

**Regulatory Update – CAFII Board of Directors, September 29, 2016**

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## **Federal/National**

### **Canadian Council of Insurance Regulators**

#### CCIR Considering Addition Of Attestation To Annual Statement On Market Conduct

On September 22/16, Martin Boyle, CCIR Policy Manager, confirmed to B. Wycks that the Council's Insurance Core Principles Implementation Committee (ICPic) is looking at adding an attestation to its Annual Statement on Market Conduct (Life and Health), and that CAFII's views on the matter will be taken into consideration.

On September 21/16, B. Wycks wrote to M. Boyle as follows: *it has come to CAFII's attention that serious consideration is being given to adding an attestation to the Annual Statement on Market Conduct (PC) along the following lines: 'the insurer is in compliance with the applicable federal, provincial, and territorial Insurance Acts and regulations.'* Given that efforts are being made to ensure that the Annual Statement (PC) and the Annual Statement (Life and Health) are in harmony, we're wondering if CCIR plans intends to add an identical/similar attestation to the Annual Statement (Life and Health)?

*CAFII members had an opportunity to discuss that prospect in a meeting yesterday. We are opposed to the adding of such a broad, sweeping attestation to the Annual Statement (Life and Health) since we do not believe that insurers will be comfortable with signing off on it. Our members would be comfortable with an attestation focused on the information provided in completing the Annual Statement, from which the "compliance with applicable laws..." component has been removed.*

*Thanks, in advance, for bringing CAFII's views on this to the attention of the Insurance Core Principles Implementation Committee and other CCIR decision-makers.*

In reply, M. Boyle said *thank you for your email and recommendations regarding the proposed attestation for the Annual Statement. You are correct that the attestation is being considered for both the P&C and life and health versions of the Annual Statement. However, it should be noted that the initial draft of the language that was shared with you was just that: an initial draft. The content of the proposed attestation is under review, which will include your comments below. We have also heard similar concerns regarding the portion you flagged from other industry associations as well.*

#### CCIR Expects Stability In Chairman Leadership

At CLHIA's September 7/16 retirement party for L. Byrnes, Martin Boyle, CCIR Policy Manager, advised Brendan Wycks that he expects current CCIR Chair Patrick Dery to be re-elected in April 2017, for another two-year term. Mr. Dery is highly regarded by his Council peers and viewed as passionately engaged in the regulatory issues that are high on CCIR's agenda.

With the August departure of Carolyn Rogers to OSFI, CCIR did not see a need to replace her as a Vice-Chair of the Council before next April, given that Brian Mills, Superintendent of Insurance (Interim) at FSCO, and Robert Bradley, PEI Superintendent of Insurance, are also Vice-Chairs of the Council.

#### CCIR's Fall 2016 And Spring 2017 Meeting Dates Set

Martin Boyle and Sean Jacobs, CCIR Policy Managers, recently advised Brendan Wycks that CCIR's Fall 2016 meeting will take place on October 6-7 in Edmonton; and its Spring 2017 meeting will take place on April 6-7 in Toronto.

CAFII will schedule liaison meetings with the CCIR Policy Managers for dates shortly after those meetings, for information-sharing and dialogue on new regulatory developments.

In addition, with respect to scheduling a CAFII 20<sup>th</sup> Anniversary Celebration event on a date that would make it possible for a number of CCIR members to attend, M. Boyle and S. Jacobs advised that the evening of Wednesday, April 5/17 would be a workable option. Most CCIR members will be in Toronto by then, in preparation for the next day's Council meeting, and without a scheduled commitment for the evening.

#### CCIR Members Agree On Cooperative Supervisory Plan For Remainder Of 2016

CCIR announced in its Summer 2016 *Communique* newsletter that Council members had recently agreed on a Cooperative Supervisory Plan for the remainder of 2016.

The Supervisory Plan includes both institution-specific and thematic reviews and – building upon the Memorandum of Understanding signed by nearly all Council members and the related *Framework for Cooperative Market Conduct Supervision in Canada* – it “introduces a new era of insurance supervision in Canada.” Participating regulators will coordinate their efforts to conduct the reviews in multiple jurisdictions simultaneously, in a manner consistent with a regulatory college.

#### CCIR Annual Stakeholder Meetings Set For December 12-13/16 In Toronto

CCIR has announced that it will hold its 2016 annual stakeholder meetings in Toronto on Monday, December 12 and Tuesday, December 13. Until such time as CCIR is ready to assign date/time slots to individual stakeholder groups, CAFII's Board Chair, Vice-Chair, and EOC Chair have blocked off both December 12 and 13 on the calendars.

#### **Department of Finance Canada**

##### Finance Canada Releases Consultation Document On Federal Financial Framework

On August 26/16, Finance Canada released “Supporting a Strong and Growing Economy: Positioning Canada's Financial Sector for the Future.” The paper is a consultation document that constitutes Part 1 of a two-stage review of Canada's federal financial sector framework.

In the *Budget Implementation Act, 2016, No. 1*, Parliament extended the statutory sunset date in the financial institutions statutes by two years until 2019, to facilitate the review. The consultation document launches the first stage by setting out the current federal financial sector landscape; identifying key trends that may influence future directions; and seeking input on these trends and related implications and areas for potential action. Response submissions, due by November 15/16, will inform the development of a Part 2 policy paper for further consultation in 2017.

As previously discussed at both the EOC and Board levels, CAFII will not be responding to the Finance Canada consultation document. Rather, the Association will monitor and liaise with the Canadian Bankers Association around its participation in the review process; and will provide advice and input related to financial institutions in insurance, as required.

##### Finance Canada Welcomes First Federal Credit Union

On July 1/16, the federal Department of Finance welcomed Caisse populaire acadienne ltée, with its 155,000 members, as Canada's first federal credit union. As a federally regulated credit union, it will have greater flexibility to grow its business and better serve members.

While moving to a federal charter, the credit union is also modernizing operations and amalgamating 15 caisses and two related entities. Under its new trade name, UNI Coopération financière/UNI Financial Cooperation, it will continue to finance small and medium-sized businesses and serve the financial services needs of New Brunswickers, especially in smaller communities and rural areas.

## **Canadian Life and Health Insurance Association**

### CLHIA Shares Revised Guideline G7, *Creditor's Group Insurance* With CCIR

On June 29/16, Erica Hiemstra, Director, Distribution and Consumer Affairs at CLHIA, wrote to Patrick Dery, Chair of CCIR, in order to share a copy of its recently revised Guideline G7, *Creditor's Group Insurance* with insurance regulators across the country. In addition to highlighting six specific revisions to the Guideline, the letter notes that

- Guideline G7 protects the interests of debtors by promoting consistent practices for insurers and by providing operating and disclosure standards for the transaction of Creditor's Group Insurance. The current revisions were made to ensure that the standards set out in the Guideline take a customer-focused approach to distributing creditor's group insurance and incorporate international standards and Canadian regulatory expectations for insurance distribution; and
- the revisions were adopted by CLHIA's Board of Directors at its most recent meeting and will take effect on June 1, 2017.

## **Provincial**

### **British Columbia**

#### FIA Review Policy Paper Release Targeted For Spring 2017

On June 23/16, Elizabeth Cole, Executive Director, Strategic Projects in the BC Ministry of Finance's Policy & Legislation Division and lead on the 10-year review of the Financial Institutions Act, called Brendan Wycks to provide the following updates with respect to the FIA review:

- the target release date for the Policy Paper, the next phase in the consultation, is now the Spring of 2017, either before or after the May 9/17 fixed date provincial election. The Ministry of Finance will likely have the Paper ready to be released for consultation in the early Spring but it will be up to the Government to decide whether it wants to release it before the election or wait until afterwards. The Ministry previously indicated that it would likely take 2.5 to three years to complete the whole process of the 10-Year Review; and with a Spring 2017 release of the Policy Paper, everything will still be on track for that timetable. The process started in June 2015 with the Initial Public Consultation Paper and the target for having the Review fully complete is June 2018;
- there are several key policy issues on the Credit Union Incorporation Act side of the review that need to be ironed out, which is the main reason for the long preparation time for the Policy Paper;
- there is really only one contentious issue on the insurance side in the FIA Review, and that's the Insurance Retailing and Licensing Exemptions. Where the Ministry will likely land on that is by making some proposals for change in the Policy Paper. And as with all change scenarios, there'll be some stakeholders who are happy with the proposed new model, and others who aren't so happy. But that same issue was also contentious in the previous 10-Year Review, a decade ago, and the Ministry was able to come up with an approach that all parties could live with; and

- after the Ministry publishes the Policy Paper next year, it will want to publish all of the response submissions it receives immediately following the close of the consultation, in the interests of transparency and fairness to all stakeholders. The Ministry may go so far as to say in the Policy Paper, “if you want us to consider your submission, you must consent to its publication on a Ministry web site immediately following the close of the consultation.”

#### FICOM Announces Interim Executive Team

On August 16/16, BC FICOM announced that an interim leadership team had been put in place while it works with the Ministry of Finance to fill key leadership positions, including the CEO and Superintendent of Financial Institutions role following Carolyn Rogers’ departure for OSFI.

Effective August 1, 2016, the following have been appointed to the roles indicated on an interim basis:

- Frank Chong is Acting Superintendent of Financial Institutions and Acting CEO of the Credit Union Deposit Insurance Corporation (CUDIC);
- Tara Richards (Assistant Deputy Minister and Executive Financial Officer, Ministry of Finance) is Interim FICOM CEO. Reporting to the Superintendent of Financial Institutions, Ms. Richards is responsible for FICOM finance, human resources, service planning, and communications;
- Michael Peters is Acting Superintendent of Pensions; and
- Chris Carter is Acting Superintendent of Real Estate and Acting Registrar of Mortgage Brokers.

#### **Alberta**

#### CI Benefits Will Be Added To "Credit Related Insurance" For Existing RIA Certificate

On September 28/16, Joanne Abram, CEO of the Alberta Insurance Council, communicated the following good news to B. Wycks: *the Life Insurance Council met this morning and have come to the decision to redefine Credit Related Insurance to include Creditor group (CG) Life, CG Disability, CG Critical Illness and loss of employment. I will be sending out a formal letter to advise you of such and to seek CAFII's input regarding the definition of creditor group critical illness to be adopted for the purposes of restricted licensing.*

Earlier, in a teleconference with CAFII representatives Greg Grant, Emily Cloutier, and Brendan Wycks on September 12/16, Ms. Abram had shared some encouraging information. On the issue of critical illness insurance benefits sold as creditors’ group insurance, AIC management would be recommending to the Life Insurance Council that

- CI benefits should be allowed to be sold as CGI under the existing Restricted Certificate of Authority; and
- the Council should clearly spell out what constitutes credit-related insurance (what’s covered and what’s not) by amending the existing Order that defines the classes/types of insurance for purposes of Section 454 of the Insurance Act (similar to the recommendation made in CAFII’s submission of July 22/16 that clarifying wording be added to “credit-related insurance” to stipulate that it includes insurance covering *loss of life, disability, injury or illness, or involuntary loss of employment*).

Subsequent to sharing that encouraging information, Ms. Abram commented that the Bank Act determines what kinds of products the banks can sell as Authorized Insurance Products; and the CAFII and CLHIA information presented to the AIC indicates that CI benefits should be included as part of credit-related insurance. She also noted that when the Alberta Insurance Act was amended in 2001 to create a Restricted Insurance Agent licensing regime, CI was just coming onto the scene. CI benefits were not contemplated as being included as part of credit-related insurance/CGI by the Insurance Council at that time and that has led to some recent confusion about its being sold as a product under a Restricted Certificate of Authority.

#### AIC Creates New Certificate For GAP Insurance

In July, the AIC's General Insurance Council (GIC) announced that it had approved the creation of a new Restricted Certificate to allow both vehicle and equipment dealerships to sell GAP insurance. GAP insurance is property insurance that covers all or a portion of the difference between the recovery received on primary automobile insurance in the event of a total loss and the Manufacturer's Suggested Retail Price of a current year replacement vehicle; or the difference between the recovery on a primary automobile insurance policy and an outstanding loan or lease obligation in the event of total loss.

#### New Life Insurance Council Member Elected

Following an election period from July 18/16 to August 17/16, the AIC has announced that life insurance licensees have elected Michael (Mike) Bibby as a new member of the Life Insurance Council. Mr. Bibby is Director, Advanced Sales with PPI Solutions Inc. in Calgary; and he is a Past-President of Advocis Calgary.

### **Saskatchewan**

#### FCAA Now Planning Concurrent Two-Part Consultation On Regulations In Fall 2016

On September 12/16, 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 still intending to hold its consultation with the industry on Insurance Act Regulations in two parts: (i) on the more complex issues that were identified in drafting and securing Government approval of Bill 177, such as viatical regulation, TPAs, and employee benefit plans; and (ii) on the general Regulations required to get the new *Insurance Act* up and running.

However, the FCAA's timeline has now been pushed back and both consultations are expected to occur this Fall, likely concurrently rather than consecutively, Ms. Seibel indicated.

### **Manitoba**

#### Insurance Council Asks Government To Expand RIA Licence Parameters

On September 23/16, Erin Pearson, Executive Director of the Insurance Council of Manitoba (ICM), provided clarification to B. Wycks on the news, mentioned in the Council's 2015-16 Annual Report, that its Incidental Sales of Insurance (ISI) Committee had made recommendations to the Government for amendments to Regulation 389/87 to allow for other organizations and other types of insurance which were not prescribed in the original Restricted Insurance Agent regulatory framework.

Erin advised that *the ICM recognized prior to implementation of the RIA framework that the area of ISI is an emerging one, and that the framework which allows only organizations and insurance prescribed by the Regulation would result in an inability to react to changes in the marketplace in a timely manner.*

*We have also recognized that while the framework incorporated the known entities/products, there was certainly a reasonable possibility that there were entities/products that were not identified. Specific instances of this came to light after the licensing regime was put in to place, and a new submission was made to the Government to allow increased flexibility to the process required to incorporate new entities and products – under specific conditions of course – to the licensing framework. This is still the “long term” goal, and discussions are continuing with the Government in this regard.*

*Short term – GAP products were sold in Manitoba by car dealerships until recently. This is not a product that was contemplated by the original regime in Manitoba, and it has since been incorporated by both the Alberta and Saskatchewan RIA regimes. The Superintendent of Insurance, with the support and input of ICM, is currently working on changes to the Regulations to allow the sale of GAP products in Manitoba through the RIA licensing structure. It is our understanding that this is a high priority issue for them and we expect to see draft Regulations fairly soon.*

#### Erin Pearson To Retire AS ICM Executive Director At End Of 2016

In ICM's 2015-16 Annual Report, Erin Pearson announces that she will be retiring as Executive Director of the Insurance Council of Manitoba at the end of 2016. A tri-Council search committee has been formed to secure a successor to Ms. Pearson, who has been an ICM staff member for close to 20 years and Executive Director since 2008.

#### **Ontario**

#### FSCO Responds To CAFII Submission On 2016 Draft Statement Of Priorities

On August 19/16, Brian Mills, FSCO's CEO and Superintendent of Financial Services (Interim), responded to CAFII's submission on the Commission's 2016 Draft Statement of Priorities. Mr. Mills' letter to EOC Chair G. Grant includes the following excerpt:

*Thank you for your support of FSCO's continuing efforts to influence the development of provincial, national and international regulatory policy. I note your suggestion regarding the creation of a national electronic licensing system and will share these comments with the other Canadian insurance regulators.*

*As a member of the Canadian Council of Insurance Regulators, FSCO is leading or participating in several working groups, including those that recently issued consultation papers on property insurance, travel insurance, Individual Variable Insurance Contracts and electronic commerce. Inherent in all of these projects is a desire to provide consistent regulation and supervision across Canada.*

*I appreciate your suggestions with respect to the collection of market intelligence data, and will share your comments concerning self-evaluative privilege with our colleagues at the Ministry of Finance.*

*Regarding the publication of enforcement actions, the primary goal is to provide consumers with necessary information. However, I agree that the potential for unintended consequences must be considered when sharing this information. We have tasked our newly-created Public Education and Stakeholder Engagement Unit, within the Strategic Communications Branch, to enhance our ability to look for new and more effective ways to reach out to the public to better protect them from fraud, to increase financial literacy, and to provide enhanced information to pension plan beneficiaries about their plans and plan performance.*

## FSCO Market Conduct Symposium For Life and Health Sector: November 25/16

On July 7, FSCO announced that its 9<sup>th</sup> Annual Symposium for the Life and Health Insurance Sector will be held on Friday, November 25/16 from 8:00 a.m. to 12 Noon at the Novotel Hotel in North York (same building as FSCO's office).

On August 29, B. Wycks received a personal invitation letter from A. Monid, Executive Director of FSCO's Licensing and Market Conduct Division. The letter indicates that the 2016 Symposium will focus on "an exchange of information between industry members and FSCO about protecting today's consumer."

Contact information for follow-up by those who would like to attend this event but haven't yet received a direct invitation is [symposiumlh@fSCO.gov.on.ca](mailto:symposiumlh@fSCO.gov.on.ca) or a call to Kelly Picard of the Symposium Organizing Committee at 416-226-7797.

### **New Brunswick**

#### FCNB Announces Phase 2 Of Online Licensing Portal; Insurer Input Required

On September 13/16, the Financial and Consumer Services Commission of New Brunswick announced on its web site that it would soon be launching Phase 2 of its online insurance licensing Portal, adding functionality to enable insurers to review and confirm their sponsorship of licence applicants.

With a target launch date of October 17/16 for Phase 2, FNCB is requiring all insurers who will be sponsoring applicants to provide it with certain specified information by September 23/16, in order to establish an Administrator's account in the Portal.

### **International**

#### **United Kingdom**

##### Consumers Pay Little Attention To Enhanced Disclosure, FCA Finds

Consumers pay relatively little attention to enhanced disclosure, even when the disclosure prompts them to take action that would produce "non-trivial" financial gains, new research in the UK has found.

The Financial Conduct Authority (FCA) published a paper in July that sets out the results of a series of field trials that explored whether disclosure-driven regulatory interventions could encourage consumers to take action to improve their financial position, namely switching to higher-paying savings accounts. The trials examined three different approaches to alerting consumers to products that would pay them higher returns.

Overall, the effect of enhanced disclosure was relatively limited, the FCA paper concluded. "Despite switching within providers in the trials taking 15 minutes on average . . . and switching gains being non-trivial (\$217) in the first year on average, we find that attention to disclosure is limited," the paper says.

As a result, the FCA concludes that other sorts of regulator interventions are necessary to improve consumer outcomes. ". . . Beyond testing and optimizing disclosure, the regulators need to consider a wider set of interventions that are better targeted at achieving more substantial improvements . . .," the paper says.