

Regulatory Update – CAFII Executive Operations Committee, November 11, 2015

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Federal/National

Canadian Council of Insurance Regulators (CCIR)

Travel Insurance Working Group To Meet With Stakeholders On Survey Results

In its inaugural, Fall 2015 issue of *Communique* – a newsletter designed to replace its quarterly Meeting Highlights – CCIR reports that its Travel Insurance Working Group (TIWG) has nearly completed its analysis of the data received through its survey of travel health insurers. The data is helping the TIWG to gain a better understanding of issues related to travel health insurance, which will enable it to publish an Issues Paper on the product in 2016.

At a CAFII meeting with BC FICOM officials on November 10/15, Frank Chong, Deputy Superintendent, Regulation, reported on behalf of Harry James, Chair of CCIR's TIWG, that

- the TIWG will be setting up meetings with industry stakeholders within the next few weeks, to discuss key findings from the survey of travel health insurers;
- the Issues Paper will likely be released for industry consultation in the summer of 2016. Previously, Harry had indicated that the Issues Paper would be issued by early in the second quarter of 2016.

CCIR To Publish Market Conduct Supervision Framework Before Implementation

At its Fall 2015 meeting in St. John's, CCIR adopted a harmonized market conduct supervision framework, which is risk- and results-based and will govern how the provincial and territorial regulators will work together.

CCIR has advised that, before implementation, it will publish its *Framework for Co-operative Market Conduct Supervision* for the industry's information, noting that the document will provide clarity on the processes and practices that Council members will use to foster a more collaborative, co-operative and harmonized approach to market conduct supervisory activities.

The *Framework* – central to the supervisory college developmental work being carried out by CCIR's Insurance Core Principles Implementation Committee (ICPic) chaired by Laurie Balfour, Director of the Financial Compliance, Insurance Regulation and Market Conduct Branch in Alberta's Ministry of Finance – is intended to enhance information-sharing among regulators; enable more proactive regulatory action; provide consistent consumer protection across provinces; and ensure that international regulatory standards are being met.

CCIR Releases Draft Annual Statement On Market Conduct For Consultation

On October 28/15, CCIR released a draft Annual Statement On Market Conduct, for industry review and feedback by November 27/15. Patrick Dery, Chair of CCIR, had given CAFII early notice about this initiative during CAFII's industry issues dialogue with him and other AMF staff executives on October 6/15.

Patrick Dery's transmittal letter accompanying the draft Annual Statement indicates that the Annual Statement has been developed by CCIR to provide regulators across the country with basic information needed to proactively monitor market conduct practices and align oversight activities with international supervisory standards, particularly as they relate to the fair treatment of consumers. The single, consolidated Annual Statement will reduce duplication of effort and eliminate the need for insurers to provide often identical information to multiple regulators.

CCIR regards the draft Annual Statement as a key tool that will facilitate increased information-sharing and the collaborative approach to supervision that the Council's members have adopted. The data being collected is intended to measure outcomes that are outlined in the IAIS' Insurance Core Principles. It will enable CCIR members to be better informed about insurer activities and practices in the marketplace, and identify potential areas for review.

The impetus behind the proposed Annual Statement is a desire to be able to demonstrate that Canada's insurance regulators have a proactive market conduct supervisory framework in place, in order to satisfy the IMF, working on behalf of the IAIS, when it next comes to Canada for a Financial Sector Assessment Program review.

A preliminary review of the draft Annual Statement and an e-mail exchange with Martin Boyle, CCIR's Policy Manager responsible for this project, has provided the following additional information:

- only licensed insurance companies will be required to complete and submit the Annual Statement on Market Conduct.
- the timing of CCIR's implementation of the requirement to file this Annual Statement has not been determined, and CCIR would appreciate the industry's input on that question. CCIR is considering possible implementation dates and possible implications for the industry. We are also considering working with a limited number of insurers as a test prior to implementing the Annual Statement. Submission of 2016 data in the spring of 2017 would be the earliest that CCIR would require compliance.
- 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), but would appreciate industry input on that question.
- CCIR is seeking industry input on the following matters in particular:
 - availability of the information to be reported by insurers;
 - method of collection: separate Excel-based request or built-into standardized regulatory filings;
and
 - appropriateness of integrating all market conduct information (including consumer complaints) into one form.

Policy Manager Succession Plan Unfolding

CCIR has confirmed that Carol Shevlin, Policy Manager, will be retiring at the end of November 2015. Carol has served in that CCIR role for 11 years, guiding the national co-ordinating body through many initiatives and its 100th anniversary. CCIR members thanked her for her work and bid her farewell in-person at the Council's 2015 Fall Meeting in St. John's in early October, where she was presented with a scrapbook of mementoes that included a card and letter from CAFII.

Carol will be a guest of honour at CAFII's Year-End Reception on December 8/15.

A group of CAFII representatives will also have a relationship-transition lunch meeting with Carol and her two CCIR Policy Manager successors – Sean Jacobs and Martin Boyle – on November 20/15.

Provincial

British Columbia

Company Executive Is New Insurance Council Chair For 2015-16

The Insurance Council of BC's new Chair for 2015-16 -- who succeeded 2014-15 Chair Ruth Hoyte, a life insurance broker, in October – is Brett Thibault, Regional Branch Manager with ING Insurance Company of Canada. In previous positions with ING Canada, Brett was the Manager of Commercial Insurance and an underwriter of commercial insurance. He holds a BA from Simon Fraser University, and the Chartered Insurance Professional (CIP) designation from the Insurance Institute of Canada.

In his first "Message from the Chair," Thibault notes that he is coming into the role at a time when Council is facing a number of challenges and opportunities which will have a significant impact on its operations. He highlights the Council's recent submission to the province's Financial Institutions Act review, but mentions as a specific issue only the question of whether there should be a change to the way members are selected to serve on the Council. He does not highlight the submission's proposals related to imposing significant new limitations on the licensing exemption afforded to creditor insurance under the province's current Insurance Retailing and Licensing Exemptions.

Insurance Council To Introduce Electronic Licensing System In 2016

In his first *Message From The Chair*, Insurance Council Chair Brett Thibault announces that the Council is developing a new licence management system, which is targeted for launch in January 2016.

The new system will give Council the ability to implement an electronic licensing and application process, which will also allow for electronic submission of applications and filings. This will result in significant changes to Council's operations and will make its interactions with licensees and applicants more efficient and effective.

Ontario

Expert Panel Says Ontario Needs Integrated Financial Services Regulator

On November 4/15, the Expert Panel advising the Ontario government on the future mandates of the Financial Services Commission of Ontario (FSCO), the Deposit Insurance Corporation of Ontario (DICO), and the Financial Services Tribunal (FST) released its Preliminary Position Paper.

Asserting that Ontario's financial services regulatory regime is not as effective as it could or should be, the Paper calls for the establishment of a new Financial Services Regulatory Authority (FSRA), as a single integrated organization that would carry out the prudential and market conduct functions currently performed by FSCO and DICO.

FSRA would employ a modified “twin peaks” approach to regulation, dealing with prudential and market conduct functions in a co-ordinated but distinct fashion.

The three-member Panel – whose members are Larry Ritchie, former Vice-Chair of the Ontario Securities Commission; former personal finance journalist James Daw; and George Cooke, a former regulator and insurance company executive – also proposes that the FST be separated from and operate financially independent of the proposed FSRA.

FSRA would be self-funded; governed by an expert board of directors; arm’s length from government, with its own distinct corporate identity; authorized to make and enforce rules, as limited by its authorizing statute; guided by a clearly articulated mandate; as set out by its authorizing statute; and obliged to act transparently and in a principled manner, manage risk, and strive for a specified set of outcomes.

The Panel makes 37 recommendations in support of its FSRA vision, covering Mandate; Governance; Structure; Tools, Means, and Regulatory Approach. The following recommendations are of particular relevance to CAFII members:

- FSRA’s mandate should strike a balance between strong and effective consumer protection and the fostering of a strong, vibrant and competitive financial services sector.
- that mandate should be informed by the 10 principles in the OECD’s G20 High-Level Principles on Financial Consumer Protection.
- the mandate of the agency should include a commitment to encourage innovation and transparency within the regulated sectors.
- there should be common and consistently applied standards for all relevant intermediaries, ie. individuals or entities selling similar products (e.g., mutual and segregated fund dealers; insurance agents, insurance brokers, and applicable sales staff within financial institutions, such as banks).
- FSRA should operate outside of the Ontario public service in order to support operational independence and improve its ability to recruit professionals and industry expertise.
- FSRA should be required to provide a mechanism to ensure that the perspective of consumers is considered in all of its policy-making and actions. Specifically, this should include the creation of a separate ‘Office of the Consumer’ to perform this and related functions. It should not be organized as a silo, but rather with enterprise-wide responsibilities to ensure that consumer perspectives are considered in all regulatory endeavours pursued.
- FSRA’s role in national regulatory bodies should be incorporated into its mandate, with a requirement that the work done by these groups be reported back to FSRA’s board of directors.

The Panel members reviewed written submissions from 45 organizations and individuals, held seven specific sector roundtable discussions and engaged in open dialogue during more than 35 informal meetings with regulators, financial services stakeholders and investor advocates.

Their recommendations aim to address concerns heard during the consultations including that FSCO lacks the resources, governance, and accountability to effectively fulfill its current mandates; it lacks transparency; and its approach isn't consistent with other regulators.

The Panel is seeking feedback on its preliminary recommendations by December 14, 2015, and expects to deliver its final recommendations to the Minister of Finance by "early winter."

FSCO Examinations Find 10% Of Life Agents Not Disclosing Conflicts In Writing

Some life insurance agents are failing to comply with existing regulatory requirements related to managing conflicts of interest, which may necessitate changes to strengthen regulations, said Anatol Monid, Executive Director of FSCO's Licensing and Market Conduct Division when speaking the Independent Financial Brokers of Canada's recent Fall Summit.

He pointed out that the 79 on-site compliance examinations conducted thus far this year have revealed that 10% of life agents are not disclosing actual or potential conflicts of interest to their clients in writing, as required under Ontario Regulation 347/04.

FSCO's compliance review activity continues to show that there is a lack of statutory written conflict of interest disclosure, Anatol reported, and as such the Commission will have to consider a regulatory response to correct what is systemic contravention.

Newfoundland

New Superintendent Of Insurance Appointed

Newfoundland and Labrador has recently appointed John O'Brien as Director of Service Newfoundland's Financial Services Regulation Division. As such, he is also Superintendent of Insurance, Real Estate, Mortgage Brokers, Securities, and Prepaid Funerals.

He succeeds Craig Whalen who had been serving as Acting Superintendent of Insurance.