

Agenda Item 3(d)
March 26/19 EOC Meeting

CAFII Special Purpose Board of Directors Meeting
on the
CAFII Special Project on Credit Card Balance Protection Insurance
1 March, 2019, 4:00 to 5:00 p.m.
Via Teleconference
MINUTES

In Attendance

Directors Present:	Nicole Benson Kelly Tryon Zack Fuerstenberg Sandra Rondzik Chris Knight Wally Thompson Paul Cosgrove	Canadian Premier Life <i>Chair</i> CUMIS Services Incorporated ScotiaLife Financial CIBC Insurance TD Insurance Manulife Assurant
Director Surrogates and EOC Members Present:	Charles MacLean John Lewsen Dallas Ewen Rob Dobbins Monika Spudas	RBC Insurance (Surrogate for C. Lobbezoo) BMO Insurance (Surrogate for P. McCarthy) Canada Life (Surrogate for D. Fear) Assurant Manulife
Also Present:	Keith Martin Brendan Wycks	CAFII <i>Co-Executive Director</i> CAFII <i>Co-Executive Director</i>

1. Choosing a Law Firm for the Special Project on Credit Card Balance Protection Insurance

Keith Martin was asked to provide some context for the Proposed Resolution that Stikeman Elliott be selected as the competition and insurance advisory law firm to oversee CAFII's Special Project on Credit Card Balance Protection Insurance.

Mr. Martin advised that following the presentations by four law firms at the 21 February, 2019 session on the RFP submissions, Torys and Stikeman Elliott had been short-listed.

Stikeman Elliott was viewed as having best understood the Association's intent and as having demonstrated the greatest willingness to take an approach that was consistent with the strategic objectives of the organization, including outsourcing the business consulting component of the effort.

That firm was also viewed as having the strongest presentation in terms of the competition law lens that CAFII was seeking. On the other hand, the subject matter expertise of Stuart Carruthers, the insurance partner lead from Stikeman Elliott, did not come across as strongly as desired, and the process and timelines that Stikeman Elliott was working towards were not sufficiently detailed.

Torys was viewed as having expert subject matter knowledge and excellent regulatory relationships through their lead insurance lawyer, Jill McCutcheon. Brigitte Goulard, part of the Torys team, was also viewed as a definite positive, given her regulatory knowledge as former Deputy Commissioner of the Financial Consumer Agency of Canada (FCAC). However, Torys did not intend to use external business consultants, as they felt they had the required knowledge internally. They were viewed as less impressive than Stikeman Elliott on the component of the presentation on competition law. The CAFII Board, after hearing the four presentations, also decided to proceed with having a business consultancy firm lead the research effort, and there was concern about whether Torys would be able to adjust to that model.

The Board appointed a Working Group consisting of Board Chair Nicole Benson; Board member Zack Fuerstenberg; and CAFII Co-Executive Directors Keith Martin and Brendan Wycks to meet with the two shortlisted firms again, where they could provide responses to the concerns expressed. Keith Martin was asked to provide feedback to them, which he did through phone calls to share the Board's comments; and through written questions to which the law firms were invited to respond.

The follow-up meetings with the two shortlisted law firms occurred on Tuesday, 26 February, 2019. At those follow-up meetings, it was felt that both law firms responded effectively to all of the issues raised. However, there were concerns expressed that while Torys indicated that they would be willing to work with external consultants, they might not be well-suited to doing so. Keith Martin also reached out and gathered feedback from 11 Board members, and CAFII Chair Nicole Benson received direct feedback from several Directors. From those conversations, there emerged a pattern of a number of Board members expressing reservations about the style of Torys and their ability to be collaborative with external consultants. At the same time, no Board member expressed any reservations about the style or competency of Stikeman Elliott. There was also a view that Stikeman Elliott would be better suited than Torys, based on the presentations made, to engage in a collaborative effort that would be focused not on legal arguments, but on new approaches to the business.

As a result, Stikeman Elliott emerged as the more appropriate law firm for CAFII to engage for the Special Project on Credit Card Balance Protection Insurance; and that was reflected in the proposed Resolution.

Moved by Zack Fuerstenberg, seconded by Nicole Benson, That

CAFII appoint Stikeman Elliott as the Competition and Insurance Advisory Law Firm to oversee the Association's Special Project on Credit Card Balance Protection Insurance, at a projected cost of between \$100,000 and 125,000.

Carried Unanimously

2. Agreeing on an Initial Budget and Funding Formula for the Special Project on Credit Card Balance Protection Insurance

In order to provide funding for the Special Project to move forward, the following Resolution was proposed:

Moved by Zack Fuerstenberg, seconded by Nicole Benson, That

- CAFII collect special purpose funds from among the Association's Members, under the Funding Formula set out in a separate document, to pay for the engagement of the selected Competition and Insurance Advisory Law Firm, and to provide funding for the related involvement of a Business Process/Strategic Advisory Consulting Firm in the project, at an initial budget of \$350,000;*
- after quotes are received from Business Process/Strategic Advisory Consulting Firms, the quotes are reviewed, and a decision is made about the engagement of a Business Process/Strategic Advisory Consulting Firm, the Board will determine at a further meeting whether additional funds are needed to complete the project; and*
- the special purpose funds collected from CAFII Members for this project are to be allocated solely to work at the industry/Association level; and any related proprietary work within individual Member companies will be funded separately by the Members involved.*

In Board discussion of this Resolution prior to the calling of a vote on it, it was noted that since the time that the Resolution had been circulated to the Board, there had been some concerns expressed about it. Specifically, there was a concern that \$350,000 in funding was being sought, without knowing precisely what the amount required would be, as bids from business consultancy firms had not yet been received and a winning business consulting firm had not yet been selected.

The suggestion was made that the amount that should initially be collected should be the amount that would allow the project to move forward with the selected law firm, the quote from which had been agreed upon; and that when CAFII knew the associated costs of the business consultant firm, then another Board meeting could be held to deal with any additional funds required.

An amended Resolution was therefore proposed, as follows:

Moved by Zack Fuerstenberg, seconded by Nicole Benson, That

- *CAFII collect special purpose funds from among the Association's Members, under the Funding Formula set out in a separate document, to pay for the engagement of the selected Competition and Insurance Advisory Law Firm, at an initial budget of \$200,000;*
- *after quotes are received from Business Process/Strategic Advisory Consulting Firms, the quotes are reviewed, and a decision is made about the engagement of a Business Process/Strategic Advisory Consulting Firm, the Board will determine at a further meeting whether additional funds are needed to complete the project; and*
- *the special purpose funds collected from CAFII Members for this project are to be allocated solely to work at the industry/Association level; and any related proprietary work within individual Member companies will be funded separately by the Members involved.*

Carried Unanimously

(As part of the meeting materials for this Board meeting, a document was also distributed that provided a detailed explanation of the Funding Formula to be used to collect funds for the Special Project on Credit Card Balance Protection Insurance from individual CAFII members.)

3. Other Business

There being no other business to discuss, the meeting was terminated.