

**Agenda Item 2(c)**  
**January 26/21 EOC Meeting**

**CAFII Insurance Regulator and Policy-Maker Meetings/Interactions**  
**From November 11/20 To January 20/21**

| <b><u>Date</u></b> | <b><u>Event/Occasion</u></b>   | <b><u>Who</u></b>  |
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| November 25, 2020  | Virtual Meeting of FSRA's Sectoral Advisory Committee (SAC) on Life and Health Insurance with the FSRA Board of Directors to discuss industry feedback on FSRA's proposed 2021-22 priorities for the sector.             | Keith Martin, CAFII's representative on the SAC, attends meeting and at invitation of FSRA Board Chair Bryan Davies, speaks to the highlights of CAFII's written submission on FSRA's proposed 2021-22 priorities for the life and health insurance sector – noting, in particular, a desire to see FSRA begin to play a prominent role on the international regulatory stage, as a member of the International Association of Insurance Supervisors (IAIS). |
| December 10, 2020  | On behalf of CLHIA and CAFII, Brent Mizzen, at CLHIA, submitted a joint letter to the Insurance Councils of Saskatchewan on Industry Nominees For Appointment To Founding/Inaugural Saskatchewan RIA Advisory Committee. | Ron Fullan, Executive Director, and April Stadnek, Director, Strategic Initiatives, Insurance Councils of Saskatchewan.  |
| December 10, 2020  | Acknowledgment reply to CLHIA/CAFII joint submission on Industry Nominees For Appointment To Founding/Inaugural Saskatchewan RIA Advisory Committee.   | Ron Fullan, Executive Director, ICS, responded as follows:<br><i>Thanks Brent et al. A first official step in an important and exciting initiative!</i>  |

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| December 22, 2020   | CAFI and CLHIA made joint submission to David Weir, FCNB in response to his New Brunswick Insurance Act Rewrite-based follow-up questions (received November 6/20) with respect to insurance monies to be paid to a minor where no trustee has been named.   | David Weir, FCNB responded as follows on December 23/20 to Brendan Wycks, Keith Martin, and Rob Dobbins (CAFI signatory) of CAFI and Kate Walker and Craig Anderson of CLHIA:<br><i>Thank you for this information. I would like to thank both CLHIA and CAFI for all of the contributions on the Modernization Project. Your feedback has been very helpful.</i> |
| January 15-18/21    | Brendan Wycks shared/forwarded a Miller Thomson legal advisory newsletter article (see Appendix A) on a Draft Member's Bill in Ontario re life insurance viatical settlements with relevant FSRA Market Conduct Division staff executives, given that FSRA is specifically mentioned in the article. | Erica Hiemstra, at FSRA, replied to Brendan Wycks as follows:<br><i>Thanks for sharing the article. As the article highlights, life settlements are a multi-faceted issue with important implications for Ontario consumers.</i>  |
| January 15-18, 2021 | Brendan Wycks shared/forwarded a Miller Thomson legal advisory newsletter article (see Appendix A) on a Draft Member's Bill in Ontario re life insurance viatical settlements with relevant BCFSa staff executives, given that BCFSa is specifically mentioned in the article.                       | Frank Chong, at BCFSa, responded to Brendan Wycks as follows: <i>Received, with thanks.</i>   |

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| January 19, 2021 | Brendan Wycks sent follow-up email to Ron Fullan and April Stadnek, Insurance Councils of Saskatchewan, asking for an update on its plans for utilizing the CLHIA/CAFI joint submission on Industry Nominees For Appointment To Founding/Inaugural Saskatchewan RIA Advisory Committee. | Ron Fullan, Executive Director, ICS, responded as follows: <i>Thanks for the follow-up. One of my to-do's for the near future is contacting the nominees and getting the process started. I will be in touch when that is underway about initial steps. I think we'll want to have the group (or the group and the associations) identified some issues for discussion. We'll also want to spend some time taking about timing of the first meeting, and what launch tasks we need to complete. We will be moving forward with the 7 people nominated.</i> |
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## **Appendix A**

### **Gifts Of Life Insurance In Ontario: MPP Introduces Bill Amending The *Insurance Act***

*By Susan M. Manwaring and Katrina Karys, Miller Thomson, January 15, 2021*

[Gifts of life insurance in Ontario: MPP introduces bill amending the \*Insurance Act\* | Miller Thomson LLP](#)

An Ontario MPP recently introduced a private Member's bill that would amend the Ontario *Insurance Act* (the "**Act**"). The amendment purports to amend the prohibition on trading and trafficking in insurance policies so that it does not apply if the policy is sold or assigned by the original policyholder or a transferee, used as collateral security or donated to a charity. The provisions in the Bill that deal with the donation of a policy to a charity exempt donations of life insurance policies from the prohibition on trading or trafficking in insurance policies if the insurance has been held for more than two years. The Bill has been referred to the Standing Committee on Finance and Economic Affairs.

We think this Bill is problematic for several reasons. First, by creating this exemption, MPP Rudy Cuzzetto appears to be accepting that, under the current Act, the transfer of an insurance policy to a charity constitutes trading or trafficking. The regulator in Ontario has not previously taken that position publicly and thus the need for the provision is questionable. The Bill would also introduce into Ontario a regime which would permit the sale of insurance policies – commonly known as life settlement or viatical transactions. Generally these types of transactions are prohibited in Canada. Such a dramatic change to the landscape should, in our view, only be considered after public consultation and careful consideration by the government.

With respect to donations of life insurance to charities, donors have used life insurance to facilitate charitable giving for years. One common giving method allows a donor to leave a legacy gift, naming a charity as the beneficiary of their life insurance policy. When the donor passes, the recipient charity receives a gift which is higher in value than the cost to the donor. While the Act does not explicitly recognize charities as potential beneficiaries, it is the position of the Financial Services Regulatory Authority of Ontario (“**FSRA**”) (previously the Financial Services Commission of Ontario) that a policyholder can name a charity as beneficiary. The other methods involve a donor purchasing a new policy and naming a charity as owner and beneficiary and a policyholder transferring a paid-up or partially paid-up policy to a charity. While perhaps less common than beneficiary designation alone, these two giving methods are long-established. FSRA has not historically targeted for regulation any of these methods of donation used. That said, it is true that transfers of insurance policies to charities have become a topic of discussion in the charitable sector after they were called into question by the provincial regulator in British Columbia.

Letters were received by two charities in British Columbia from the BC Financial Services Authority (“**BCFSA**”) which appeared to question the legality of gifts of life insurance through the transfer of a policy. BCFSA’s unexpected statement was met with much confusion and criticism, stemming from a concern that it may limit donations of life insurance policies. BCFSA attempted to clarify its position in a subsequent bulletin, stating that charities are not generally prohibited from soliciting nor accepting donations of life insurance. However, as discussed in our [previous article](#), the regulator did not explain how it would interpret the anti-trafficking provisions with respect to transfers to charities.

Why this Bill, and why now? The preamble to the Bill states that the amendments will modernize the Act to allow life settlements and life loans, providing Ontario seniors with an alternative financial resource. The addition of the provision with respect to charitable donations is less understood. In fact, it would create a limit on donations of insurance policies to charities that does not exist today. Frankly, we think the Bill leaves more questions than answers and suggest that these topics are of public importance and that public consultation should be held before the Bill proceeds. We will follow the development of the Bill as it proceeds through debate and public hearings.