

**CAFII Executive Operations Committee**

**Summary Notes of Teleconference Meeting Held 13 August, 2019**

**In Attendance:**

Martin Boyle, BMO Insurance (EOC Chair)  
Tony Pergola, ScotiaLife Financial (Treasurer)  
Rob Dobbins, Assurant  
Dallas Ewen, Canada Life Assurance  
Élyse Lemay, Canada Life Assurance (guest)  
Joanna Onia, CIBC Insurance  
Dominique Julien, CIBC Insurance  
Darren MacLennan, CIBC Insurance (guest)  
Diane Quigley, CUMIS  
Shawna Sykes, CUMIS/Co-operators  
Charles Blaquiere, Canadian Premier Life/Valeyo  
Isabelle Choquette, Desjardins Financial Security  
Marie Nadeau, National Bank Insurance  
Brad Kuiper, ScotiaLife Financial  
Laura Bedford, RBC Insurance  
Scott Kirby, TD Insurance  
Moirra Gill, TD Insurance  
Pete Thorn, TD Insurance  
Afzal Baig, TD Insurance  
Kamana Tripathi, TD Insurance  
Brendan Wycks, CAFII  
Keith Martin, CAFII  
Natalie Hill, Managing Matters  
Jemma Wilson, Managing Matters

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A set of consent items were approved or received without discussion (Meeting Notes of June 24/19 EOC Teleconference Meeting; Meeting Notes of July 23/19 EOC Teleconference Meeting; Consultations/Submissions Timetable; CAFII Submission to BC FICOM on “Insurance Fees” (Industry Funding of New BCFSAs); THIA Notices Regarding September 9/19 “Innovation Summit” and September 10/19 Annual Meeting; AMF Save the Date Notice Regarding 2019 Rendez-Vous Mini-Conference on Monday, November 25/19).

CAFII Treasurer Tony Pergola updated participants on the Association’s financial statements as at 31 July, 2019; and, in addition, the CAFII 2019 fiscal year forecast as at 31 July, 2019. Finances were trending as expected with no unexpected variances or surprises, with some excess of revenue over expenses this month due mostly to timing issues around the recognition of expenses. The major 2019 unexpected expense is around the Helen Troup visit in February. The CAFII financial reserves ratio (as a percentage of annual operating expenses) is at 30% currently, which is on the low end of the desired 25-50% range.

K. Martin and B. Wycks noted that the time was approaching for the development of the 2020 budget; and, in that connection, Committee Chairs were asked to start thinking about what budgetary expenses their Committees might need in the 2020 fiscal year.

K. Martin noted that CAFII had been engaged with the Yukon regulatory authorities on its recent communiqué indicating that credit protection insurance could not be sold currently in Yukon, including a CAFII letter sent on 22 July, 2019. CLHIA also sent a letter, which made many of the same points, on 26 July, 2019. The Yukon Superintendent of Insurance wrote CAFII on 31 July, 2019 with a bulletin that K. Martin said most members felt provided a basis for enrolling consumers in credit protection insurance again. K. Martin also noted that some members expressed some confusion or uncertainty about certain parts of the bulletin, and he asked if any members on the call had concluded that they were still not able to enrol customers in credit protection insurance.

In the ensuing conversation, there were no definite views suggesting that the Bulletin did not provide a basis for enrolling customers in credit protection insurance again, but there were concerns expressed about some components of the Bulletin. One component of the Yukon Bulletin which Darren MacLennan, CIBC Insurance was of concern was this:

*Further, if an insurer is licensed for “accident and sickness insurance,” a similar creditors group accident and sickness insurance product can be sold to address disability and critical illness components offered by credit protection insurance. This can only be on top of the baseline death coverage.*

Mr. MacLennan said that the statement that “This can only be on top of the baseline death coverage” was surprising to him. Dallas Ewen interjected that it was Canada Life’s opinion that this was simply an incorrect statement, and not consistent with the Yukon Insurance Act; and as such, could simply be ignored.

Another clause in the Yukon Bulletin that was of concern was this:

*We have also received inquiries about intermediaries who are seeking to distribute or enroll individuals into group insurance products. As a reminder of provisions in the Insurance Act, individuals can distribute the products under one of two possible authorities:*

- 1) The individual becomes licensed as a life, accident and sickness insurance agent, or*
- 2) The individual acts as a “collector of insurance premiums” and is therefore exempt from licensure under s.233(14) of the Insurance Act. Further restrictions to qualify for exemption include that the individual cannot solicit insurance and the individual cannot receive more than 5% of the insurance premiums collected.*

There was a fair amount of discussion about how to interpret this clause, but it was noted that this referred to individuals, whereas the Yukon appeared to accept the argument made that individuals are enrolling customers in an existing group policy, the contract for which is between a distributor (a bank or credit union) and the insurer. K. Martin noted that the Yukon authorities with whom he spoke went to great lengths to indicate that they wanted to rectify the situation outlined in its original communiqué, stated that credit protection insurance could not be sold in Yukon; and that they did not challenge any of CAFII’s arguments for why the existing regime permitted such enrolment.

B. Wycks updated members on a discussion that took place on Tuesday, 6 August, 2019 between CAFII's Co-Executive Directors and Frédéric Pérodeau, the AMF's Superintendent, Client Services and Distribution Oversight on the subject of the format and approach for the upcoming October 1/19 annual liaison lunch and industry issues dialogue between CAFII representatives and AMF staff executives in Québec. Mr. Pérodeau expressed some concerns with the formal, fancy lunch, which he felt produced problematic optics. "I would not want a photo to appear in the Journal de Montréal of AMF executives having a private, plated lunch in the Boardroom of one of our regulated entities," he said. A much more informal approach was more appropriate in his mind, with simple, self-serve sandwiches in a room with cruiser tables, so people could move around and have discussions.

Regarding the industry issues dialogue, last year the AMF found it too formal, with a format where questions were asked of the AMF. Louis Morriset, AMF's President and CEO, in particular found it of limited value and that was likely one of the reasons he had chosen not to attend this year's session. Mr. Pérodeau preferred a format where there were informal presentations by the AMF and CAFII on a variety of topics, with the opportunity for dialogue and discussion.

Martin Boyle indicated his concerns around the AMF's recent decision around penalizing a firm for an embedded coverage in credit cards, and his concern that the AMF was not in favour of any embedded coverages that are not explicitly signed up for. Darren MacLennan noted that in that particular recent AMF ruling on an AIG/AMEX coverage, the coverage was not actually credit protection insurance, but a lump-sum payment paid to the card-holder, without any connection to the debt on the card; the amount of that lump-sum payment increased as a holder held the card for longer periods of time, and it was paid out if the card-holder became disabled due to injury. As such, this was an unusual product that he felt was not common in the industry.

EOC discussion also touched on the matter of whether each insurance offering embedded in a credit card would require that a Summary document (the replacement for the Distribution Guide) be provided to the consumer. There were a variety of views on this issue, with some feeling that was the expectation of the AMF, and others feeling it was not required. Rob Dobbins noted that Assurant had asked a very similar question of the AMF in regards to a Distribution Guide matter several years ago; and no answer was provided by the AMF at the time. A small Working Group of the CLHIA (ACCAP) has discussed this issue, but some of its members do not want to ask this question of the AMF on the basis that they feel that the Summary is not required for embedded coverages; and they prefer to operate on that basis and have the AMF raise the issue if they feel otherwise.

K. Martin provided an update on the initiative to take over the CBA quarterly benchmarking study on credit protection insurance. There had been broad CAFII Board support for exploring that possibility, so CAFII's Co-Executive Directors met with the CBA and ultimately produced an RFP which select actuarial firms would be invited to bid on, and the Board was asked to indicate if it wished to proceed with that next step. Because that was a more concrete action decision, there was more focused attention on that proposed next step; and, as result, some Board members raised a concern that even if the study was enhanced, especially from a data integrity angle, the study would still be subject to the very different data capture and reporting practices of the different contributing members, and, as such, would be of limited value. It was also felt that collecting credit protection insurance sales data in the current regulatory environment was problematic and risky. Another concern that was expressed was that if all members of CAFII did not participate, then the study was not worth proceeding with—it had to be all or none.

Based on those views, there was not a CAFII Board consensus to move forward with an RFP; and, as a result, the RFP will not be issued at this time. Instead, this matter will be placed on the agenda for the 1 October, 2019 Board meeting with a view to reaching a final decision on this potential CAFII project.

Martin Boyle provided background on the decision of the Board during its *in camera* session on 4 June, 2019 to ask the EOC to engage in a “gap analysis.” That gap analysis was viewed as warranted to assess regulatory expectations (as expressed in the FCAC’s 2018 review of Domestic Banks’ Sales Practices, the AMF’s Sound Commercial Practices Guideline, and CCIR/CISRO’s Guidance: Conduct of Insurance Business and Fair Treatment of Customers) against both *CLHIA Guideline G7: Creditor’s Group Insurance* and current industry practices -- to determine if there are gaps/areas to address or areas where the industry’s standards and practices with respect to credit protection insurance can be improved.

K. Martin added that the Board’s intention was to “explore elevating and enhancing” the industry, as opposed to identifying any compliance gaps; in other words, while the expectation is that there is full compliance with regulations, might there be enhanced expectations that regulators have and how could the industry proactively address those? Some members were concerned that the term “gap analysis” implied that there were areas of non-compliance; and a recommendation was made to use an alternate term such as “best practices.” Darren MacLennan expressed concern that such an initiative could be discoverable, and suggested that, early on, legal counsel should be consulted to ensure that any findings or recommendations would be subject to solicitor-client privilege.

Brendan Wycks noted that on the AMF spousal issue, letters had been sent to many members by the AMF. One member expressed an interest in a confidential survey of what members had been told in the letters, that could be shared in an aggregated and anonymous format; B. Wycks will follow up on the possibility of such an exercise with EOC members. Mr. Wycks also noted that he had learned of some new developments from the AMF, and that a note would be circulated on that and other learnings that CAFII had obtained in a debriefing on AMF matters with the CLHIA (ACCAP).

K. Martin noted that the AMF was planning a regulatory review of credit protection critical illness insurance in the Fall of 2019, now that they were wrapping up their spousal coverage investigation. John Lewsen asked if we knew why they were intending on taking on this investigation, and K. Martin said that his impression was that the AMF was increasingly focused on products that they felt might not have adequate value for consumers, and they seemed to feel that some credit protection insurance products fit into that category. One reason might be the AMF’s increasing focus on loss ratios, and their impression that credit protection insurance products have a low loss ratio and therefore may be of limited value to consumers.

B. Wycks noted that New Brunswick was intending to implement a new RIA regime and that they had indicated that they might use the term “incidental sales of insurance” to describe that licensing category. CAFII has already expressed its opposition to the use of the term “incidental insurance,” and the CLHIA is also intending to also let New Brunswick know that it does not support the use of that term.

A congratulatory letter has been sent by CAFII to the new FCAC Commissioner Judith Robertson who started in her new post on August 18/19, with the intention of following up with her to request a meeting at the FCAC’s office in Ottawa in the Fall, at which CAFII could present some of its positions and research study results.

K. Martin asked if members would like that proposed CAFII meeting with the FCAC to be attended by CAFII staff only (K. Martin and B. Wycks), or include, as we typically do, member participants as well. Moira Gill said that she felt that having members attend these sessions was a differentiator for CAFII, and she recommended that same approach for the FCAC meeting, even if it was more limited in this case—for example, possibly the Board and EOC Chairs only would attend.

K. Martin noted that in the package of materials for this meeting, the final report of the Australian Securities and Investments Commission on “consumer credit insurance” was included. Mr. Martin encouraged members to read it, along with his transmittal note summarizing the report, as the report could be a harbinger of issues that Canadian regulatory authorities may raise, especially if they review the report themselves. The report is highly negative about the credit protection insurance industry in Australia, and cites loss ratios as evidence that these products are of low value to consumers (even though they do not indicate what are the loss ratios for competing products, nor what they feel is an appropriate loss ratio). Also of note is the recent decimation of the consumer credit insurance industry in Australia, with many players exiting the industry entirely.

B. Wycks provided an overview of the upcoming October 21-25, 2019 CAFII Western Canada Insurance Regulators and Policy-Makers Visits Tour. Many meetings have been firmed up, and many CAFII member representatives have indicated that they will participate. Further details will be shared over the next few weeks.

K. Martin noted that the Government of Ontario had written CAFII noting that the cancellation of out-of-country OHIP coverage had been delayed by three months, to 1 January, 2020. K. Martin participated in a related radio interview with Libby Znaimer of ZOOMER Radio; the interview went well and CAFII’s key messages were conveyed. An audio recording of the interview along with a printed transcript are now available on the CAFII website.

Mr. Martin reported that a successful presentation of the recent CAFII-commissioned Pollara consumer research on credit protection insurance for mortgages and HELOCs was made to FSRA staff executives in its offices on 29 July, 2019. The FSRA executives were engaged and interested, and seemed genuinely appreciative that CAFII shared these results with them.

K. Martin noted that a series of website enhancements and videos were about to be deployed, and indicated that as these were implemented CAFII members would be notified.

Mr. Martin advised that Élyse Lemay of Canada Life Assurance had raised a concern that CAFII’s Co-Executive Directors and even member representatives might need to be registered as lobbyists, especially in Quebec where there are new regulations and regulatory expectations with respect to lobbyist registration. As time did not permit a full discussion of this item, it was agreed that it would be more fully discussed at the September 2019 in-person EOC meeting, and that in the interim CAFII’s Co-Executive Directors would reach out to counsel at Stikeman Elliott and ask for a legal opinion on the matter.