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**Regulatory Update – CAFII Executive Operations Committee, February 21, 2020**

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Federal/National  
**Canadian Life and Health Insurance Association (CLHIA)**

CLHIA Submission To FCNB On RIA Regime Consultation Supports CAFII's Views

CLHIA's response submission to the Financial and Consumer Services Commission of New Brunswick (FCNB)'s recent consultation paper on its proposed Restricted Insurance Agent/Incidental Sellers of Insurance licensing regime is very much in harmony with CAFII's own submission. Below are some excerpts from CLHIA's submission which are aligned with CAFII's views on the consultation paper's questions, but are stated somewhat differently:

1. *Who can apply for a licence?*

*The Consultation proposes that certain types of businesses would be eligible to be issued a restricted insurance licence to allow the business and its employees to act as an 'incidental seller of insurance' (ISI).*

**a. Use of the term 'incidental seller of insurance' excludes some travel insurance and future products**

*Linking New Brunswick's restricted licencing regime with ISIs as defined in the Consultation limits who may be issued a restricted insurance licence and restricts the scope of the regime whereby current and any future products that are not necessarily sold incidental to the sale of another product or service fall outside the scope of the regime. A good example of this is travel insurance sold through bank branches.*

*We note that this follows the approach taken in Manitoba. However, we also note that Manitoba is unique in linking the issuance of restricted insurance agent licenses to ISIs. In contrast to Manitoba, Alberta and Saskatchewan refer to the types of insurance coverage and the channels through which they are distributed, thus avoiding any limitation related to the incidental selling of insurance.*

*We would therefore recommend that New Brunswick harmonize with Alberta and Saskatchewan by introducing a restricted licensing regime that does not rely on defining incidental sellers of insurance.*

*Such an approach would give New Brunswick the flexibility to include, under one licence, products that are currently excluded as well as consolidating the consumer protection requirements from the two licences into one regime. On that point, we would argue that both the insurer's and licence holder's obligations and responsibilities under the Consultation, already provide the same accountabilities and potential for minimum objective education standards that would be achieved through maintaining a separate individual travel insurance licence.*

*Finally, we would also like to draw your attention to the possible regulatory burden that businesses in New Brunswick could encounter as restricted licence holders who also distribute travel insurance. We discuss this further below under the heading 'Applying for two licences.'*

### **b. Applying for two licences**

*The Consultation provides that the Commission proposes to continue issuing separate travel insurance to individuals. Were this to be the result businesses would, in addition to maintaining the restricted insurance licence at the business level, need to ensure that any individual who solicits, negotiates, sells or arranges travel insurance is also appropriately individually licensed. This would lead to increased regulatory burden and to businesses being confused about which sets of rules to comply with in certain scenarios.*

*In the interest of harmonization, we would recommend that New Brunswick harmonize with Manitoba and include travel insurance under one licence in their restricted insurance licensing regime. If New Brunswick were to maintain a separate licence for travel insurance, we strongly recommend they do this at the business level. One way of doing this is to issue a 'general' restricted insurance agent licence for travel insurance and a 'life' restricted insurance agent licence for creditor's life, disability and job loss insurance, as is the case in Saskatchewan.*

### **3. Separate Insurance Application**

*We agree that requiring restricted licence holders and their employees to provide the consumer with a separate application for the insurance coverage allows customers to more fully appreciate the nature of the insurance product being offered.*

*However, we would ask for clarification that while the application for insurance must be separate from the other product or service being sold, that it can accommodate multiple classes or types of insurance. For example, it would unduly complicate the sales process if a product like 'credit card balance insurance' was required to have separate application forms for Creditor's life, disability and loss of employment insurance.*

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

#### FCAC Seeks Candidates For Consumer Protection Advisory Committee

On February 3/20, FCAC issued a New Release which read as follows:

*Today, the Financial Consumer Agency of Canada (FCAC) launched a call for applications for its Consumer Protection Advisory Committee. This committee plays a key role by supporting FCAC's Commissioner, Judith Robertson and the Agency in carrying out its financial consumer protection mandate. Committee members will provide advice and share insights on FCAC priorities and objectives, emerging trends, issues, research and other matters relevant to financial consumers.*

*Interested individuals have until 11:59 p.m. (PST) on February 23, 2020 to apply.*

### Quick facts

- *FCAC is seeking to appoint a maximum of 15 members.*
- *FCAC's Commissioner will select individuals who are experienced senior representatives from the public, private and non-profit sectors who want to make a significant contribution to the financial protection of Canadians.*
- *Those interested in receiving further information about the committee and its application process may contact FCAC at [CPACapplications-candidaturesCCPC@fcac-acfc.gc.ca](mailto:CPACapplications-candidaturesCCPC@fcac-acfc.gc.ca).*

### Provincial/Territorial

#### British Columbia

#### BC Financial Services Authority (BCFSA)

##### BCFSA Announces New Annual Fees Structure For Insurers

On December 16/19, BCFSA issued an Information Bulletin to announce the new insurance company, pensions, and mortgage broker annual fees structures that would come into force under its authority in early 2020.

On December 12/19, BC's Lieutenant Governor in Council approved BCFSA's proposed annual fee changes in the insurance, pensions, and mortgage broker sectors (Order in Council 645). The changes are available at [www.bclaws.ca](http://www.bclaws.ca).

For insurance companies authorized to do business in BC (both BC-incorporated insurers and extra-provincial insurers), the following annual fee schedule came into force on January 15/20:

- Insurers with \$100 million or less of total non-consolidated assets: \$5,000 plus 0.019% of direct premiums in BC;
- Insurers with greater than \$100 million to \$1 billion of total non-consolidated assets: \$7,500 plus 0.019% of direct premiums in BC;
- Insurers with greater than \$1 billion of total non-consolidated assets: \$10,000 plus 0.019% of direct premiums in BC.

In the Information Bulletin, BCFSA indicates that as a new Crown agency, it is committed to reviewing fees on a more regular basis to ensure that they are aligned with changes in regulatory costs. Such reviews will involve public and industry consultation.

BCFSA's Information Bulletin on its new annual fee structures can be found here:  
[https://www.bcfesa.ca/pdf/info\\_bulletins/PENS-MB-INS-19Fees.pdf](https://www.bcfesa.ca/pdf/info_bulletins/PENS-MB-INS-19Fees.pdf).

### Minister of Finance Issues Mandate Letter To BCFSa

On January 14/20, BC Minister of Finance and Deputy Premier Carole James issued a Mandate Letter to BCFSa, the new Crown Agency's first such "marching orders" from the provincial government.

Ms. James indicates in the Mandate Letter that she expects that BCFSa will make substantive progress on the following priorities and incorporate them into the goals, objectives and performance measures in the Authority's 2020/21 Service Plan:

#### *Risk-based Supervision and Consumer Protection*

- Advance the BCFSa's risk-based and proportionate supervision of financial services sectors and efforts to enhance consumer protection.

#### *External Engagement*

- Engage and work with sector participants and other provincial and federal regulators.
- Work collaboratively with government, industry and other stakeholders to review issues related to the cost and availability of insurance for strata corporations.

#### *Regulatory Governance and Legislation*

- Continue to work with the Superintendent of Real Estate, the Ministry of Finance Policy and Legislation Division, and the Real Estate Council of BC to establish a single regulator of real estate within the BCFSa.
- Provide information, advice and support to the Ministry of Finance as the Ministry undertakes a review of the Mortgage Brokers Act.

#### *Deposit Insurance*

- Work collaboratively with government to ensure a sustainable and effective deposit insurance program and improve financial crisis preparedness.

#### *Anti-Money Laundering*

- Work collaboratively with government as it improves the effectiveness of B.C.'s Anti-Money Laundering Regime.

### **Insurance Council of BC**

#### Insurance Council Issues Updated Guidance For New Life/A&S Agent Supervision

In November and December 2019, the Insurance Council posted notices on its website reminding licensees that its updated guidance on supervision requirements for new life and/or accident & sickness agents would take effect on January 1/20 and apply to both resident and non-resident licensees.

Council's Notice *ICN 19-004 Guidelines for Supervision of New Life and/or Accident & Sickness Agents* can be found in the Notices section of the Council's website.

The guidelines include:

- greater clarity about who can supervise, supervisor responsibilities, the period of supervision;

- a limit on the number of new agents that can be supervised by any one person;
- more information regarding exemptions to mandatory supervision; and
- one updated form and two new forms.

All life and/or accident & sickness licensees are expected to be aware of and familiarize themselves with the Council's updated guidance.

#### Insurance Council Introduces New Option For Writing Harmonized LLQP

In December 2019, the Insurance Council announced that effective February 2020, it would be providing a new option for writing the Harmonized Life Licence Qualification Program (LLQP) exam.

The Harmonized LLQP consists of four modules. Currently, the cost to write up to four modules in one sitting (all on one day) is \$125. The cost to retake the exam is also \$125, which allows an examinee to rewrite up to four modules.

Starting in February 2020, the Insurance Council is introducing an option for examinees to schedule and write individual exam modules for a fee of \$50 per module. Examinees will still have the option of writing up to four exam modules in one day for a fee of \$125.

This change is intended to provide greater flexibility for examinees, accommodating those who only need to write one or two exam modules.

#### Insurance Council Issues Advisory Notice On Donations of Life Insurance Policies

In December 2019, the Insurance Council issued an advisory notice on the donation of life insurance policies: *ICN 19-005 Donations of Life Insurance* which provides guidance on this topic.

In BC, a registered charity may be named as the beneficiary of a life insurance policy; however, donations of life insurance policies have greater complexity and require diligent handling due to anti-trafficking provisions within the *Insurance Act*.

Life agents should be aware of the considerations surrounding these activities in order to comply with regulatory requirements.

### **Alberta**

#### **Alberta Treasury Board and Finance (ATBF)**

##### Alberta Appoints New Superintendent Of Insurance

While there has been no official announcement by ATBF of this change, new member representative information posted on the Canadian Council of Insurance Regulators' website indicates that Alberta appointed a new Superintendent of Insurance, effective December 2019.

The new Superintendent of Insurance and Assistant Deputy Minister, Financial Sector Regulation and Policy is Sherri Wilson.

Ms. Wilson has previously served in the following Government of Alberta positions since 2012: Executive Director, Program Design and Policy Development; Acting Assistant Deputy Minister, Employment and Financial Supports; Executive Director, Operations and Machinery of Government; and most recently as Assistant Deputy Minister, Public Health and Compliance.

Darren Hedley, Alberta's former Superintendent of Insurance, was promoted into the role of Senior Assistant Deputy Minister, Budget Development and Reporting in December 2019.

## **Saskatchewan**

### **Financial and Consumer Affairs Authority (FCAA)**

#### FCAA Issues News Release On New Insurance Act Coming Into Force

On December 23/19, Shannon McMillan, Director of Communications at Saskatchewan's Financial and Consumer Affairs Authority (FCAA), posted the following News Release on the Authority's website:

*The Government of Saskatchewan will be proclaiming The Insurance Act on January 1, 2020.*

*The new Act modernizes legislation, allowing Saskatchewan's marketplace to deal with new and emerging issues in the rapidly changing insurance industry.*

*"These changes better reflect what is going on in the industry," Justice Minister and Attorney General Don Morgan said. "We had extensive consultations with industry associations, insurers and agents and have developed legislation that is flexible and modern, and enhances consumer protection."*

*The new Saskatchewan insurance legislation:*

- *incorporates new licensing and supervision requirements;*
- *introduces separate licensing categories for managing general agents and third party administrators;*
- *expands the restricted insurance agents licensing regime to permit the sale of insurance together with the sale of certain products or services (e.g. car rental companies or insurance for portable electronic goods);*
- *outlines market conduct standards, introduces new fair practice provisions, and identifies unfair practices in order to protect consumers;*
- *describes new complaint handling provisions, including a requirement to let consumers know about where they can take complaints and disputes such as to an ombud service or the Superintendent; and*
- *moves toward further harmonization with other Canadian jurisdictions, primarily Alberta.*

## Insurance Councils of Saskatchewan (ICS)

### ICS Posts New 2020 Bylaws, Including RIA Advisory Committee Provisions

In January 2020, the Insurance Councils of Saskatchewan (ICS) posted on its website new bylaws for its overarching Insurance, its General Insurance Council, and its Life Insurance Council which took effect on January 1/20.

In a significant win and advancement for the *bancassurance*/restricted insurance agent sector and the Insurance Councils of Saskatchewan as well, the new Life Insurance Council Bylaws and the new General Insurance Council Bylaws contain identical, specific provisions empowering ICS to establish a Restricted Insurance Agent Advisory Committee, as follows (where GICS means General Insurance Council of Saskatchewan; and LICs means Life Insurance Council of Saskatchewan; and the administrator referred to in section 1-10 means the Executive Director of the Insurance Councils of Saskatchewan):

#### *2-5 Restricted Insurance Agent Advisory Committee*

*(1) The Restricted Insurance Agent Advisory Committee (hereinafter "RIAAC") is established by agreement of GICS and LICs.*

*(2) The RIAAC is composed of: (a) at least two restricted insurance agent representatives with distribution expertise in restricted insurance agent products; (b) at least two insurance company representatives with expertise in relevant products; and (c) the administrator referred to in section 1-10, or his or her delegate.*

*(3) As required, GICS and LICs shall call on the required industry associations to nominate a list of representative candidates, as outlined in the terms of reference.*

*(4) The RIAAC shall: (a) provide subject matter expertise to GICS and LICs regarding Restricted Insurance Agents; (b) advise GICS and LICs on issues relating to the Restricted Insurance Agent licence; (c) meet as frequently as required to fulfill its terms of reference; and (d) make timely reports to GICS and LICs on the business of the committee.*

## Manitoba

### Insurance Council of Manitoba (ICM)

#### ICM Calls Out Unlicensed RIA Activity Related To "Designated Officials"

In an *Autumn 2019 ICM Report* newsletter published on its website in December 2019, the Insurance Council of Manitoba calls out a trend it says it has noticed with respect to unlicensed activity by certain Restricted Insurance Agent licence holders. The article reads as follows:

*Unlicensed activity... it matters for Restricted Insurance Agents too. Restricted Insurance Agents (RIA) are businesses which may be licensed to sell certain types of insurance products in the course of selling other goods or services to their customers. Common examples of licensed RIAs are auto dealers or travel agencies, but there are many others eligible for RIA licensing under the Insurance Act.*

*Recently, Council has seen an increase in unlicensed activity being conducted by Restricted Insurance Agents.*



*By regulation, every RIA licence application must be accompanied by a written designation of a Designated Official under the licence. The Designated Official is the person responsible for supervising the licence-holding entity's insurance activities under the restricted licence, and for receiving notices and other documents on the entity's behalf.*

*Examples involving unlicensed activity conducted by RIAs have included:*

- when the Designated Official leaves the RIA entity, and no replacement Designated Official is appointed to renew the licence by the May 31st renewal deadline, and the entity continues to sell insurance after the licence expires;*
- when the Designated Official remains with the entity but fails to renew the RIA licence due to an administrative oversight. With no licence in place, the entity has continued to sell insurance and hold itself out to members of the public as an agent.*

*Designated Officials of RIA licence holders must ensure that they follow the requirements of the Insurance Act and its regulations. Section 29 of Regulation 389/87 sets out the requirement to notify ICM of a change of Designated Official without delay, as noted below:*

#### ***Replacement or incapacity of designated official***

*29(1) If a restricted licence holder's designated official ceases to be eligible under subclause 28(a)(i) or (ii) or the designation of a person as the designated official under a restricted insurance agent licence is otherwise to be terminated, the restricted licence holder must, without delay, inform the superintendent and provide the superintendent with a designation of a replacement designated official.*

*29(2) If a restricted licence holder's designated official is unable to discharge the responsibilities expected of the designated official, the restricted licence holder must, without delay, inform the superintendent and provide the superintendent with a designation of a replacement designated official.*

*Council reminds Designated Officials to have operational practices in place to ensure that a Designated Official is in place when the entity holds a licence and that administrative procedures are implemented to ensure continuity of that licence in order for the entity to carry on the activities of an agent. The Insurance Act prohibits unlicensed insurance activity, and an RIA entity which fails to remain appropriately licensed may be subject to disciplinary action.*

## **Ontario Financial Services Regulatory Authority of Ontario (FSRA)**

### FSRA Establishes Consumer Advisory Panel

On January 23/20, FSRA issued a News Release announcing its establishment of a Consumer Advisory Panel and introducing its founding members. Under the headline of “FSRA Delivers On Its Commitment To Protect Consumers: New Consumer Advisory Panel Launched To Inform Regulatory Priorities,” the Release reads as follows:

*The Financial Services Regulatory Authority of Ontario (FSRA) is delivering on its commitment to protect the public interest by establishing a Consumer Advisory Panel to help inform its work.*

*The Panel will provide perspectives from consumers (including pension beneficiaries, credit union members and the general public) on proposed FSRA policy changes, and assist its Consumer Office in becoming the voice of the consumer within FSRA. The nine members selected to serve on the Panel bring extensive leadership and experience in representing consumer interests in Ontario and Canada. They will provide input and help to inform FSRA’s strategic approach and related activities, including consumer-based research, policy support and consumer outreach.*

*FSRA received valuable feedback from public consultations conducted between October 15, 2019, and November 14, 2019, and incorporated it into the Panel’s Terms of Reference. This included, for example, a requirement for the Panel to provide feedback on FSRA’s progress in meeting its priorities. A summary report on the public consultations is available on [FSRA’s website](#).*

*“The Consumer Advisory Panel will help ensure that consumer perspectives inform FSRA’s direction and decisions, a key priority for FSRA,” says Glen Padassery, FSRA’s Executive Vice President, Policy and Chief Consumer Officer. “The Panel is an important part of FSRA’s stakeholder engagement process as we work to deliver on our mandate to protect the public interest, and safeguard public confidence and trust, in financial services in Ontario.”*

*The panel will hold its first meeting later this winter. More information about the Panel is available on [FSRA’s website](#).*

### **Panel Members**

#### **Sharon Altman-Leamen**

*Ms. Altman-Leamen is a Director of the Canadian Federation of Pensioners and a member of its advocacy team. She is also the co-founder and Senior Vice President of Yellow Pages Pensioners Group. Her focus is protecting the pensions and benefits of active and retired members of Defined Benefit Plans in Canada, especially with regard to underfunded pension plans that have in some cases ended up in windup, due to bankruptcies or insolvencies.*

### **Kristian Bonn**

*Mr. Bonn is the Vice President (and future President) of the Ontario Trial Lawyers Association, focused on advocating for the rights of those who have suffered injury and losses as the result of wrongdoing by others. As a law partner at Bonn Law Office Professional Corporation, he represents individuals involved in auto insurance disputes, property insurance claims and other civil matters.*

### **Anish Chopra**

*Mr. Chopra has over 20 years of experience interacting with clients of all backgrounds across a variety of wealth channels from investment advisors to financial advisors to institutional and retail investors. He was Chair of the CFA Society of Toronto and has served on the Board of Directors of the Alternative Investment Management Association (AIMA) Canada, the Canadian Accounting Standards Board, and as a community member on the Ontario Judicial Council.*

### **Rhona DesRoches**

*Ms. DesRoches is the Chair of the Board of FAIR Association of Victims for Accident Insurance Reform. She has extensive experience in the insurance industry from a consumer perspective, preparing and presenting materials to government, regulators and other stakeholders for the past 25 years with a particular focus on accident victims.*

### **Hitesh Doshi**

*Professor Doshi is at Ryerson University. He served as the Chair of the Consumer Advisory Council of Tarion, Ontario's New Home Warranty Program, and of the City of Toronto's Technical Advisory Group on Green Roofs. He is focused on providing a well-researched and effectively-communicated consumer perspective to Regulatory Authorities.*

### **Roger Gauthier**

*Mr. Gauthier has extensive knowledge and experience in the credit unions sector at the local, provincial and national levels.*

*He served on the Forum de Concertation de Desjardins, a national advisory panel, until December 2019. He is a Board member of the Fédération des caisses populaires de l'Ontario and of several credit unions/cooperatives. He works to ensure that financial institution and insurance providers remain strong and solid and that consumers are protected from loss should these providers fail.*

### **Harold Geller**

*Mr. Geller is a lawyer who helps investors and the insured get what their financial advisors promised them. He is a member of the Ontario Securities Commission's Senior Expert Advisory Group and the Ombudsman of Banking and Investment's Consumer and Investor Advisory Council. He serves on the Executive Committees on Elder Law for both the Canadian and Ontario Bar Associations, and on the Canadian Bar Association's Executive Committee on Insurance Law.*

### **Robert Gouley**

*Mr. Gouley has significant experience providing commentary and advice on investor protection issues and regulatory proposals, including the CCIR and CISRO Fair Treatment of Customers Guideline. He has led the Canada Advocacy Council of CFA Societies Canada and was the chair of the Canadian Securities Traders Association. His focus is promoting investor protection and confidence, and fair and efficient capital markets.*

### **Laura Tamblyn Watts**

*Ms. Tamblyn Watts is a public policy lawyer with 20 years of expertise in the aging, financial, disability and consumer sectors. She founded and was the National Director of the Canadian Centre for Elder Law, and the Chief Public Policy Officer at CARP.*

*She recently founded CanAge, a new non-profit voice for seniors in Canada. She has extensive experience in banking, securities, regulatory and law reform in the consumer and financial sectors. She teaches at the University of Toronto in the Institute for LifeCourse and Aging, and the Factor Inwentash Faculty of Social Work.*

### **New Brunswick**

#### **Financial and Consumer Services Commission of New Brunswick (FCNB)**

##### FCNB Appoints New CEO

On December 19/19, FCNB announced that it would be heading into 2020 with a new leader at the helm. As of January 1/20, Kevin Hoyt, previously Vice-President and Executive Director of Securities, took the reins as FCNB's new CEO, succeeding Rick Hancox. The following are excerpts from FCNB's official announcement of this leadership change:

*"When we started looking for a new CEO, we wanted to ensure we had the best candidate to replace Rick," said Peter Klohn, Commission Chair. "Our national search resulted in expressions of interest from some exceptional candidates. In addition to his financial expertise, Kevin has a very keen understanding of the many public policy issues facing the financial and consumer services sectors and the industries regulated by the commission. I am confident that he will continue to build on the strong foundation of innovation and regulatory excellence established by Rick."*

*An accountant by training, Hoyt originally joined FCNB as its Chief Financial Officer. Prior to that, he held several senior positions within departments and agencies of the governments of the Northwest Territories and of Saskatchewan.*

*Hoyt holds a variety of degrees and professional accreditations and has developed ties with colleagues nationally and internationally. He currently represents the commission on several regulatory boards and committees across North America.*