Regulatory Update – CAFII Executive Operations Committee, May 24, 2019

Prepared By Brendan Wycks, CAFII Co-Executive Director

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Canadian Council of Insurance Regulators (CCIR)

CCIR Appoints New Executive Committee Members

At its April 2019 Spring Meeting in Toronto, CCIR changed the structure of its Executive Committee by adding one new Vice-Chair position and it confirmed the following as the Council's Officers for a two-year term beginning April 1, 2019:

- Patrick Dery, Quebec, Chair;
- Robert Bradley, PEI, Vice-Chair;
- Frank Chong, BC, Vice-Chair;
- Brian Mills, Ontario, Vice-Chair;
- Scott Moore, Manitoba, Vice-Chair.

CCIR's Spring 2019 Communique newsletter indicated that Mark White, CEO of FSRA in Ontario, will join the Executive Committee as Vice-Chair from Ontario when FSRA launches and replaces FSCO as Ontario's regulator of insurance.

CCIR Strikes 2020-23 Strategic Planning Committee

CCIR has struck a 2020-23 Strategic Planning Committee to begin working on a new Strategic Plan for the Council.

CCIR's Spring 2019 Communique newsletter indicates that industry stakeholders will have an opportunity to provide input for the development of the new Strategic Plan, later in 2019.

CCIR's current Strategic Plan expires on March 31, 2020.

IMF Holds FSAP Follow-Up Meeting With CCIR

CCIR's Spring 2019 Communique newsletter reports that the International Monetary Fund (IMF) held a follow-up with CCIR on February 15/19 related to its 2018-19 Financial Sector Assessment Program (FSAP) report on Canada. The goals of FSAP are to gauge the stability and soundness of the financial sector and to assess its potential contribution to growth and development.

The February 15/19 meeting focused on systemic risk oversight; co-ordination among CCIR members; and approaches to systemic risk monitoring and analysis. CCIR members had the opportunity to demonstrate to the IMF representative that many recommendations which arose from the previous FSAP visit to Canada in 2013 had been addressed.

The IMF is expected to release its 2018-19 FSAP Report on Canada in June.

CCIR To Establish Insurtech "Advisory Hub"

CCIR's Spring 2019 Communique newsletter reports that the Council's Fintech Working Group plans to establish an "Advisory Hub" on the CCIR website by the Fall of 2019.

Financial Consumer Agency of Canada (FCAC)

Small Investor Protection Association Calls For Public Inquiry into FCAC

The Small Investor Protection Association (SIPA) put out a news release on April 29/19 renewing its call for a Public Commission of Inquiry into the Financial Consumer Agency of Canada (FCAC) and for the federal government to establish an independent National Investor Protection Authority with the mandate of protecting the Canadian public.

SIPA's news release draws upon a CBC news report which indicated that the FCAC gave Canada's banks an opportunity to review a draft copy of its May 2018 Domestic Bank Sales Practices Review Report and to suggest changes before the final version of the Report was released.

Insurance Bureau of Canada (IBC)

IBC Calls For Regulatory Sandbox For P&C Insurance Industry

The Insurance Bureau of Canada (IBC) wants a "regulatory sandbox" for the P&C insurance industry, something currently not accessible to insurers.

"Sandboxes relax specific legal and regulatory requirements to create a safe and conductive space for innovative ideas, enabling companies to experiment while at the same time, containing the fallout of any failure," said Rana Shamoon, senior policy advisor at IBC. "It can be of equal value to regulators in helping to identify where existing regulations hinder innovation, and in striking the right balance to encourage innovation and protect consumers."

In February 2017, the Canadian Securities Administrators, an umbrella organization for provincial market watchdogs, launched a regulatory sandbox for innovative business models in the securities sector. While there are no regulatory sandboxes in Canada that are accessible to insurers, Shamoon said IBC is hopeful that the Ontario government "will continue efforts to establish a regulatory sandbox in Ontario that is accessible to all financial sector participants so that businesses in Ontario can test innovations and remain competitive."

In Quebec, the Groupe de travail sur l'économie collaborative (working group on the sharing economy) recommended in June 2018 that the province's financial regulator, the Autorité des marchés financiers (AMF), develop a regulatory sandbox.

"It's sort of a laboratory where you work outside the confines of normal regulations and you observe and evaluate and make a conclusion at the end whether this can fall within the regulation or whether we need to adapt the regulation for these innovations to hit market," Pierre Babinsky, director of communications and public affairs with IBC, said in an interview.

Provincial/Territorial

British Columbia

Financial Services Authority of BC

New Financial Services Authority (FSA) To Replace BC FICOM

The following is an April 5/19 BC media report which provides background and analysis into the BC Ministry of Finance's April 4/19 announcement that legislation had been developed to create a new BC Financial Services Authority (FSA) – and independent, arms-length, self-funded by industry Crown Corporation – to replace the BC Financial Institutions Commission (FICOM):

British Columbia is set to get a new Crown agency that will oversee financial services and regulate the likes of credit unions, mortgage brokers, pension fund managers and trust companies.

Legislation tabled by Minister of Finance Carole James will establish the B.C. Financial Services Authority (FSA), which will replace the Financial Institutions Commission (FICOM).

The change is a result of deficiencies in FICOM found by the Office of the Auditor General of B.C. in 2014, as well as an independent recommendation in 2017.

As a Crown agency, the new FSA will be able to regulate financial services in a more transparent and independent fashion, according to the government.

FSA will be at arm's length to the Ministry of Finance, which will still appoint FSA's Board of directors. As well, the Ministry will provide an annual mandate letter to FSA. The Board will be responsible for appointing a CEO. FICOM's current CEO is Tara Richards, and it's understood a new appointment process will be in place for FSA.

The FSA will be responsible for its own annual reports and may be given rule-making powers.

FICOM's existing mandate is to ensure credit unions and pension plans remain solvent; credit union deposits and non-equity shares are insured; market conduct requirements are respected; and "unsuitable individuals" do not participate in the financial services sector.

Previously, FICOM fell under the direct auspices of the Ministry of Finance. One glaring problem found by the Auditor General was significant vacancy in staff positions because salaries were capped under government rules. The auditor general found 35% of positions were vacant. The commission now reports only 15% of positions are vacant.

As well, the Ministry directly oversees FICOM's budget, funded by industry fees, and any excess funds were returned to the ministry at year end. Now, FSA will be able to set its own parameters and keep excess funds to apply to regulation costs.

The Auditor General also found existing legislation failed to keep up with international industry standards.

Government will also still have the power to alter the two key pieces of legislation that FSA will abide by: the Financial Institutions Act and the Credit Union Incorporation Act. These two Acts have been undergoing a review since 2015 and could provide for rule-making powers under the umbrella of legislation. Those reviews should take place every 10 years. The last reviews were conducted in 2004.

<u>Move To New FSA Is About Recruitment, Retention, And Resourcing Needs</u>
On May 17/19, a delegation of CAFII representatives met with Harry James, Senior Regulatory Advisor at BC FICOM, to receive an update on plans for industry "self-funding" of BC's new Financial Services Authority (FSA) – and independent, arms-length, Crown Corporation which will replace the BC Financial Institutions Commission sometime in 2019.

Mr. James advised that the original intention was that a consultation paper outlining the proposed FSA funding model would have been available by that point in time; however, the paper was not quite yet ready for release. It was agreed, however, that meeting at this time, when Harry was in Toronto, still provided an opportunity for a high-level, initial update on the key issues at play.

Mr. James asserted that the move to a new FSA was less about changing the regulatory model, and more about creating a solution for recruitment, retention, and resourcing issues which had plagued FICOM. Part of the rationale for moving to a new independent, Crown Corporation regulator “self-funded” by the industry is that doing so would free the regulator from restrictions that severely constrain what FICOM can do as a government entity.

The new FSA model, Mr. James indicated, will provide the opportunity to offer better salaries, and address the recruitment and retention issues that have plagued FICOM, which operates which currently operates with a very high employee vacancy rate. He noted that the complexity of the regulatory responsibilities of FICOM, and soon the FSA, require strong talent, especially as an integrated regulator that oversees mortgage brokers, credit unions, insurance, and pension plans.

He explained that FICOM has a CEO (Tara Richards) as well as a government-appointed Commission (Board) that has statutory responsibilities. As such, many of the powers with which the FSA will be imbued are already in existence. The existing FICOM Commission will transfer over to the FSA, if Commissioners wish to retain their positions; and there is existing insurance expertise on the Commission, including Commission Chair Michael Grist (formerly a FICOM staff member) and Commission member Gerry Matier (former Executive Director, Insurance Council of British Columbia).

As a Crown Corporation, Mr. James continued, FSA will have a self-funding model, and this will require a change to the funding formula. In particular, the intention is to move from the current fee structure based on assets to one based on direct written premiums.

Mr. James said that this was a more equitable and sensible approach, because asset size did not represent the extent of business done in B.C., nor the level of market conduct activity or regulatory oversight required.

Mr. James particularly noted that credit unions have likely been overpaying relative to insurers in the current model, and the new model would correct that and result in a fairer approach. He also noted that the Crown Corporation model meant that services that were offered to FICOM by the government, including HR and IT support, would now either have to be paid for or brought in-house, which would create new costs for the FSA.

Currently FICOM’s high staff vacancy rate has resulted in end-of-year financial surpluses, which are returned to general government revenue, leading the industry sectors which pay FICOM fees to feel frustrated that they are charged more than needed and not refunded for the surplus.

The intention is to avoid this situation in FSA by having higher staff complements. Currently, the full staff complement for FICOM is 170 employees, and it is expected that will increase modestly (10-20 additional staff) under the FSA. In particular, it is expected that staff resources for thematic regulatory examinations/audits will be increased to 10 to 15 people.

In addition, FICOM’s fees have not changed since 1988 and that also needs to be addressed as part of the move to the new FSA.

Mr. James advised that the FSA's self-funded fee model will be a baseline fee charged to all players, along with a "premium escalator" which will be an additional fee based on the premiums collected by business entity from its BC-based business. It is expected that the premium escalator will increase modestly from year-to-year for the first few years of FSA's existence.

Mr. James acknowledged that the FSA's new fee structure will have a "significant impact" on many industry players, especially relative to what they are currently in BC FICOM annual assessments.

With respect to a comparison between Ontario's new Financial Services Regulatory Authority (FSRA) and the new FSA in BC, Mr. James did not feel that FSRA's desire to develop a new culture and replace senior leadership with new people would be replicated in BC. The new FSA would seek to retain most of FICOM's leadership and staff, he said, to avoid loss of knowledge and experience.

A consultation paper on the proposed fee structure for the new FSA should be out soon, with likely a 45-day consultation period, Mr. James advised; coupled with an aggressive timeline for the new FSA to be up and running by September or October 2019.

Ontario

Financial Services Regulatory Authority of Ontario (FSRA)

<u>FSRA CEO Mark White Shares "Transformation Mandate" With Joint Forum</u>

Mark White, CEO of Ontario's Financial Services Regulatory Authority (FSRA), addressed The Joint Forum of Financial Market Regulators (Joint Forum) at its Annual Meeting in Toronto on April 18/19.

Mr. White provided an update on the implementation of Ontario's new financial services regulator, including highlights of FSRA's transformation mandate. He highlighted that FSRA's objectives include national collaboration and harmonization of regulation, and FSRA welcomed the opportunity to engage with members of the Joint Forum.

The Joint Forum brings together members of the Canadian Council of Insurance Regulators (CCIR), the Canadian Securities Administrators (CSA), the Canadian Association of Pension Supervisory Authorities (CAPSA) and representation from the Canadian Insurance Services Regulatory Organizations (CISRO). Representatives of the Financial Services Regulatory Authority of Ontario (FSRA) and the Mortgage Broker Regulators' Council of Canada (MBRCC) also attended the meeting.

<u>FSRA's Top Initial Priority Is Burden Reduction</u>

In an informal May 17/19 get acquainted and liaison lunch with CAFII representatives, Glen Padassery, Executive Vice-President, Policy and Chief Consumer Officer at FSRA, advised that FSRA was focused on burden reduction, with a "government objective" of reducing regulations by 25% and FSRA internally seeking to exceed that by reducing regulations by 35%.

This would be done by combining regulations where possible, eliminating them where they serve no purpose, and by not requesting data from industry unless it was actually going to be used by FSRA for meaningless purposes. He noted that data analysis issues and resourcing issues meant that much of the data that FSCO collected was not actually used, or was only analyzed after long delays.

Mr. Padassery noted that FSRA did not want to export to itself the previously existing culture at FSCO, and that there were some FSCO employees who did not accept the offer to move to FSRA because it was clear that they did not feel comfortable making the move to a new culture. He cited innovation, consultation, and thinking outside-of-the box were as important components to the new FSRA culture.

As well, Mr. Padassery on multiple occasions emphasized the consultative focus of FSRA, providing an example of condominium consultations he had been involved in, in a previous Ontario government role, where different stakeholders were able, over time and with skilled facilitation, to achieve consensus on 85% of the issues that had previously been subject to controversy or disagreement. He very much felt that consensus was the approach to take in resolving contentious issues.

Mr. Padassery said that his role as Chief Consumer Officer was not to act as an advocate for consumers, but rather to make sure that new policies and regulations had a consumer lens to them. The consumer organizations that make submissions to regulators are not as well-funded as industry Associations, and they are not always as well-organized. It is important that consumer interests be considered in any changes made to regulations, especially in how changes are designed.

CAFII representatives noted that harmonization was a key priority of the life and health insurance industry, and that the role of CCIR and CISRO in promoting this was critical. Mr. Padassery was fully in agreement. On the specific issue of why FSCO engaged in the process of producing a CCIR/CISRO Fair Treatment of Consumers Guidance while also issuing its own separate FSCO Treating Consumers Fairly Guideline, he agreed that this was confusing and that FSRA was actively reviewing this. (Reading between the lines, it sounded like FSRA might try to reform the current situation where there are two existing Guidelines.)

It was noted that as a regulator in Canada's largest province, FSRA should play a more active leadership role in international organizations especially the International Association of Insurance Supervisors (IAIS), and Mr. Padassery was open to that suggestion.

Mr. Padassery provided some thoughts on the current 25 priorities of FSRA ("we may have bitten off more than we can chew"), and he did not seem to feel that an RIA licensing regime was likely in Ontario in the short term.

He said that not a lot of interest had been expressed to date by industry on enhancements to the regulatory sandbox approach. He added that FSRA had asked for feedback on its initial consultative approach from 55,000 stakeholders, and had received 2,000 responses already. He noted that Bill 100, the Ontario government's budget bill, was in the process of being reviewed; and, when passed, it would provide the enabling legislation for FSRA, with a current intended start-up date of 7 June, 2019.

Throughout the luncheon conversation, Mr. Padasery was very engaged and transparent; and a key take-away was that he was well-aligned with the consultative approach apparent in FSRA CEO Mark White.

Québec

AMF

<u>AMF CEO Calls Out Ontario For "Frantic" Regulatory Burden Reduction Desire</u>
In a speech delivered at a May 1/19 event in Quebec City called "Rencontre avec l'Autorité," Louis Morisset, President and CEO of the AMF, made the following CAFII-relevant comments (translated from the original French):

- the AMF is 15 years old this year and throughout its decade and a half of being Quebec's integrated financial services regulator, the Autorite has demonstrated the benefits of having 360-degree oversight of all of the sectors it supervises. That 360-degree view includes all of the actors and institutions present in Quebec - with the exception of federally regulated banks, part of whose activities falls under the exclusive competence of the federal government.

  In a context where the Supreme Court of Canada validated last November the constitutionality of the new pan-Canadian co-operative regulator for capital markets, it seems essential to highlight the AMF's successes.

- millennials – those 18 to 34 years of age - today constitute Quebec's largest group of consumers, with 2.4 million of them as compared to 1.9 million baby boomers. Their relationship to institutions is not the same; their preferred way of shopping is altogether different. Millennials have never lived in a world without the Internet. The internet has changed a lot of things; it has disrupted many habits. It forces brokerages, financial institutions and other market participants to adapt their business model, especially for distributing insurance products online.

- the imminent publication of our AMF rules and regulations regarding distribution, including the sale of insurance by the internet, and the important consultation we have just concluded in this area are strong examples of our desire to be a proactive regulator that is on top of technological developments. The regulatory framework that will be put in place is flexible, considering the rapid evolution of technologies. It will aim at ensuring harmonious development of new practices in financial services while ensuring the protection of consumers.

- another recent initiative that evidences the AMF's close proximity oversight of the regulated sectors and our proactivity is the consultation group we set up to discuss consumer dissatisfaction with commercial practices related to the supply of insurance products by vehicle dealers. This innovative approach made possible our publication, last year, of a Notice on the supply of insurance products through dealers. The purpose of that Notice was to inform the industry of the Authority's expectations around sound commercial practices; to reiterate the obligations under the law with respect to distribution without a representative; and promote the fair treatment of consumers.

- the AMF is undergoing a digital transformation by pursuing a major IT project aimed at replacing the legacy systems inherited at inception 15 years ago. This project will digitize the entire exchange of information with the Authority and will give full life to the vision of 360 degree oversight of the regulated sectors.

- the AMF has just begun the process of reflection for its next three-year strategic plan, the deployment of which will begin on April 1, 2020.

- Patrick Déry and I have just been re-elected for a third consecutive term as Chairs of the Canadian Council of Insurance Regulators (CCIR) and the Canadian Securities Administrators (CSA) respectively. That is another concrete example of the recognition of the leadership of the Authority by our peers.

Perhaps most interestingly, in his prepared remarks, Mr. Morisset took the following indirect, but relatively obvious potshot at Ontario and at FSRA, the province's soon-to-be-launched successor financial services regulator to FSCO (translated from the original French):

At the same time, we see in some of our neighbours a desire to reduce the regulatory burden frantically, or to eliminate certain parts of regulatory oversight altogether. That simple perspective sometimes brings back bad memories of the context of the years preceding the last global financial crisis.

Newfoundland and Labrador

<u>Newfoundland and Labrador Appoints New Superintendent of Insurance and Securities</u>
Newfoundland and Labrador has appointed Renee Dyer as its new Superintendent of Insurance and Securities, effective July 2018.

Ms. Dyer, who holds Bachelor of Commerce (Accounting) and MBA degrees from Memorial University of Newfoundland and is a Certified Management Consultant, previously worked as Vice-President – Operations at FIT For Work; Principal at Dyer Management Consulting; and Corporate Business Director and subsequently Vice-President – Consulting & Plan Benefits at p&c insurer Johnson Inc. (part of RSA Canada), all in St. John's; and as a Senior Management Consultant at CUMIS Insurance in Burlington, Ontario.