Regulatory Update – CAFII Executive Operations Committee, June 20, 2018
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Federal/National

Canadian Council of Insurance Regulators (CCIR)

CCIR Releases Model Disclosure Document For Seg Funds

On June 14/18, CCIR released its final version of the proposed minimum required content for the client account statement (Appendix IV) for segregated funds, along with a prototype client account statement.

The release of the prototype follows CCIR's publication in December 2017 of a position paper on segregated funds, which outlined the regulators' expectations with respect to the information to be provided to seg fund contract holders.

In its mid-June release statement, CCIR underlined that it is not introducing a prescribed form for segregated funds disclosures. "Insurers will be expected to ensure that consumers are provided with all of the new information outlined in Appendix IV, and they will have flexibility in terms of the layout and look of their disclosure documents," the statement said. Insurers are also expected to adapt their disclosures to ensure that the language and terminology are consistent with the insurance contract and Fund Facts documents.

CCIR emphasized that the new seg fund disclosure expectations come at a time of increasing demands and requirements for a greater degree of transparency in the financial services industry, including around costs.

"The prototype statement provides guidance for insurers with respect to the expectations of the regulators about how the required disclosure is presented," said Patrick Déry, CCIR Chair. "Consumers will be able to see both summary and detailed information on cost and performance of segregated funds, in plain language, and thus will be better able to compare the products that are available to them. This information will better assist advisors in discussing segregated fund performance and costs with their clients."

CCIR said that when they are implemented, the expectations outlined in its position paper will provide consumers with a more consistent experience when purchasing segregated funds and mutual funds.

Financial Consumer Agency of Canada (FCAC)

Government of Canada Seeking FCAC Commissioner Applicants By June 27/18

The Government of Canada currently indicates on its website that it is seeking applications from diverse and talented Canadians who are interested in the position of Commissioner of the Financial Consumer Agency of Canada (FCAC). It is not known whether current Commissioner Lucie Tedesco, first appointed to the role in September 2013, will be seeking a second five-year term.

The Commissioner of the Financial Consumer Agency of Canada is responsible for the management and operations of the organization. The Commissioner acts as the principal representative of the Agency with senior federal and provincial government officials, national and international regulatory agencies.
The Commissioner also works to build strong and successful relationships with the regulated industry, and other stakeholders to help achieve the Agency's goals.

The Government's 2018 budget introduced legislation that would strengthen the Agency's tools and mandate and continue to advance consumers' rights and interests when dealing with banks. The Commissioner will be at the forefront of managing and implementing changes to the regulatory environment, while remaining well informed of trends and emerging issues in the financial services sector.

The deadline for applications is June 27/18, via the Governor in Council Appointments website. Salary range: $230,800 - $271,500 (GCQ-8); Position location: Ottawa, Ontario.

Canadian Life and Health Insurance Association (CLHIA)

CLHIA Praises Quebec Parliamentarians For Adoption of Bill 141

On June 13/18, CLHIA issued a press release, in French only, titled "Insurance Industry Praises Parliamentarians' Work," an English translation of which follows:

CLHIA congratulates all parliamentarians who contributed to the work leading up to the passage of Bill 141.

This overhaul was expected for many years and will allow Quebecers to benefit from a strong and modern financial services framework. "First of all, we note the hard work of all the members of the Committee on Public Finance who participated in more than 20 meetings and contributed to more than 60 hours of rigorous debate in committee. I would also like to acknowledge the work of the Department of Finance, which has led this major reform in recent years, "said Lyne Duhaime, President of CLHIA for Quebec.

In devoting so much attention and serious deliberation to this exercise, the National Assembly has recognized the importance of the financial sector to Quebec, which represents more than 6.3% of its GDP and provides more than 150,000 jobs," added Ms. Duhaime.

This modernization of the laws is highly consumer-oriented and aligns with international trends in financial sector supervision. These include improving the coverage of the Financial Services Compensation Fund and the creation of a consumer advisory committee that will be able to make regulatory recommendations to the Autorité des marchés financiers, she added.

In the coming months, the challenge will be to implement this major reform. The industry will therefore continue to work with parliamentarians, the Ministry of Finance and the Autorité des marchés financiers to improve certain provisions, concluded Ms. Duhaime.

Revised CLHIA Guideline G-19 Still Causing Anxiety Among Group Brokers

Saying it has listened to the views of group benefits and group retirement services advisors, CLHIA has made some changes to its controversial G-19 guideline. But according to a June 20/18 article in *The Insurance and Investment Journal*, some advisors aren't so convinced.

"Overall, I think the thing is still ill-conceived. We've still got a long way to go," said Dave Patriarche, owner of Mainstay Insurance and founder of Canadian Group Insurance Brokers Inc. (CGIB).

“It’s not good,” added Robert Taylor, managing director at TRG Benefits and Pensions Inc. in Vancouver and spokesman for the National Coalition of Benefits Advisors. “It’s creating anxiety.”

G19 caused a major stir among advisors when CLHIA released the guideline in January. At subsequent town hall meetings across the country, advisors voiced their anger that under the original guideline it was insurers – and not the advisors themselves – who would be responsible for disclosing to plan sponsors the anticipated direct compensation to new sales for group benefits and group retirement services advisors beginning January 1/19. All compensation, including bonuses and sales trips, would be tracked starting the beginning of January 2019 and disclosure would be made beginning January 1/20.

In a news release at the end of May, CLHIA announced that it had made a number of changes to G-19, including agreeing that it should indeed be advisors who deliver compensation disclosure documents to the client, given the already established relationship between the two.

CLHIA also extended the timeline for group benefits advisors to disclose new contracts to January 1/20, but held fast on the group retirement disclosures of new contracts at January 1/19.

Patriarche said he was pleased that CLHIA now agrees advisors should be in charge of delivering disclosure on costs. But he said G-19 is a consumer concern and the industry Association should be concentrating on more important issues for consumers than disclosure. He particularly noted the recent report by the Parliamentary Budget Office that estimated the federal fiscal impact of including the value of employer-paid health plans in the taxable income of employees.

“Why are we wasting time on disclosure when there are issues like this?” said Patriarche.

He said that issues raised by G-19 are not the purview of the CLHIA. “My understanding is that it’s not even on regulators’ radar. Consumer protection is the regulators’ primary goal, not business-to-business transactions.”

In its news release, the CLHIA said it was pleased so many advisors had taken a “keen interest” in G-19.

“I am confident that the insurers and advisors can continue to partner together in the best interest of consumers,” said CLHIA president and CEO Stephen Frank. “Our ultimate goal is to ensure fair outcomes for all stakeholders.”

Back in January, the CLHIA said it developed the guideline as a response to international and Canadian regulations that focus on managing conflict of interest risk, providing disclosure to customers and treating customers fairly.

But Taylor said consumers, especially those on the low-end of the market, will be hurt the most by the CLHIA’s decision to keep the implementation date for group retirement disclosures of new contracts as January 1/19.

Taylor said the premise of disclosure is good, but the industry needs time to transition to the new disclosure world. “The little advisor, who may not have a strong value proposition or may not be as confident about how he gets paid, needs time to ease into the new world. But the CLHIA is racing down this path. There’s going to be carnage along the way. A lot of little advisors are going to be hurt and out of the business. And then who gets hurt? Ultimately, it’s the consumer.”

He said that other jurisdictions around the world have shown that when there’s little access to independent advice, costs go up and some advisors leave the industry.

“The consumer should not be harmed by this [guideline],” said Taylor.

CLHIA held a number of roadshows across the country earlier this year to outline G-19 and to listen to advisors’ views on the proposal.

Erica Hiemstra, CLHIA’s Assistant Vice-President, Distribution, told a May CGIB meeting that there is still more that needs to be done.

“We did get a lot of useful feedback…so much so that it is going to take us some time to take stock of all of that feedback. I fully appreciate that time is of the essence…but we need to take the time to get it right.”

Advisors at the CGIB meeting also questioned why they have to make disclosures of their compensation when the insurance companies don’t say how well they profit.

“I would say that when it comes to insurers’ disclosures — that’s certainly not what G-19 was developed for,” Hiemstra said. “That said, there were very strong points made during the course of the roadshow and I think we better understand those now.”

But when asked outright whether insurers needed to disclose pooled claims, Hiemstra said she was not in a position to comment.

CLHIA has put together an advisory group that now consists of about 80 to 100 people. Its first meeting is expected to be held in June.

“We are looking forward to working very closely with advisors in this next phase to ensure that advisors’ concerns are taken into account and the process for compensation disclosure to plan sponsors works well for all stakeholders,” said Frank.

Québec

Québec Ministry of Finance

Bill 141 Amendment Placates P&C Brokers Re Online Sales Of Insurance
One point of contention with respect to the original version of Bill 141 for the Regroupement des cabinets de courtage d'assurance du Quebec (RCCAQ), Quebec's property & casualty insurance brokerages Association , was its authorization of the online sale of insurance products without requiring any certified insurance broker to be involved in the process.

"The RCCAQ eagerly defends its position that property and casualty insurance is complicated and permitting online sales puts consumers and their financial assets at risk," said Patrice Pouliot, RCCAQ first vice-president.

He added that an amendment had been introduced into Bill 141, as passed in mid-June, that "the AMF has the power to regulate the practices and determine which product will or will not be available for sale online without an insurance broker." *(See "Consumers Capable Of Online Insurance Purchases," pps. 8-9).*

Pouliot, who has been in the industry for 31 years, said that two brokers could read the same paragraph in a policy and not have the same conclusion the first time. "An insurance policy online might be an easy and straightforward process, but it's only when the consumers file a claim that they will realize whether the coverage that they selected was meeting their needs."

Quebec's National Assembly has adopted an amended version of Bill 141, which will also require p&c brokerages in the province to have at least three distribution agreements in place for personal lines with insurers "that are not in the same financial group."

Hypothetically, brokerages could have distribution agreements from Intact and RSA, but an agreement with any of their subsidiaries could not be taken into account to meet the requirement of three insurers, said Pouliot. But that "doesn't mean a broker can't have an agreement with any subsidiaries at all."

Under Bill 150 (the government's budget implementation Bill, which was passed into law on June 12), the government introduced the idea of requiring brokers to offer products from at least four insurers per quote, Pouilot said. But the sections concerning brokerage firms in Bill 150 were withdrawn before the Bill was passed into law.

Bill 141 also originally proposed to disband Quebec's brokerage self-regulatory body, the Chambre de l'assurance de dommages (ChAD), and make the financial regulator Autorité des marchés financiers (AMF) a "one-stop shop" for overseeing insurance representatives. The RCCAQ was in agreement with this position, but the government decided to maintain the status quo and "RCCAQ will continue to work with both organizations," Pouliot said.

International

Australia

Royal Commission Interim Report Due Sept. 30/18; Final Report By February 1/19

Australia's Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry was established on December 14/17 by the Governor-General of the Commonwealth of Australia, His Excellency General the Honourable Sir Peter Cosgrove AK MC (Retd).

The Governor-General issued Letters Patent which formally appoint the Royal Commissioner and outline the Terms of Reference for this inquiry. The Commissioner appointed, the Honourable Kenneth Madison Hayne, is authorised to submit an interim report no later than September 30/18, and will provide a final report by February 1/19.

The next round of public hearings, Round 4, will begin June 25/18 in Brisbane, Queensland and on July 2/18 in Darwin, Northern Territory.

As at June 15/18, the Royal Commission had received 6,761 submissions from the public. Of that number, 64% relate to banking; 10% relate to financial advice; and 10% relate to superannuation/pensions.

Research, Thought Leadership, and Advocacy

Greater Transparency Needed In Direct Selling Of Insurance: MGA

In March 2018, the Ontario Securities Commission (OSC) announced new measures to protect seniors and their investments. The move was welcomed by the various stakeholders in wealth management, including the main advisory bodies.

In that connection, Lorne Marr, Director, Business Development at LSM Insurance, is another supporter, and he believes similar policies should be adopted in the life insurance space. Life policies tend to be highly complex, which leaves a lot of room for confusion among consumers, especially those not using an advisor, he said.

"You are now seeing a lot more carriers – RBC, BMO, CIBC – selling direct to consumers. BMO targets seniors with its guaranteed life plus plan. There are definitely some improvements on disclosure they can do."

These policies don't require a medical, so are often used by older people that may have health issues. Premiums are higher to reflect that, but there are other aspects of these policies that may be missed by consumers, believes Marr.

"With a lot of the senior policies, there is a two-year wait on the death benefit," he says. "That means if the person dies in the first two years, there is a return of premium, and after that it pays out in full. A lot of seniors don't realize that. I think it would be useful to have that on the summary page and statement, rather than the back pages."

Direct selling is common in the final expense market, where policies usually have $5,000 to $25,000 in coverage. Marr therefore believes greater transparency is needed, something the Financial Services Commission of Ontario (FSCO) should certainly consider.

"Direct carriers should mention somewhere in the correspondence to the consumer that they are only offering their own in-house product. There may be other products that are better suited and that's where people need some kind of guidance."

Another issue for seniors is having life insurance they feel is no longer necessary. Life insurance settlement is big business in the US, but so far Canadian regulators have resisted opening up the market.

"It could be a good idea for the consumer, but it could create some problems for the insurance companies," said Marr. "Those policies have a certain lapse ratio assumption, especially on a term 100 or certain whole life policies. When the insurers price those policies, they were assuming a certain amount of policies will lapse."

Although seniors selling their own plans would certainly boost their resources, Marr believes allowing such a market would ultimately leave all consumers out-of-pocket.

"I can see both sides of it, but it puts the insurance companies in an awkward position. It would mean higher premiums on more products. So there are plusses and minuses, and I don't think a lot of consumers know that."

<u>Consumers Capable Of Online Insurance Purchases On Their Own: Digital Broker</u>
Canadians are rejecting the notion that personal lines insurance is such a complicated product that consumers are incapable of making their own insurance purchase decisions without the advice of a broker, a digital broker told Canadian Underwriter recently.

"I don't know how a carburetor works, but I can buy a car," Scott Loong, co-founder and CEO of Montreal-based digital brokerage Covera Technologies Inc., said by way of analogy. "So what's really different about insurance, other than that there is this embedded intermediary that makes a [lot] of money every time they sell a policy?"

Loong made his comments on March 28/18, responding to questions from Canadian Underwriter about proposed regulatory changes in Quebec that would allow the sale of P&C insurance online without "human intervention." Part of a package of reforms, Bill 141 does not require the intervention of a licensed representative in the online sale of insurance, although it does ensure that a consumer can access such a representative at their request.

Loong said he believes the proposed changes will largely benefit the consumer. "That's not to say that I think the best way to sell insurance is to just have someone fill in a survey and slam a bunch of prices in front of their face," he said. "But I do feel very strongly that you can offer the trusted advisor mandate, deliver that mandate, through different media."

For example, the interaction with a broker could be through a website with interactive infographics and a chat bot, through a face-to-face meeting with a broker, or a phone call with a call centre representative. Regardless of the method, "I really don't see the service of the customer necessarily breaking down as a result of these changes," Loong said.

Consumers know and understand how to purchase products online, Loong said. They do their banking, investments, and even purchase laundry detergent online. "Any interpretation of [these Bill 141] changes that necessarily implies that there's an erosion of [consumer] protection, it doesn't acknowledge that reality," he said.

Loong's position is not universally supported among brokers. Patrice Pouliot, first vice-president of Quebec's p&c insurancebrokerage association, the Regroupement des cabinets de courtage d'assurance du Quebec (RCCAQ), said "what we can say conclusively…is that authorizing online sales without the involvement of a certified insurance representative would be risky in terms of consumer protection."

According to the RCCAQ, the following conditions are set out in the amendments to the original Bill 141:

- if any advice is given, it would have to be provided by a certified representative;
- insurers would be required to inform consumers that they have the option of speaking with a certified representative; and
- Quebec's financial regulator, the Autorité des marchés financiers (AMF), would be authorized to issue an order setting out which insurance product(s) would be authorized or not authorized to be sold online without the involvement of a certified representative.

Removing Regulatory and Policy Obstacles Key To Improving Productivity: Report

Facilitating financial services innovation is key solving Canada's productivity problem, according to a report published in April 2018 by the C.D. Howe Institute._The report from the Toronto-based think-tank, *Productivity and the Financial Sector – What's Missing?*, calls for policy reform to enable greater innovation in the Canadian financial sector, with the ultimate goal of enhancing economic productivity.

Productivity in the financial services sector is being "held back by a policy approach that does not properly evaluate the link between competition and productivity," argues the report, as well as a regulatory structure that doesn't adhere to international standards in certain respects.

For example, the report highlights the lack of a national securities regulator, the mix of federally- and provincially-regulated financial institutions, and the lack of a federal market conduct regulator for insurers, as some of the key differences between Canada and other jurisdictions.

"Closing these gaps and ensuring investors understand how co-ordination in Canada works should improve our ability to attract foreign capital," the report says.

“Political and constitutional considerations restrict what governments can do, but some achievable goals include improving intergovernmental sharing of market data related to, for example, the analysis of financial stability in capital markets and strengthening links between market-conduct regulators across provinces and functions.”

Moreover, the existing rules in the financial sector “are not well tailored to smaller players,” the report says.

It argues that adopting a “functional” approach to regulation could serve to remove barriers to the development of fintechs, while also preserving consumer protection.

As well, policymakers should pursue regulatory oversight that is proportionate to functional risk, the report says. “If a particular function’s failure is unlikely to pose a risk to the system, oversight need not be as strict as in the case where failure puts the system in jeopardy,” it suggests.

Indeed, policymakers should consider whether Canadian regulators should incorporate a “more explicit productivity mandate,” according to the report, which could incorporate some of the “innovative ideas” coming out of the U.K. Financial Conduct Authority, with its focus on competition and productivity.

“Removing the regulatory and policy obstacles would result in enhanced productivity, which in return will generate sustainable economic growth,” the report concludes.