By May 31

In early April, FSCO published its Draft 2016 Statement of Priorities on its web site and invited stakeholder feedback by May 31.

In 2016-17, FSCO will focus its efforts on core activities and initiatives in eight priority areas:

1. Ensure financial services industry compliance with laws and regulations
2. Create common and integrated processes enabled by integrated technology solutions
3. Be an agile and adaptable organization
4. Meet or exceed internal performance standards
5. Influence the development of provincial, national, and international regulatory policy
6. Enhance the collection, use, and sharing of market intelligence
7. Raise awareness of FSCO's actions in the financial services marketplace

8. Provide adequate disclosure of information to enable informed decisions by consumers and pension plan members

But because FSCO considers the first four priorities to be inherent to the work it does, the Draft Statement of Priorities focuses and invites comment on strategic priorities 5 through 8 only.

In a preamble message to the Draft Statement of Priorities, Acting FSCO Chair Florence Holden and CEO Brian Mills note that the final report of Expert Panel appointed by the Minister of Finance to make recommendations on the future mandates of FSCO, DICO, and the FST is expected this Spring and, if adopted by the government, it will have a substantial impact on the future of financial services regulation in Ontario. "FSCO has read the review panel's preliminary report with great interest, and has endeavoured to adopt strategic priorities that strengthen the regulatory capabilities of the organization as it stands today, while also being flexible enough to support any potential outcomes of the agency review."

International

Life Insurance Industry Under Investigation In U.S.

On April 17/16, CBS' investigative journalism program 60 Minutes aired a 13-minute segment titled "Not Paid." The story reveals that audits of leading life insurance companies in the U.S. have uncovered a systematic, industry-wide practice of not paying significant numbers of beneficiaries who did not file a claim for a death benefit.

In a little-known series of settlements, 25 of the largest American life insurance companies have agreed to pay more than \$7.5 billion in back death benefits. However, about 35 insurance companies have not settled and remain under investigation for not paying when the beneficiary is unaware there was a policy, something that is not at all uncommon.

<http://www.cbsnews.com/news/60-minutes-life-insurance-investigation-lesley-stahl/>