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Regulatory Update – CAFII Executive Operations Committee, 23 February, 2021

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Federal/National ... 3
Canadian Life and Health Association (CLHIA) ... 3
CLHIA Advises Ontario to Say No To Life Settlements ... 3
CLHIA Announces Dates for Annual Compliance and Consumer Complaints Conference ... 3
Canadian Foundation for Advancement of Investor Rights (FAIR Canada) ... 3
FAIR Canada Hires Staff Executive From UK's Financial Conduct Authority ... 3
LOMA Canada ... 4
LOMA Canada Announces Insurance Conferences ... 4
Provincial/Territorial ... 4
Ontario ... 4
Financial Services Regulatory Authority of Ontario (FSRA) ... 4
Ontario Budget Includes New Regulation to Allow for Regulatory Sandboxes, Initially for P&C Insurance ... 4
FSRA Reminds Life Insurers To Oversee Compliance By Agents, Including MGAs ... 5
Ontario Task Force on Bank Ombudsman Services ... 6
Ontario Task Force Says that a Revamped Banking Ombudsman Could Strengthen Dispute Resolution For Customers ... 6
Government of Ontario ... 6
Ontario Releases Consultation Paper On Regulation Of High-Cost Credit And Alternative Financial Services ... 6
Quebec ... 7
Autorité des marchés financiers (AMF), ... 7
AMF Calls on Industry Firms to "Significantly" Ramp Up Cybersecurity ... 7
AMF Imposes New Obligations On Quebec Insurers ... 8
International Developments, Research, and Thought Leadership ... 9
Deloitte ... 9
Deloitte 2021 Insurance Outlook ... 9
KPMG International ... 11
KPMG Global Survey of Insurance CEOs Finds COVID-19 Has Been a Catalyst for Digital Transformation in Insurance ... 11

Allianz 12
Allianz CEO Calls For Overhaul Of European Regulators' Capital Investment Rules 12
Australian Banking Sector.. 13
Poor advice and fees for no advice prompt client compensation.................................... 13
US Regulatory Authorities Seen Following The EU, UK On Climate Risks 13
New administration Making Global Warming Fight a Priority 13

Federal/National

Canadian Life and Health Association (CLHIA)

CLHIA Advises Ontario to Say No To Life Settlements

Industry trade group the Canadian Life and Health Insurance Association (CLHIA) is warning the Ontario government against allowing life settlement companies to set up shop in the province.

In its pre-budget submission to the government, the CLHIA covered a number of issues, including taxes on life and health insurance premiums, pension innovation and the ongoing development of rules for the use of financial planner and advisor titles. It also warned the government against allowing life settlement contracts in Ontario, noting that a private member's bill would revise insurance legislation to "permit trafficking in life insurance policies."

The CLHIA said this would expose a vulnerable segment of the population — generally low-income seniors and people with health concerns — to possible financial abuse. "In the context of COVID-19, life settlement companies are anxious to open up markets in Ontario and Canada as more Canadians are struggling financially, providing more opportunities for financial exploitation," the group said in its submission.

The trade group warned the government against allowing this activity in Ontario, arguing that there are better options for insurance customers. In the same submission, the CLHIA also recommended that the government reconsider proposed rules on financial planner/advisor titles that would require the holders of basic life agent licensing, the LLQP, to boost their qualifications to meet the titling standards. The trade group also called for an end to taxes on insurance premiums and encouraged access to new types of annuities.

CLHIA Announces Dates for Annual Compliance and Consumer Complaints Conference

The CLHIA has announced that its 2021 Compliance and Consumer Complaints Online Conference will be held Wednesday, May 5 and Thursday, May 6. More information can be found here:
https://www.clhia.ca/web/CLHIA_LP4W_LND_Webstation.nsf/page/AD9B1618FBC1C2E5852584EA006C7099!OpenDocument

Canadian Foundation for Advancement of Investor Rights (FAIR Canada)

FAIR Canada Hires Staff Executive From UK's Financial Conduct Authority

In an e-newsletter issued February 17/21, the Canadian Foundation for Advancement of Investor Rights (FAIR Canada) announced that Kirshita Seevaratnam would be joining its staff team as Policy Counsel effective February 22/21.

Ms. Seevaratnam joins FAIR Canada from the UK's Financial Conduct Authority, the financial services and markets conduct regulator in the United Kingdom, where she has been employed since December 2019.

Ms. Seevaratnam earned an Honours Bachelor of Science degree at the University of Toronto, followed by a Bachelor of Laws at the University of Leicester in England.

"We are excited to have Kirshita join us and look forward to her contribution to FAIR Canada's efforts to advocate for investor rights and be a catalyst for positive change within the Canadian financial services sector," FAIR Canada said in its announcement of this appointment.

In November 2020, the Ontario Securities Commission (OSC) announced that it would fund FAIR Canada to the tune of $3.75 million. FAIR Canada will receive the funds, which come from the OSC's Designated Fund, over five years in annual instalments of $750,000.

Jean-Paul Bureaud, FAIR Canada's recently appointed new Executive Director, said the OSC funding will provide much-needed stability.

LOMA Canada

LOMA Canada Announces Insurance Conferences

LOMA Canada has posted details about its upcoming virtual conferences, including the 2021 Compliance & Financial Crimes Conference; the 2021 Life Insurance Conference; and the LIMRA and LOMA Canada Virtual Annual Conference. Further information can be found here:
https://www.loma.org/Canada/Home.aspx

Provincial/Territorial

Ontario

Financial Services Regulatory Authority of Ontario (FSRA)

Ontario Budget Includes New Regulation to Allow for Regulatory Sandboxes, Initially for P&C Insurance

Ontario's 2021 budget, which received Royal Assent on 8 December, 2020, includes a provision on regulatory sandboxes:

> The intent of these Insurance Act amendments is to enable FSRA to operate an automobile insurance "regulatory sandbox" for insurers to pilot

> innovative initiatives to bring new consumer-focused products and services to market more quickly in response to changing consumer needs.

The Ministry of Finance has launched a consultation on the proposal, noting that its analysis of the regulatory impact is that:

> This proposed new regulation under the Insurance Act with respect to FSRA CEO exemption orders under section 15.1 of the Act, if approved, would not increase compliance costs on businesses and key business sectors, and would have no impact on the Broader Public Service or non-profit sectors. There is no cost to government as a result of this proposal.

The consultation was posted on 11 February, 2021 and submissions are due by 29 March, 2021. CAFII intends to make a short submission supporting the direction that the Government of Ontario is taking.

At the 25 November, 2020 FSRA Sectoral Advisory Committee for Life and Health Insurance meeting on the FSRA 2021-2022 Priorities and Budget, CAFII noted that the proposed Ontario budget introduces new powers in auto insurance to "*…allow FSRA to operate an insurance regulatory sandbox to pilot initiatives that bring new consumer-focused,"* and CAFII asked if this provision would eventually be expanded to include life and health insurance, and FSRA responded that that was definitely the intention. CAFII also tabled a presentation at that meeting in which it stated that

> We continue to believe that "regulatory sandboxes" that provide a safe, monitored space within which to test innovative products and services can foster innovation while ensuring consumer protection.

FSRA Reminds Life Insurers To Oversee Compliance By Agents, Including MGAs

Investment Executive reports that the Financial Services Regulatory Authority of Ontario (FSRA) is reminding life insurers about their obligation to oversee compliance by agents who sell their products, including reps with managing general agencies (MGAs).

In a notice to the industry, FSRA said that recently an insurer's underwriting process detected agent misconduct — agents were altering clients' "work and study visas during the life insurance application process" — resulting in the agents being terminated.

FSRA said it is reviewing the case "and will take action to enforce the applicable laws and regulations." The regulator stressed insurers' obligation to oversee their agents, noting that they "must take appropriate action if an agent does not meet FSRA's conduct and suitability requirements." Additionally, it said that insurers must exercise due diligence "when delegating functions to managing general agencies, such as agent

screening and oversight."

Ontario Task Force on Bank Ombudsman Services

Ontario Task Force Says that a Revamped Banking Ombudsman Could Strengthen Dispute Resolution For Customers

The Globe and Mail reported on 27 January, 2021 that an Ontario government task force is pushing the province to set a national standard for protecting investors by giving a revamped ombudsman the power to make binding decisions and award more generous compensation for successful complaints against investment firms. The task force urges Ontario's government and securities regulator to designate a service for resolving customer disputes and give it new authority within a year. That could help bolster customers' recourse against investment managers and resolve long-standing concerns that the current system puts some customers at a disadvantage when pressing complaints.

The Ombudsman for Banking Services and Investments (OBSI) is a national body that resolves disputes between investment firms and their customers, and also among some banks and their retail banking clients over issues such as credit card fraud, fees or penalties on mortgages. But banks and investment dealers are not bound by OBSI's decisions, and have sometimes ignored its guidance or offered less generous settlements.

The task force recommends that either OBSI be revamped, or that a new Ontario-made dispute-resolution body be created from scratch, with powers to issue binding orders and raise the maximum compensation that can be awarded from $350,000 to $500,000. In a 2019 assessment, the International Monetary Fund (IMF) criticized Canada for not offering investors an ombudsman that can make binding decisions – a recourse already available in countries such as Britain and Australia.

Most of Canada's major banks, which own large investment dealers, did not comment on the proposal in submissions to the task force. But Royal Bank of Canada expressed concerns that the changes would shift OBSI's role as "impartial arbitrator" to one with "attributes of a regulator," and could create delays by causing more investors to turn to OBSI.

Government of Ontario

Ontario Releases Consultation Paper On Regulation Of High-Cost Credit And Alternative Financial Services

Torys LLP notes that on January 29, the Government of Ontario released a consultation paper on regulating Alternative Financial Services (AFS) and high-cost credit, titled

“High-Cost Credit in Ontario: Strengthening Protections for Ontario Consumers” (Consultation Paper).

The analysis notes that:

- The Consultation Paper seeks input on establishing a high-cost credit definition, licensing high-cost credit providers, regulating costs, fees and charges, and imposing disclosure, cooling-off period and debt collection requirements, among others.

- The government is not considering the regulation of high-cost credit provided by banks or credit unions, and payday loans would continue to be regulated under the Payday Loans Act and its regulations.

- Currently, British Columbia, Alberta, Manitoba and Québec are the only Canadian provinces with legislation respecting high-cost credit.

- The Consultation Paper requests the views of stakeholders on its proposals by March 31, 2021.

Quebec

Autorité des marchés financiers (AMF),

AMF Calls on Industry Firms to "Significantly" Ramp Up Cybersecurity

Investment Executive reported on 28 January, 2021 that the Autorité des marchés financiers (AMF), citing a growing number of cybersecurity incidents in the financial sector, has sounded the alarm for firms to up their defences. The AMF has issued a call to financial institutions to ensure they properly assess their security risks, and take necessary steps to bolster their cyber defences and privacy controls.

"The latest incidents further highlight the ever-present threat that information technology risks pose to all organizations," said Louis Morisset, president and CEO of the AMF. Morisset noted that the AMF has been warning firms about cyber threats since 2013. "Today, we are asking them again to significantly heighten their vigilance and further strengthen monitoring of their technological environments," he said.

In particular, the regulator called on firms to carry out penetration testing, "in order to assess the operational effectiveness and adequacy of the controls in place." It also recommended that firms remind their employees about the threat of phishing and other information security risks. Further, that firms ensure they have robust business continuity plans in place, "to deal with any possible crisis management scenarios and minimize any potential damage."

Cybersecurity has long been a critical industry concern, and this has only been intensified with the widespread shift to remote working that was prompted by the COVID-19 pandemic. In the wake of that shift, the AMF has been emphasizing the level of security.

AMF Imposes New Obligations On Quebec Insurers

The Insurance Portal reported on 8 February, 2021 that the AMF's *Information and Communications Technology Risk Management (ICT) Guideline*, which was first published one year ago, in February 2020, will come into effect on February 27, 2021 as planned.

The ongoing COVID-19 pandemic will not impact the implementation of this regulatory framework, AMF spokesman Sylvain Théberge told *the Insurance Portal.*

The regulator says it wants to strengthen the resilience of the financial sector with respect to ICT risk management. "These expectations include the establishment of adequate safeguards through the implementation of measures that help prevent the occurrence of a major incident and limit its impact," the guideline reads.

The AMF therefore expects insurers to apply the principles of governance and risk management that the guideline stipulates, effective as February 27, 2021. This comes at a time when a property & casualty insurer, Promutuel Insurance, has suffered a computer attack that has paralyzed its systems since December 12, 2020. The Unique General Insurance had also been the target of a cyber attack earlier in 2020. The AMF also revealed to *the Insurance Portal* that 30 events targeting Quebec financial institutions have been brought to its attention in the last two years.

"It is an insurer's responsibility to fully understand all of the ICT risks it faces and to ensure that they are adequately addressed based on the company's nature, size, complexity of activities, and risk profile. It is also the insurer's responsibility to know best practices in ICT risk management and to take ownership of them to the extent that they meet the company's needs," the AMF's guideline states.

AMF spokesperson Sylvain Théberge also indicated to *the Insurance Portal* that the AMF is the first prudential regulator in Canada to develop such a framework. The guideline applies to financial institutions that the Authority oversees, he said, but it does not apply to banks, as they fall under the jurisdiction of the federal Office of the Superintendent of Financial Institutions (OSFI). "On the other hand, insurers and trust companies owned by banks, who must hold a licence from the AMF to do business in Quebec, are indeed subject to the ICT Guideline," said Théberge.

International Developments, Research, and Thought Leadership

Deloitte

Deloitte 2021 Insurance Outlook

A global outlook survey by Deloitte's Center for Financial Services found that many insurers know they still have their work cut out for them, even after spending most of 2020 adapting to the outbreak's impact. Forty-eight percent of 200 responding insurance executives agreed the pandemic "showed how unprepared our business was to weather this economic storm," while only 25% strongly agreed their carrier had "a clear vision and action plan to maintain operational and financial resilience" during the crisis.

Deloitte reports that life insurance premiums may decline 6% globally through the end of 2020 and by 8% in advanced economies, while a recovery of 3% growth is projected overall for 2021. Emerging markets once again will likely lead the way while advanced markets continue to struggle.

While it was hoped the pandemic might at least raise consumer awareness about the value of mortality products, a J.D. Power study found that not necessarily to be the case. Despite COVID-19 fatalities exceeding 200,000 in the United States at the time of the study, consumers surveyed did not seem any more motivated to buy life insurance, due to a "combination of infrequent client communications and a pervasive perception of high cost and transaction complexity." This indicates the industry likely has more fundamental issues to address to expand consumer awareness and market penetration.

In operations across insurance organizations, expense management efforts—which began well before the pandemic hit—remain crucial, not only to offset added costs incurred to respond to the outbreak, but also to fund faster innovation, spur quicker recovery, and fuel future growth. Sixty-one percent of survey respondents expect to cut costs between 11% and 20% over the next 12-to-18 months. Those from the Asia-Pacific region (APAC), especially Australia and Japan, anticipate more stringent reductions, with 35% expecting cuts over 20%, compared to 19% in Europe and 11% in North America.

New types of coverage may be spurred in part by the pandemic, such as the launch of more parametric policies (which pay upon the occurrence of a triggering event rather than having to claim a specific insured property loss). This was cited as the top product development priority among North American and European respondents and number three in APAC. The concept, which has already been rising in prominence in property-catastrophe coverage, might have applications for future viral outbreaks.

Bolstering cybersecurity for a largely remote sales force during the pandemic was the number one distribution consideration of respondents in North America.

Regulators have focused on multiple areas of concern during the pandemic, from policy disputes over infectious disease-related coverage, to consumer protection as more sales and claims handling go virtual. But there are many other compliance issues for insurers to address that have nothing to do with the pandemic. These include artificial intelligence, social unrest, climate change, and cybersecurity and data privacy.

Technology was vital in helping insurers shift to remote work environments and in ensuring employees had the tools to conduct business while remaining connected with distributors and clients. Even so, Deloitte's survey found 79% of respondents believe the pandemic uncovered shortcomings in their company's digital capabilities and transformation plans. That rose to 87% among respondents with operations responsibilities, who were probably the most directly impacted. As insurers begin to focus more on the thrive phase, most CIOs surveyed will be reallocating technology spending as they reprioritize ongoing and planned projects. Cybersecurity tops the list among those surveyed in terms of an expected increase in investment.

Close to two-thirds of respondents across all regions are looking to increase spending on cybersecurity. With most employees working remotely and more data and applications moving outside the traditional security perimeter, cyberattack risks keep rising. Insurers should consider implementing "zero trust" principles by imposing verification requirements on anyone seeking access to data or systems, regardless of being internal or external, while adopting "security by design" principles during technology development.

Cybersecurity teams should consider enhanced controls and endpoint protection technologies to exert greater control over end-user devices. Companies should also increase training and awareness activities, focusing on remote guidelines and etiquette for work-from-home environments.

Most insurers are looking to eventually get the bulk of their people back to the office. However, with the risk of periodic surges in COVID-19 infections and uncertainty around large-scale vaccine availability, many workers may be concerned about potential health and safety risks. Indeed, 74% of respondents feel their organization's success post-COVID-19 may be hampered by employee fear of returning to the office. Compounding this, those who have acclimated to remote work may question the need to return to an office, regardless of COVID-19's status.

The full report can be found here:

https://www2.deloitte.com/global/en/insights/industry/financial-services/financial-services-industry-outlooks/insurance-industry-outlook.html

KPMG International

KPMG Global Survey of Insurance CEOs Finds COVID-19 Has Been a Catalyst for Digital Transformation in Insurance

According to a recent global survey of Insurance CEOs conducted by KPMG International, COVID-19 has been the digital catalyst insurers so dearly needed. Laura Hay, Global Head of Insurance for KPMG International, states that

> *The change has been nearly universal. Eighty-five percent of Insurance CEOs say COVID-19 has accelerated the digitization of their operations and the creation of next-generation operating models. Eight-in-ten (78 percent) say it has turbo-charged progress on the creation of a seamless digital customer experience. A similar number (79 percent) say it has brought new urgency to the creation of new business models and revenue streams.*
>
> *Right across the insurance industry, we are seeing signs of massive and unprecedented progress. Some are exploring new technologies and partnering with Insurtechs and their existing technology partners to develop new models and tools. Others are accelerating their business impacts by executing quick minimum viable products (MVPs) and proof of concepts (POCs) and then straight into production. Many are looking for ways to simply speed up their existing digital roadmaps. And some are exploring new and different outsourcing solutions to drive agility.*
>
> *Over the past few months, we have seen particular focus being placed on digitizing the contact centers and the claims functions (two areas most under stress since the start of the pandemic). We have also seen fantastic progress being made in the adoption of automation and process streamlining (especially around intelligent underwriting), improving the use of structured and unstructured data, external data and the exploratory use of knowledge graphs (an evolving field that helps identify correlated trends in data).*
>
> *While this is all great news, there are growing signs that Insurance CEOs may be struggling to take the 'next step'. The CEOs in our survey admit their greatest challenge in driving forward their digital transformation is that they lack insight into future operational scenarios. They also say they are having difficulties making technology decisions quickly as they redefine*

their future state operating models.

The problem is that the world continues to evolve very rapidly. Customer needs and expectations are changing. They now expect their 'best digital experience' to be the norm, regardless of which industry provided that experience. And that means that insurers are no longer competing against other insurers, but rather against the wide range of digital experiences customers now enjoy in their lives.

Customer patience and loyalty has also worn thin. With lots of digital competition now in the market, customers have become increasingly willing to reconsider their insurance options. Having been forced to do all their other purchases online, customers have become increasingly comfortable with buying products (even complicated financial ones) virtually; new or more digitally savvy customers will naturally be drawn to those with the best digital offering.

The full report can be found here:
https://home.kpmg/xx/en/home/insights/2020/11/the-covid-19-catalyst-insurers-race-to-digitize.html

Allianz

Allianz CEO Calls For Overhaul Of European Regulators' Capital Investment Rules
Insurance Business Canada reports on 28 January, 2021 that the CEO of Allianz has called on European regulators to overhaul their capital rules in order to allow insurers to invest more heavily in climate-friendly infrastructure products.

"Today, the regulatory framework we have in Europe has actually disincentivized us helping with the transition," Oliver Bäte said Wednesday during a virtual meeting of the World Economic Forum discussing how to finance the low-carbon transition, Reuters reported.

The German insurer is subject to a European regulatory framework called Solvency II, enacted after the financial crisis to ensure that insurers have enough money put aside to pay claims during any future economic downturn.

However, many have slammed the regulations for forcing insurers to set aside too much money, making it less worthwhile to invest in some assets, according to Reuters.

"We are over-capitalizing … investments in infrastructure," Bäte said. "It's one thing if you invest in publicly traded equities, which can be very volatile [and] lose value for quite a while, but we're applying the same logic to infrastructure investments, even

though the risk is very different."

Policymakers are calling for private-sector capital to help fund the global energy transition, Reuters reported. With that in mind, Bäte said that the capital rules needed to be overhauled "very quickly."

Australian Banking Sector

Poor advice and fees for no advice prompt client compensation

Investment Executive reports on 12 February, 2021 that Australia's big banks have now paid more than $1.0 billion in compensation to investors for advice-related misconduct, the Australian Securities and Investments Commission (ASIC) reports.

The ASIC said that, as of December 31, 2020, Australia's big six banks have paid A$1.24 billion ($1.22 billion CAD) to clients that suffered harm, including non-compliant advice, paying fees for no service and other sorts of misconduct.

The latest tally includes an additional A$193.6 million in compensation payments paid in the second half of 2020. The banks' compensation programs were established following internal reviews by the country's major banks in response to two industry-wide reviews by the ASIC.

The regulators' systemic advice reviews looked at firms failing to provide ongoing advice to clients despite continuing to charge ongoing fees and their failure to deliver compliant advice, among other issues.

US Regulatory Authorities Seen Following The EU, UK On Climate Risks

New administration Making Global Warming Fight a Priority

US financial regulators are expected to step up their efforts to incorporate climate-related risks into their oversight, bringing the US into closer alignment with the rest of the world, says Fitch Ratings.

In a new report, the rating agency said that, so far, US financial sector regulators have been a "notable laggard" in addressing climate risks. That's expected to change under the new US administration, which "has made addressing climate change a top priority," Fitch said.

"Treasury Secretary appointee and long-time climate policy advocate, Janet Yellen, will likely raise the profile of climate risk among both financial regulators and the general public in her role as chair of the Financial Stability Oversight Council," the rating agency said. Additionally, the US Federal Reserve Board recently joined the Network of Central Banks and Supervisors for Greening the Financial System, and the Fed board created a climate committee last month.

The new heads of other financial sector regulators, such as the US Securities and Exchange Commission (SEC) and the Comptroller of the Currency, have yet to be appointed. But, Fitch said that those leaders will likely share similar priorities, raising "the prospect of legislation to embed climate change in prudential regulation."

As US regulators bring their approach to climate risk more closely in line with the rest of the world, this "could accelerate international cooperation on climate risk capital requirements," Fitch said. "Incremental steps may include the development of climate-related 'best practices' for financial institution risk managers, the refinement of data collection/reporting standards, and climate change risk scenarios in supervisory stress tests," the rating agency said, noting that several countries (led by France and the UK) have started incorporating climate considerations into their stress testing.

"We expect this trend to become more mainstream globally," Fitch said. As for banks, "Regulation that incorporates growing climate-related risks could be supportive of bank credit profiles over the long term."