The Canadian Association of Financial Institutions in Insurance | L'association canadienne des institutions financières en assurance

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Regulatory Update – CAFII Executive Operations Committee, September 10, 2021

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Federal/National

Financial Consumer Agency of Canada (FCAC)

FCAC Releases "Make Change That Counts": National Financial Literacy Strategy
On July 14/21, the FCAC released a new national financial literacy strategy -- a five-year plan to help Canadians build financial resilience -- called "Make Change That Counts." In a related news release, the Agency said that strengthening the financial literacy of Canadians is essential to protect financial consumers and central to the mandate of the FCAC.

The national strategy builds on FCAC's first national financial literacy strategy released in 2015. It reflects the economic impact of the pandemic on many Canadians, the diverse needs of consumers, especially the most vulnerable, and the evolving expectations of Canadians in an increasingly digital financial marketplace. Input from stakeholders across Canada, combined with new insights from research conducted by FCAC and external researchers, were foundational to the development of the strategy.

The national strategy emphasizes the need for an evolution of the financial ecosystem to be more accessible, inclusive, and effective for Canadians. It provides a framework to reduce barriers, catalyze action, and help consumers develop their skills, capacity, and behaviours, with the ultimate the goal of building financial resilience.

The national strategy supports a vision for a Canada where everyone can build financial resilience in an increasingly digital world. It is a roadmap to guide stakeholders in the financial ecosystem – including FCAC, community organizations, the financial industry, governments and regulators, and other key players – in support of this goal.

The national strategy identifies three areas of focus:

1. Reducing barriers that prevent people from accessing, understanding, and using appropriate financial products, services, and information. Priorities include communicating in ways people understand, building and providing for diverse needs, and supporting increased digital access and literacy.
2. Catalyzing action to help Canadians achieve positive financial outcomes and addressing biases and misunderstandings. Priorities include improving access to trustworthy and affordable financial help, using behavioural design to simplify financial decisions, and strengthening consumer protections.
3. Helping Canadians develop the skills, capacity, and behaviours that are the consumer building blocks to financial resilience. These building blocks include the skills to navigate the financial marketplace, just-in-time knowledge, and managing expenses, debt, and savings.

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The FCAC stated that over the coming months, it intends to continue to engage with stakeholders to establish measures of success and identify initiatives that will advance the ultimate goal of the national strategy—helping Canadians build financial resilience.

Ombudservice For Life and Health Insurance (OLHI)

OLHI Looking For Two New Board Members

On September 3/21, the Ombudservice for Life and Health Insurance (OLHI) announced on its website that it was looking for two new Board members: one from Ontario and one from Atlantic Canada.

OLHI's free, bilingual services are available to any consumer whose life or health insurer is an OLHI member; currently, 99% of Canadian life and health insurers are OLHI members.

The Board of Directors is the legal authority for OLHI. As a member of the Board, a Director acts in a position of trust and is responsible for the effective governance of the organization. Each Director is expected to become an active participant in a Board that functions effectively as a whole.

There are four in-person meetings per year that Directors are expected to attend. Directors also sit on at least one committee which meets virtually. Directors are paid an annual stipend and *per diems* for meetings. Directors are elected annually at the Annual General Meeting of member companies and their board performance is assessed annually by fellow Directors.

Directors should have prior experience in sitting on or working with a board and should have knowledge of and commitment to sound governance practices. Experience with the not-for-profit, public, or regulatory bodies/sectors/institutions/environments would be an asset. Board members are expected to demonstrate personal qualities of integrity, sound judgment, collegiality, and respect for the views of others. OLHI's bylaws state that independent Directors should not be perceived to have a bias in favour of or against financial service providers.

As an enterprise that provides a public service to Canadian life and health insurance consumers, OLHI is committed to equity, diversity and inclusion, welcoming applicants from diverse backgrounds. Our search process ensures confidentiality while upholding an unbiased respectful process for our candidates.

The deadline for applications is October 13, 2021.

Canadian Life and Health Insurance Association (CLHIA)

CLHIA Reacts To Federal Liberals' Corporate Tax Proposal

In an August 27/21 article, HomeNews reported that CLHIA) has responded to a Liberal Party of Canada federal election platform announcement concerning corporate taxes levied on the country's large banks and insurers. In an election campaign stop in BC, Prime Minister Justin Trudeau said that if re-elected, his party would act to raise corporate tax rates on big Canadian banks and insurance companies.

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"Our financial institutions did very well during this pandemic, partially because Canadians pulled together and did the right thing and got the support they needed from their government," Trudeau said, according to reports. "Given our banks have posted extraordinarily large profits and continue to be incredibly successful while others had to tighten their belts, we are going to ask them to do a little bit more."

Under the proposal, large institutions – including the likes of Sun Life, Manulife, and Canada Life – would see their tax rate on corporate earnings above $1 billion increase from 15% to 18%. The measures are expected to add $2.5 billion annually to Canada's coffers over the next four years.

Following the announcement, CLHIA President and CEO Stephen Frank issued a statement highlighting how life and health insurers are already helping Canadians and contributing to the economy.

"Canada's life and health insurance industry provides over 29 million Canadians with products that support their financial security," Frank said. "The industry directly employs over 157,000 Canadians in all provinces and territories."

Last year, Frank said, life and health insurers paid more than $8 billion in provincial and federal taxes. "If a future government were to introduce new tax measures, we expect that the government would consult broadly with all stakeholders," he said. "We remain committed to working with government, today and in the future, to ensure the public policy objectives and implications of any tax changes for Canadians' access to affordable financial solutions are clear."

<u>CLHIA Urges Ontario To Reconsider New Privacy Legislation</u>

In a September 9/21 article, the Insurance Portal reported that CLHIA is encouraging the Ontario government to refrain from rushing the development of privacy legislation in the province.

"We understand that the Ontario government intends to move quickly on this issue and is aiming to draft and implement legislation in a very short period of time. We believe that having a short consultation period in the middle of the summer on something so significant and important to the people of Ontario could result in insufficient feedback. We would caution the government on moving ahead too quickly," the CLHIA wrote in its comments to the Ontario Ministry of Government and Consumer Services on its white paper entitled *Modernizing Privacy in Ontario: Empowering Ontarians and Enabling the Digital Economy*.

"We believe a new privacy regulatory framework in Ontario is not needed and instead, it is essential to ensure that modernization is coordinated with the federal government's framework for privacy. Our industry generally supports the direction established by the federal government in its recently tabled legislation (Bill C-11) to update the privacy framework," CLHIA added. "It strikes a balance between an individual's right to control how their personal information is used and the reality that organizations often require personal information in order to provide new and innovative services to Canadians."

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CLHIA asserted that having separate and potentially incompatible rules in Ontario will hinder an insurance company's ability to operate in the province. "Should the Ontario government decide to move ahead with its own legislation in this area, we would strongly encourage the province to focus on areas that are not currently captured by the federal legislation," the industry Association wrote, pointing out that the federal legislation is currently limited to commercial activities.

"Therefore, organizations such as charities, unions, associations and other non-profits would not be covered. We support the province's approach to close the gap by creating privacy legislation in the province that focuses on oversight of these organizations to ensure Ontarians' personal information is adequately covered."

"We do not believe additional provincial legislation is required but rather that Ontario, and all provinces, should work with the federal government to continue to amend its federal legislation in a manner that would take into consideration provincial concerns." "Should the province of Ontario see a need to otherwise protect its constituents, we suggest that the province focus on those areas not captured by federal legislation."

Provincial/Territorial

British Columbia

British Columbia Financial Services Authority (BCFSA)

BCFSA Publishes Updated Supervisory Framework

On September 7/21, the BC Financial Services Authority ("BCFSA") published on its website an updated Supervisory Framework to reflect changes in the financial marketplace over the past decade as well as the evolution of future financial products and services. The Supervisory Framework sets out the rationale, principles, concepts, and core processes that BCFSA uses to guide its supervision of provincially regulated financial institutions.

Insurance Council of BC

Updates To Insurance Council's Rule 5: Council Fees Receive Ministerial Approval

On August 17/21, the Insurance Council of BC announced on its website that amendments to its Council Rule 5, the Rule governing fees for Insurance Council activities, had recently been approved by the province's Minister of Finance. The updated Rule includes modernization and housekeeping changes to the structure that defines which activities the Insurance Council collects fees for and their amount.

The proposed Rule change was submitted for Ministerial approval earlier in summer 2021, following a period of licensee and public feedback between March and May 2021.

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The updated Rule 5 will be effective September 20, 2021, but it does not trigger any immediate changes to fees currently being charged as its purpose is to establish the parameters for fees. Any changes would be introduced over time in alignment with the Insurance Council's operational budget.

In brief, the amendments:

- clarify what certain fees are for and remove references to outdated practices.
- provide the Insurance Council with the discretion to charge or not charge fees for the items/activities named in the rule.
- differentiate between fees for individual licences versus corporate licences, as well as between different types of corporate licence.
- increase the upper limit for licence application and annual filing fees.
- enable the Insurance Council to charge for courses that it develops and offers.
- enable the Insurance Council to charge for processing trainee registrations.
- specify fees for corporate ownership amendments and remove the requirement to charge for other more common amendments.

Ontario
Financial Services Regulatory Authority of Ontario (FSRA)

Former State Farm Canada Head Barbara Bellissimo Joins FSRA Board

In an August 17/21 article, Canadian Underwriter reported that Barbara Bellissimo, former chief agent for State Farm Canada, had joined FSRA's board of directors. FSRA announced on August 16/21 that Bellissimo became a member of its board of directors effective August 12.

Bellissimo joined State Farm Canada as an underwriter in the 1980s, and was chief agent from 2009 through 2014.

In 2015, Quebec City-based Desjardins Group closed its acquisition of State Farm's operations in Canada. After the acquisition, Bellissimo stayed on as senior vice-president of the Desjardins Agent Network, a position she held until she retired in 2019. Her successor at Desjardins is Benaaz Irani.

Bellissimo was previously chair of the board of the Institute for Catastrophic Loss Reduction.

Bellissimo "has overseen all aspects of property & casualty insurance and had a leadership role in one of its largest transitions," FSRA said on Monday, August 16 in a release.

"Barbara is a high-calibre leader who will bring significant insights to the Board as FSRA aims to enhance consumer choice, and promote innovation and competition in the auto insurance marketplace," FSRA chairwoman Joanne De Laurentiis said in a statement.

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FSRA replaced the Financial Services Commission of Ontario (FSCO) as the Ontario's insurance industry regulator in June 2019. FSRA's other board members are Kathryn Bouey, Blair Cowper-Smith, Joseph Iannicelli, Dexter John, Stewart Lyons, Lawrence Ritchie, and Brent Zorgdrager.

FSRA Seeks Feedback On Proposed Approach To Communicating Enforcement Actions

On August 10/21, FSRA announced that, with a view to improving the transparency of its enforcement actions, it had just launched a consultation on its proposed approach guideline which summarizes when and how FSRA will publish information on its enforcement procedures and investigations. The proposed guideline describes how FSRA communicates its Proposal Notices, Proposed Decision Notices, Final Orders and Transaction Minutes through press releases to better inform the public and industry. FSRA states that its proposed approach will improve access to information about who and what type of behaviour is being sanctioned. In this way, the public, industry and other regulators can be better informed. The deadline for consultation submissions is September 24/21.

In an August 10 article on this FSRA initiative, Investment Executive reported that FSRA's sees increased transparency and public awareness of this activity as intended to bolster consumer protection and deter future misconduct.

"Our proposed approach will provide greater access to information about who and what type of conduct is being sanctioned. As a result, the public, industry and other regulators can be better informed," FSRA stated.

To that end, the guidance sets out when FSRA will publicly disclose enforcement activity in the various sectors it oversees.

For example, in the insurance sector, the regulator will release information when it disciplines an insurer, imposes a penalty, revokes or suspends or refuses a license, among other actions.

It generally doesn't report imposing summary administrative penalties, revoking a license where a notice of proposal is not required, or when undertakings are agreed upon.

However, the guidance indicates that it may exercise its discretion to release information in certain circumstances that aren't usually made public.

The decision to release information in these cases is made on a case-by-case basis, weighing "the benefits of transparency against any potential harms of publication" to determine whether publication is appropriate.

For example, the guidance indicates that FSRA may publish information on enforcement actions involving credit unions and their personnel to address misconduct or compliance issues, and settlements that result in licensing conditions or other undertakings.

Similarly, under the proposed guidance, FSRA will not typically disclose, or confirm the existence of, an ongoing investigation, or an investigation that's closed without taking action.

However, the regulator may exercise its discretion to disclose the existence of an investigation in certain cases.

“This will be limited to exceptional circumstances where FSRA is of the view that disclosure is necessary to protect consumers and that consideration outweighs the usual reasons for non-disclosure,” the regulator said.

<u>FSRA Releases Findings On Life Insurers' Compliance With MGA Supervision Responsibilities</u>

In a July 29/21 Insurance Business Canada article, Insurance Business Canada reported that FSRA had completed a review of the life insurance companies operating in the province – more specifically, how they supervise the managing general agents (MGA) they work with.

Although there is no separate licence required to operate as an MGA in Ontario, most life and health MGAs perform services that require them to be licensed as insurance agents or corporate agencies. Thus, FSRA has stated that life and health MGAs are required to comply with the legal obligations that apply to agents.

FSRA conducted its review between September 2020 and March 2021, surveying companies that comprise approximately 50% of the Ontario life insurance market share. The regulator found the following:

- the most prevalent way life insurance is sold is through agents who may represent more than one insurer and who are contracted with an MGA.
- contracts between insurers and MGAs do not explain in detail what actions MGAs are required to take, and what standards they are required to meet, for screening, training, and monitoring insurance agents.
- insurers lack an in-depth process to assess the risks associated with their MGAs. A comprehensive risk assessment helps insurers to identify higher risk MGAs that may require more attention.
- insurers do not conduct a meaningful volume of agent reviews to assess if they comply with regulatory obligations and industry best practices.

FSRA also offered a reminder that insurers must maintain a system to oversee agents acting on their behalf to make sure that they comply with the Insurance Act, its regulations, and the agent’s licence requirements. Insurers are obligated to do this for all agents, including insurer-contracted MGAs, FSRA advised.

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FSRA Launches Consultation On Life Agent Reporting Forms

On September 9/21, FSRA announced that it was launching a consultation on proposed guidance on licensing information that life agents must report under the *Insurance Act* (Act).

The proposed guidance also outlines insurers' related obligations to ensure agent suitability, even if they delegate oversight functions to third parties. The proposed guidance provides FSRA's Interpretation of legal requirements under the Act and its Approach to monitoring and enforcing compliance with these requirements.

FSRA collects licensing information to assess if an agent is suitable and qualified to continue conducting insurance business. FSRA also uses this information to determine where to focus its compliance review efforts. This aligns with the Authority's risk-based approach to supervision.

The deadline for consultation submissions is October 8, 2021.

Québec
Autorité des marchés financiers (AMF)

AMF Releases Draft Regulation Respecting Complaint Processing For 60 Day Consultation
On September 9/21, the AMF published a Draft Regulation Respecting Complaint Processing and Dispute Resolution in the Financial Sector for consultation.

"Through this initiative, which fits with our 2021-2025 Strategic Plan, we wish to optimize and standardize the way complaints are processed, to the benefit of all financial consumers," said AMF President and CEO Louis Morisset. "This Draft Regulation was developed taking into account insights from an array of internal and external stakeholders as well as international best practices."

The Draft Regulation defines what constitutes a complaint and establishes a common set of rules, obligations, and practices for the financial sector with respect to the process and timelines to be followed in handling consumer complaints.

In its September 10/21 report on this AMF initiative, Investment Executive reported that the AMF had launched a consultation on proposed measures that would set tougher standards for processing consumer complaints and resolving disputes in Quebec's financial industry.

The proposed new rules aim to harmonize and enhance complaint-handling standards in the various sectors regulated by the AMF, including securities dealers and advisers, independent representatives and financial planners, insurers, and co-operatives.

Among other things, the proposals would set requirements for documenting and dealing with client complaints. They would require firms to publish their complaint-handling policies and provide disclosure, as well as resolve complaints within 60 days (starting as soon as the complaint is received by the firm).

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The proposals also would prevent firms from imposing gag orders on clients as a condition of paying compensation to harmed clients. And the proposals would prohibit firms from using the word "ombudsman" in their internal complaint-handling processes.

The deadline for consultation submissions is November 8, 2021.

Last month, the federal government adopted new complaint-handling regulations for banks that will take effect in June 2022. In addition, the government is currently engaging in a review of the current framework for external dispute resolution in the banking sector.

Research, Technology Advancements, and Thought Leadership

Research Shows Canadians Interested In Receiving Embedded Insurance Offers From Banks

A recent survey sought to understand how customers of banks, digital banks and other fintech apps would react to embedded insurance offers based on real time transaction data. The survey of 504 Canadian bank customers was conducted by Momentive.ai (the research company of SurveyMonkey), and commissioned by Cover Genius. The question asked:

Suppose your bank, with your permission, monitored your transactions and offered a prompt for purchasing protection products based on your purchase history inside of your banking app. Please indicate how interested you would be in allowing them to make these offers.

The findings show that 67% of Canadian digital bank customers would be highly interested in receiving embedded insurance offers based on their transaction data, as would 57% of traditional bank customers. 'Trust in banks to protect personal data' is the primary driver for their interest, stated by 40%.

"The data show unequivocally that consumers are not aligned with government regulation prohibiting banks from offering embedded insurance in real time with financial transactions," said Michael Fitzgibbon, Director of Insurance for Cover Genius Canada.

"Canadians are indicating that current restrictions on bank-embedded insurance that would sit alongside mortgages and auto loans and the like are outdated in a highly digitized, post-pandemic economy where consumers increasingly appreciate the relevance and timeliness of embedded offers."

Fitzgibbon, who is based in Toronto, recently joined Cover Genius to further bolster the global insurtech's activity in the Canadian market where he will oversee and manage partnerships, insurer engagement, and customer experience. With over 30 years experience in the insurance space, Fitzgibbon has held key executive leadership roles with regional and global insurance brokers and sees a great growth opportunity in Canada, coupled with disruption in the insurance industry.

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"Cover Genius has seen a significant increase in demand for embedded insurance offerings from their network of global partners – a growth that was intensified in the past 15 months due to the shift to conducting everything online. Canadian companies across a variety of business verticals are eager to embed truly personalized protection at checkout or sign-up or based on transaction feeds."

The research mirrors surveys of 3,551 Americans commissioned by Cover Genius published last month, and 12 other countries, which similarly examined 14 life events or activities or major purchases that lead to insurance consideration, such as childbirth, purchases of car, property, pets and expensive items, contracting for a wage and becoming a lessee or landlord. Across the globe, the data points to significant demand for timely and relevant transaction-based insurance offers, with dramatically higher preferences if they've recently had major purchases or life events, or if they used a traditional insurer in the last 12 months, or if they purchased insurance from their bank.

The authors note the significant gap between an insurtech approach and the "bancassurance" reality, where traditional banks partner with traditional insurers for offerings that are typically divorced from underlying activities.

The survey of Canadian customers also confirms that there's broad support for bank-embedded offers for property insurance such as Renters, Homeowners and/or Landlords (39% of respondents are highly interested), auto insurance (28%), travel insurance (26%) and a range of warranties for high value personal and household items (38%).

The role and nature of traditional insurers as a "second step" in the buying process is also examined in the paper. Digital bankers and younger demographics are more likely to purchase insurance, however the data also points to a healthy future for banks as insurance distributors: 75% of Canadians who chose a traditional insurer or broker in the last 12 months would prefer bank-embedded offers for next time.

While recent experience purchasing insurance is one way to identify early adopters, another is identifying users of popular fintech apps. The breakthrough findings show that 72% of 114 customers who use mobile wallets, 91% of Instalment payment users, 69% of investment account/app users, and 84% of accounting software users are highly interested in receiving insurance offers. Interest is also high for small business operators (90%).

"This desire for a frictionless end-to-end experience has enabled Cover Genius to add partners like Intuit, Wayfair, Booking Holdings, eBay, Descartes ShipRush and gig economy and mobility companies", Fitzgibbon adds.

"Why limit the choice to traditional insurers when more than half of Canadians want their banks, fintechs and other financial service providers to tailor embedded insurance offerings for their needs?"

Download the full report: "The Embedded Insurance Report: A consumer-focused case for transaction-based offers from Banks, Neobanks and Fintechs", or the report for Canada.