

**Regulatory Update – CAFII Executive Operations Committee, May 16, 2016**  
Prepared By Brendan Wycks, CAFII Executive Director

**Table of Contents**

**Federal/National**

- **CCIR:**
  - Industry-Proposed Reforms Prompt Revision Of Paper On Travel Insurance **(page 2)**
  - CCIR Elaborates On Practical Application Of Co-operative Framework And Annual Statement **(page 2)**
  - CCIR To Hold Annual Stakeholder Meetings In Toronto In November **(page 2)**
  - CCIR Strategic Plan Renewal To Begin This Fall **(page 3)**
  - CCIR Publishes Segregated Funds/IVICs Issues Paper **(page 3)**
- **OSFI:**
  - OSFI Appoints Carolyn Rogers As Assistant Superintendent, Regulation **(page 3)**
- **FCAC:**
  - FCAC To Renew Its National Financial Literacy Steering Committee **(page 3)**

**Provincial**

- **British Columbia:**
  - Carolyn Rogers Expects FIA/CUIA Review Policy Paper To Be Delayed **(page 4)**
  - FICOM Concerned About Incentive Schemes Being Used To Drive CGI Sales **(page 4)**
  - Recent Insurance Complaints Coming Disproportionately From ISI Channels **(page 4)**
  - FICOM Views CGI Info Bulletin As Now Squarely In “Enforcement” Realm **(page 4)**
  - Insurance Council Of BC Relying On MGAs To Help Monitor Agent Conduct **(page 5)**
- **Alberta:**
  - Alberta Communicates Decision On CI Insurance Sold Under An RIA Licence **(page 5)**
- **Saskatchewan:**
  - FCAA Targeting June Release Of Materials For Regulations Consultation, Part I **(page 6)**
- **Manitoba:**
  - Insurance Council Publishes Self-Help Manual For Renewing An RIA Licence **(page 6)**
- **Ontario:**
  - FSCO Excited By Expert Panel’s Recommendation On Future Mandate **(page 6)**
  - FSCO To Increase Onus On Insurers For Agent Monitoring **(page 6)**
- **Quebec:**
  - Omnibus Bill This Fall Is Next Step In Financial Sector Modernization **(page 7)**
  - AMF To Publish New Insurance Industry Guidelines This Year **(page 7)**
- **New Brunswick:**
  - Reviews Of Travel Insurance And ISI Are Near-Term Priorities **(page 8)**
  - Final Report On “Other-than-Life” Licensing Framework Delayed **(page 8)**
- **Nova Scotia and Prince Edward Island:**
  - Nova Scotia And PEI Considering Joint Review Of Insurance Acts **(page 8)**

## Federal/National

### Canadian Council of Insurance Regulators

Except as noted, the following information was obtained in CAFII's May 4/16 lunch meeting with CCIR representatives Carolyn Rogers, Vice-Chair; and Martin Boyle and Sean Jacobs, Policy Managers.

#### Industry-Proposed Reforms Prompt Revision Of Paper On Travel Insurance

C. Rogers confirmed that the Council's Discussion Paper on Travel Health Insurance was currently being revised for an early summer release for a 90 day consultation period.

Rogers indicated that because the industry had demonstrated significant movement in terms of the reforms, at its April 7-8/16 meeting the Council decided that the Paper (which was slated for release in the spring) would be revised to reflect the latest industry input and released in the summer instead.

#### CCIR Elaborates On Practical Application Of Co-operative Framework And Annual Statement

M. Boyle indicated that, based on input from the CLHIA industry working group, the Harmonized Annual Statement on Market Conduct has been significantly revised as compared with the first draft that was circulated in late 2015; and a new draft will be circulated to CAFII and other stakeholders for comment by the end of May.

C. Rogers went on to say *"the whole idea behind the Harmonized Annual Statement is to create a tool and a process to help regulators increase their understanding of what's going on in the marketplace without imposing an undue burden on industry participants. It's essentially OSFI's "risk model" transferred to market conduct, through which regulators will look at (i) inherent risks; (ii) control environment factors; and (iii) support factors."*

C. Rogers added that the benefit for industry is that *each regulator will bring its supervisory priorities for the year to the table and any common issues will be incorporated within the Co-operative Framework. The harmonized annual return is expected to create more opportunities for companies to dialogue with regulators, not less.*

C. Rogers indicated that *with respect to self-evaluative privilege, the Industry will need to help regulators get out from under their exposure to Freedom-of-Information (FOI) Requests by lobbying provincial policy-makers and elected officials for legislative change in this area.*

M. Boyle noted that *Ontario legislation provides somewhat of a safeguard in this area as the regulator cannot provide information in response to an FOI request that has already been shared with other provinces.*

#### CCIR To Hold Annual Stakeholder Meetings In Toronto In November

CAFII was advised that the Council will hold Annual Stakeholder Meetings with the industry in Toronto on either Thursday and Friday, November 3/4, 2016 or two weeks later on November 17/18, 2016. CCIR will communicate firm dates and the meeting location as soon as possible.

### CCIR Strategic Plan Renewal To Begin This Fall

C. Rogers advised that renewal of the Council's three-year Strategic Plan will begin this Fall, likely immediately following its meeting in October. Industry stakeholders will be invited to provide input for development of the new plan.

### CCIR Publishes Segregated Funds/IVICs Issues Paper

On May 12/16, Richard Tillman, Senior Manager, Deposit and Institutions Policy at FSCO and a member of CCIR's Segregated Funds Working Group, called Brendan Wycks to provide a heads-up that the Working Group's Issues Paper would be released on May 16. He advised that the Paper's focus is a comparison of the regulatory frameworks for seg funds/IVICs and mutual funds, and July 15 is the deadline for written submissions.

In April 2015, Patrick Déry, CCIR Chair asked CAFII to comment on new disclosure requirements for seg funds/IVIC's; and during our October 4, 2015 liaison meeting with the AMF, Board Chair Peter McCarthy informed Patrick that only some CAFII members offer seg funds so our Association would not be taking a position on this issue.

### **Office of the Superintendent of Financial Institutions**

#### OSFI Appoints Carolyn Rogers As Assistant Superintendent, Regulation

On May 12/16 budget, Jeremy Rudin, Superintendent, announced that the Office of the Superintendent of Financial Institutions had appointed Carolyn Rogers as Assistant Superintendent, Regulation, effective August 15. Carolyn has been CEO of BC's Financial Institutions Commission (FICOM) since 2010. In that capacity, she has served as Chair of the Canadian Council of Insurance Regulators (CCIR) and the Canadian Credit Union Prudential Supervisors Association (CUPSA).

In a simultaneous announcement published on FICOM's web site, Carolyn said "it has been my great pleasure to serve the Government of British Columbia and its citizens for the past six years. While it was a difficult decision to leave, I am also excited to be taking on a new challenge and to be joining an organization as well-regarded as OSFI." She will complete her duties as CEO of FICOM on July 29, including finishing off her assignment as Chair of the province's Independent Advisory Group (IAG) on real estate regulation. The IAG is due to deliver its final report in mid-June.

At OSFI, she will join the executive committee, which includes Superintendent Rudin and three other assistant superintendents who oversee deposit-taking supervision, insurance supervisions, and the corporate services sector. She succeeds Mark Zelmer, OSFI's current deputy superintendent of the regulation sector who is stepping down this summer.

### **Financial Consumer Agency of Canada (FCAC)**

#### FCAC To Renew Its National Financial Literacy Steering Committee

In a financial literacy e-newsletter released May 9/16, Jane Rooney, Canada's National Financial Literacy Leader, announced that the FCAC will soon be renewing her National Steering Committee on Financial Literacy, following completion of the founding members' two-year term.

The entire 15-member committee will be turned over. The newsletter invites people from across Canada who have significant expertise in financial literacy to apply to become a member of the National Steering Committee. Those who provide their e-mail address to the FCAC as an expression of interest will be notified when the nomination process opens.

## **Provincial**

### **British Columbia**

Except as noted, the following information was obtained in CAFII's May 4/16 lunch meeting with Carolyn Rogers, CEO of BC's Financial Institutions Commission and Superintendent of Insurance.

#### Carolyn Rogers Expects FIA/CUIA Review Policy Paper To Be Delayed

C. Rogers indicated that she expects that the BC Ministry of Finance's Policy Paper, the next step in its 10-Year Review of the Financial Institutions Act (FIA) and the Credit Union Incorporation Act (CUIA), will not be published until after the next provincial election on May 9, 2017. She also does not believe that any policy positions with respect to the FIA Review issues have been formed yet in the minds of Ministry staff or the Government officials.

She explained that because there are major issues to be overhauled on the CUIA side of the Review (and not so much the FIA side) if the new Act is going to last another 10 years, she will be very surprised if the Ministry is able to keep to its stated timeline and publish a Policy Paper before the end of 2016.

#### FICOM Concerned About Incentive Schemes Being Used To Drive CGI Sales

C. Rogers advised that FICOM has recently become very concerned about "incentive schemes" that are being used to drive CGI sales within the credit union sector. These are bonus schemes based on a required 100% closure of sales to CGI life, critical illness, and disability insurance prospects; and they lead to unfair, predatory practices, she said.

#### Recent Insurance Complaints Coming Disproportionately From ISI Channels

In a regulator panel at the 2016 CLHIA Compliance and Consumer Complaints Conference, C. Rogers stated that recent insurance-related complaints coming into FICOM seem to be coming disproportionately from incidental sales channels, to the point that her team is looking at this as an early warning indicator.

In a meeting with CAFII representatives later that day, she elaborated that these complaints typically don't relate to CAFII member companies but arise in distribution channels that aren't regulated, e.g. car dealers and mortgage brokers, and are caused by poor training and oversight of sales staff. She added that consumers are not being told that the insurance is optional, no suitability assessment is being completed, and the sales personnel are giving insurance advice when they're not licensed to do so.

"Mortgage brokers are selling CGI with lots of advice, as they think they're financial advisors. Mortgages have become completely commoditized, so mortgage brokers are feeling the pressure to add on an incidental sale of insurance to pad their profit margin."

#### FICOM Views CGI Info Bulletin As Now Squarely In "Enforcement" Realm

C. Rogers advised that FICOM views its CGI Information Bulletin as having now moved fully from the realm of "Policy" into the realm of "Enforcement."

Her message underlying this statement seemed to be that FICOM is not sympathetic toward nor interested in the industry's arguments about the impact of the Bulletin upon auto dealers and mortgage brokers who distribute CGI; and that it will now be forging ahead to enforce the Bulletin's provisions, as they currently stand, by the March 31, 2017 implementation deadline.

She explained that based on the number and types of questions that FICOM was getting from industry stakeholders when it released its CGI Information Bulletin in September 2015, it decided to "back up the bus" into the Policy area and take the time to ensure that the industry fully understood what FICOM wants with respect to compliance. But now that sufficient follow-up dialogue has occurred and FICOM has provided explanations and clarifications, the bus has been driven ahead and is now fully in the Enforcement area under the responsibility of FICOM staff executives Chris Carter and Lorena Dimma.

#### Insurance Council Of BC Relying On MGAs To Help Monitor Agent Conduct

A recent Investment Executive article reported that the Insurance Council of BC has set up a quasi "help line" and is calling on Managing General Agents (MGAs) to use it to inform the Council in cases where they identify a potential problem with an agent's conduct.

Speaking at a Canadian Association of Independent Life Brokerage Agencies' (CAILBA) conference in late March, Gerry Matier, Executive Director of the Council, said that as MGAs play an increasingly important role in the distribution of life insurance, they have a responsibility to monitor their agents closely and watch for potential misconduct. "MGAs play a very good role for the regulator. They see a lot of the things that we don't get to see and, at the same time, they have the same interests that we have. They no more want to be dealing with problem agents than we want to be dealing with problem agents and, often, we find that they are in a great position to see potential clues that would help to identify problems down the road," Gerry said.

The help line has already been effective, Gerry indicated. "A number of MGAs have come forward to us. We have been able to identify problems and deal with them, in probably a much quicker manner."

The article pointed out that regulators in other provinces are also acknowledging the increasingly prominent role that MGAs play in the industry. The Saskatchewan Financial Consumer Affairs Authority is moving forward with establishing a new licensing category for MGAs to reflect the role they play in the distribution process. Speaking at the same conference, Patrick Déry, the AMF's Superintendent, Solvency, advised that the AMF is also exploring the possibility of creating a new licensing class for MGAs in Quebec.

Warren Martinson, director of legal and regulatory affairs at the Insurance Council of Alberta said "nothing is being considered right at this moment, but we are certainly looking and learning from our colleagues. We can learn from each other to see what that kind of licensing can accomplish and how to do it right."

#### **Alberta**

##### Alberta Communicates Decision On CI Insurance Sold Under An RIA Licence

On May 9/16, Joanne Abram, CEO of the Alberta Insurance Council, communicated the information below to CAFII and other industry stakeholders, outlining the decision reached by her Life Insurance Council (LIC) after reviewing the types of insurance products that may be appropriately sold under a Restricted Certificate:

*During the course of the review, we found numerous instances where Critical Illness Insurance was being sold under a Certificate authorizing "Credit Related Insurance." Credit Related Insurance, as approved by the LIC, includes creditors' group life insurance, creditors' group disability insurance, and creditors' loss of employment insurance. Critical illness insurance was not approved to be sold under a Restricted Certificate of Authority.*

*If your member companies wish to distribute this product through RCHs, a request would need to be made to the Life Insurance Council. Any request should include full product details, copies of application forms, copies of all information and disclosures provided to consumers on purchase, as well as information on the claims processes in place. Further information on this issue will be provided as it becomes available.*

## **Saskatchewan**

### FCAA Targeting June Release Of Materials For Regulations Consultation, Part I

On May 16/16, 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 the Authority is a little behind schedule compared to where she had hoped to be with respect to sending out materials to the industry related to Part I of its planned two-part consultation on draft Regulations in support of *Bill 177, The Insurance Act (Saskatchewan)*. The release of Part I materials on "some of the more complex issues that arose in the new Act, in particular viatical regulation, TPAs, and employee benefit plans" now likely won't occur until sometime in June. Previously, she was targeting a May release.

After Part I is completed, the FCAA is targeting having actual draft Regulations ready for dissemination to the industry for comments, as Part II of the consultation, by late summer or early fall.

## **Manitoba**

### Insurance Council Publishes Self-Help Manual For Renewing An RIA Licence

The Insurance Council of Manitoba has published a self-help manual on its web site titled "Instructions To Assist A Restricted Insurance Agent (RIA) To Renew Their Licence." The renewal deadline is May 31/16.

## **Ontario**

### FSCO Excited By Expert Panel's Recommendation On Future Mandate

In a regulator panel presentation at the 2016 CLHIA Compliance and Consumer Complaints Conference, Brian Mills, FSCO's interim CEO, said that the Commission's management team was excited by the three-member Expert Panel's recommendation that FSCO be transformed into a Financial Services Regulatory Authority (FSRA). FSCO is pleased with this recommendation because it would become an independent regulator no longer bound by government control and a cap on full-time equivalent staff (FTEs).

### FSCO To Increase Onus On Insurers For Agent Monitoring

In a panel presentation at the 2016 CLHIA Compliance and Consumer Complaints Conference, Anatol Monid, Executive Director of FSCO's Licensing and Market Conduct Division, advised that FSCO is currently introducing the concept of "primary insurer" to its regulatory model for non-sponsored life insurance agent monitoring and will be consulting with the industry on it in the summer of 2016.

(This in contrast to the focus on MGAs for insurance agent monitoring and compliance being pursued by BC and some other provinces. See “Insurance Council Of BC Relying On MGAs To Help Monitor Agent Conduct” above.)

Under its new approach, FSCO will be requiring a non-sponsored agent to declare a “primary insurer” and that insurer would be FSCO’s main compliance contact. “At the end of the day, the statutory obligation for agent monitoring in Ontario rests with insurers,” Anatol said, and FSCO can leverage insurers’ obligation for agent oversight to achieve compliance with agent requirements such as maintaining a current e-mail address and up-to-date errors and omissions insurance information in FSCO’s agent database.

To illustrate the efficacy of this approach, Anatol noted that at the end of Phase 1 of FSCO’s 2014-15 Life Insurance Agent Compliance Examination process, 6% of life agents in the province had not updated their errors and omissions insurance information in FSCO’s system. This translates to 2,400 agents and FSCO simply does not have the resources to pursue them all individually. But because there are only 100 licensed life insurance companies in Ontario, FSCO can use insurers’ responsibility for agent monitoring to help secure compliance more efficiently and effectively.

Anatol also advised that as part of Phase 2 of its Life Insurance Agent Compliance Examination process between April 1, 2016 and March 31, 2017 FSCO will:

- continue to conduct on-site reviews of life agents on both random and target bases;
- conduct on-site reviews of insurers, to assess their oversight and compliance controls with respect to life agents; and to test CCIR’s new Framework for Co-operative Market Conduct Supervision; and
- start to take enforcement action against insurers that pay commissions to unlicensed agents.

## **Quebec**

### Omnibus Bill This Fall Is Next Step In Financial Sector Modernization

In an April 28/16 appearance before Quebec's Committee on Public Finance, when pressed by the opposition’s finance and revenue critic to make a commitment and reveal when the government intends to table a Bill that will reform the province's financial sector, including the *Act respecting the distribution of financial products and services*, Minister of Finance Carlos Leitão said "Maybe in the fall, we'll see. There will be a financial omnibus bill that will address this situation and others, including the AFSC [*Act respecting financial services cooperatives*]. We are going to modernize it, we will adapt it to new realities, and it will happen in this Bill that will, I hope, still come this year." The Minister also promised to hold consultations around the omnibus Bill.

### AMF To Publish New Insurance Industry Guidelines This Year

In a presentation at CLHIA’s 2016 Compliance and Consumer Complaints Conference, Julien Reid, Senior Director, Financial Institutions Oversight and Deposit Insurance at the AMF, advised that emanating from the AMF’s significant involvement with the International Association of Insurance Supervisors (IAIS) Marketing Conduct and Governance Working Groups since 2008, the Quebec regulator will publish in the coming months a new “Compliance Guideline” (in line with revised Insurance Core Principle 8 re Risk Management and Internal Controls) and a new “Guideline Governing Integrity and Competency Criteria” (in line with revised Insurance Core Principle 5 re Suitability).

In a panel presentation at the same conference, Patrick Déry, the AMF's Superintendent, Solvency, advised that the Quebec regulator would also be undertaking a review in 2016 of "incentives," arising from its 2014 self-assessment survey of insurer compliance with its Sound Commercial Practices Guideline.

## **New Brunswick**

### Reviews Of Travel Insurance and ISI Are Near-Term Priorities

In a panel presentation at the 2016 CLHIA Compliance and Consumer Complaints Conference, Angela Mazerolle, New Brunswick's Superintendent of Insurance, advised that the Insurance Division plans to conduct reviews of the following in the near future:

- travel health insurance and how sellers of this product are licensed in the province. This review will come after completion of the CCIR's current national review of the same product; and
- incidental sales of insurance (e.g. creditor's group insurance, particularly as sold by auto dealers) and whether the province's current licensing regime is sufficient. She has identified that ISI is essentially unregulated in New Brunswick.

### Final Report On "Other-than-Life" Licensing Framework Delayed

In a liaison meeting with CAFII representatives on May 4/16, David Weir, New Brunswick's Deputy Superintendent of Insurance, advised that a final report containing recommendations to the government on "Opportunities for Reforming the New Brunswick Licensing Framework for Other-than-Life Insurance Agents and Brokers" had been delayed. Although two rounds of industry consultation on this matter have been completed, due to competing priorities and resource constraints within the FCNB, the Insurance Division's final positions on the licensing framework modernizations were not ready for submission at this time and there was no target date for their release.

## **Nova Scotia and Prince Edward Island**

### Nova Scotia And PEI Considering Joint Review Of Insurance Acts

In a May 4/16 e-mail to Brendan Wycks, Robert Bradley, PEI Superintendent of Insurance, indicated that PEI is not in a position to undertake a review of the life and accident and sickness provisions of its Insurance Act on its own in 2016. "The Department of Justice and Public Safety's resources are currently reduced from their usual level in past years. Accordingly, it would be very difficult for us to complete a revision of the parts on our own," he indicated.

However, Robert has had preliminary discussions with William Ngu, Nova Scotia Superintendent of Insurance, who indicated that his province may make a review of the life and accident and sickness provisions of its Insurance Act a near future priority. If that materializes, PEI would likely be able to find the resources to participate in a joint review of the relevant sections of both provinces' Acts, as a "non-lead" province.