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Regulatory Update – CAFII Executive Operations Committee, March 29, 2021

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Federal/National

Canadian Council of Insurance Regulators (CCIR)

Fair Treatment Of Customers Group To Develop Further Guidance On Incentives Management

In the Winter 2021 issue of its Communiqué newsletter – released March 1/21 and found here:

<https://www.ccir-ccrra.org/Documents/View/3643> -- CCIR advised that its Fair Treatment of Customers Working Group (FTCWG) had received approval from the Council, in its Winter Call on January 21/21, to proceed with an action plan to develop further guidance on incentives management. The FTCWG intends to engage with industry stakeholders for a pre-consultation about this in late Spring 2021.

CCIR's Spring Call To Take Place April 15-16/21.

In its Winter 2021 Communiqué newsletter, CCIR advised that its Spring Call of members would take place on Thursday, April 15 and Friday, April 16, 2021.

Canadian Life and Health Insurance Association (CLHIA)

CLHIA Becomes Supporter Of United Nations Initiative On Sustainable Insurance

In a media release issued December 15/20, the Canadian Life and Health Insurance Association announced that it had joined the United Nations' Principles for Sustainable Insurance (PSI) Initiative. The initiative is a collaboration between the United Nations Environmental Programme and the global insurance industry to promote greater environmental and social sustainability.

The principles seek to build upon insurers' core business of managing risk by engaging insurers around the world in developing innovative solutions, improving business performance, and contributing to environmental, social and economic sustainability.

"Understanding and managing environmental, social and governance risks is critical for insurance to remain affordable and accessible," Stephen Frank, CLHIA's President and Chief Executive Officer said. "The Principles for Sustainable Insurance play an important role in convening the global insurance industry to develop and share best practices in order to enhance its resilience in the face of future economic shocks related to climate change and extreme weather events."

Joining the PSI aligns with Canadian life and health insurers' continuing advocacy for governments to take action to reduce, mitigate and adapt to the risks of climate change, recognizing the dramatic and long-term risk that extreme weather events and altered global temperature patterns pose to public health.

CLHIA Opens Western Canada Government Affairs Office

In a media release issued February 23/21, the Canadian Life and Health Insurance Association announced the opening of a new government affairs office serving Western Canada.

The new office, based in Calgary, is CLHIA's first permanent operation west of Toronto.

"This new office reflects the continued and growing importance of Western Canada to Canada's life and health insurers," said Stephen Frank, the CLHIA's President and CEO. "Governments in the west, the Pacific and north are responding to their own challenges and there's a great deal that insurers can do to help public and private sectors ensure access to prescription drugs and mental health supports, as well as infrastructure investment."

Western Canada remains vital to Canada's life and health insurers. Fifty-nine insurers operate in the region, providing life insurance, health insurance and retirement solutions to 8.8 million western Canadians. In addition, 10 insurers are headquartered there, including not-for-profit health insurers, some of whom have a key role in administering public programs.

The Calgary office will be led by CLHIA's Director of Government Relations, Kim Doran, an experienced public affairs professional. The office will support CLHIA's members operating in the west and work with provincial and territorial governments and other regional stakeholders.

CLHIA Issues Statement To Combat COVID-19 Vaccine Misinformation And Hesitancy

On March 8/21, the Canadian Life and Health Insurance Association issued a media release which stated emphatically that, contrary to misinformation being shared on-line, receiving a COVID-19 vaccine will have no effect on the ability to obtain coverage or benefits from life insurance or supplementary health insurance.

The CLHIA release went on to say the following: *the CLHIA is aware of misinformation that is being spread through social media claiming that individuals who get the vaccine will not be able to get life insurance or may be denied their life insurance benefits. These claims are incorrect and have no basis in fact whatsoever.*

Canada's life and health insurers stress that vaccination is one of the most effective ways to protect yourself and others from serious illness and death from COVID-19. Receiving the vaccine will not affect your individual or workplace life or health insurance policies, or ability to apply for future coverage.

As with any medication approved for use in Canada, the COVID-19 vaccines have been found safe and effective through Health Canada's independent scientific and medical assessment process.

Individuals who have questions about their coverage are encouraged to consult their policy and contact their insurer directly.

Getting the vaccine will not affect your insurance coverage. No one should be afraid and choose to not protect themselves from COVID-19 because they are worried about it affecting their benefits. All of Canada's life and health insurers are supportive of Canadians receiving government approved vaccinations to protect themselves from serious illness and death.

Regulators Prominent On 2021 CLHIA Compliance And Consumer Complaints Conference Program

CLHIA's 2021 *Compliance and Consumer Complaints Conference* – which will be held entirely virtually on Wednesday, May, 5/21 and Thursday, May 6/21 over two half-days, starting at 12 Noon EDT on each day – includes several sessions featuring CAFII member-relevant insurance regulators, as follows:

- an *Update from the Canadian Council of Insurance Regulators (CCIR)*: a presentation by Frank Chong, current CCIR Chair and Deputy Superintendent of Financial Institutions, Regulation at the British Columbia Financial Services Authority (BCFSA);
- a *Regulatory Perspectives from Across Canada* session featuring the following as panelists: Angela Mazerolle, Superintendent of Insurance at the Financial and Consumer Services Commission of New Brunswick (FCNB); Erica Hiemstra, Head of Insurance Conduct, Financial Services Regulatory Authority of Ontario (FSRA); Frank Chong, Deputy Superintendent of Financial Institutions, Regulation, BCFSA; and Louise Gauthier, Senior Director, Distribution Policy Management at the Autorité des marchés financiers (AMF).

And, in addition, the following two CLHIA conference sessions may be of particular interest to CAFII members:

- Rule-Making Authority legal presentation by Jill McCutcheon, Partner, Torys LLP; and
- A Travel Insurance session – focusing on trip cancellation and interruption insurance in a group context as well as on new travel medical insurance products covering COVID-19 treatment – presented by Anthony Lin, Senior Counsel, Insurance, Manulife; and Neil Henderson, Director, Product and Pricing, Orion Travel Insurance.

Further conference program information can be found here:

<https://www.clhia.ca/eventdocs/programs/2021-JCCOS-Program-Draft.pdf>; or to register, visit here: <https://www.clhia.ca/domino/html/clhia/Events/CO406-21.nsf>.

Canadian Association Of Direct Relationship Insurers (CADRI)

CADRI Applauds Ontario Government's Support For FSRA-Led Insurance Regulatory Sandbox

In a written submission dated December 1/20, the Canadian Association of Direct Relationship Insurers (CADRI) stated its strong support of the Ontario government's *Bill 229, An Act to implement Budget measures and to enact, amend and repeal various statutes*.

CADRI said that it believes the Bill's measures to adjust auto insurance and insurance regulation are steps towards making auto insurance more affordable for Ontario drivers. With the Bill's implementation, CADRI opined, new opportunities will be offered to consumers as regulatory burdens are eased and new digital innovations are permitted.

CADRI also expressed its appreciation for the government's commitment to modernizing its Regulations and allowing Ontarians to conduct more of their business transactions online. The Association asserted that electronic communications are a fast and simple means for consumers and service providers such as insurance companies to communicate.

In that context, CADRI asserted its support for the government's intention to allow the electronic termination of insurance policies with customer consent because it will enable insurers to offer their customers the choice of a start-to-finish electronic communications package.

CADRI also welcomed the Ford government's proposal to allow FSRA to operate an insurance regulatory sandbox to pilot initiatives that bring new consumer-focused products and services to market more quickly in response to changing consumer needs. CADRI noted that its early preference was that insurance regulators across Canada agree to parameters for such sandboxes. Based on that perspective, CADRI intends to communicate with FSRA about its opportunity for national leadership around an insurance regulatory sandbox.

In a separate, subsequent submission dated March 18/21 to FSRA on its proposed Unfair and Deceptive Practices Rule, CADRI stated that it believes that providing FSRA's CEO with discretionary and exemptive powers so that the Authority can operate an insurance regulatory sandbox – which will create the conditions for flexibility and agile reaction to market conditions -- is a positive step. CADRI recommended that processes associated with Ontario's regulatory sandbox should be simple in design, quick in implementation and transparent in nature.

Provincial/Territorial

British Columbia

British Columbia Financial Services Authority (BCFSA)

Merger Integration Of Three BC Real Estate Regulators Within BCFSA Moves Ahead

On March 2/21, BCFSA issued a media release titled "Statement In support Of Legislative Change To Create A Single Financial Services Regulator," which reads as follows":

Today's announcement by Minister of Finance Selena Robinson is a positive step forward in better serving British Columbians by bringing together the Office of the Superintendent of Real Estate ("OSRE") and the Real Estate Council of BC ("RECBC") within the BC Financial Services Authority ("BCFSA").

This continues the collaborative work and planning that has been ongoing since the Province announced plans to integrate oversight of the real estate and financial services sectors in 2019.

Blair Morrison, CEO of BCFSA, said "we are extremely pleased by today's introduction of legislative amendments to bring our three organizations together. This is a major milestone in our journey to becoming a modern, efficient and effective regulator. Over the past year, team members across RECBC, OSRE, and BCFSA have been working hard to bring our collective strengths together, in the interest of building a stronger regulatory model that better serves British Columbians."

BCFSA, RECBC and OSRE are committed to keeping all stakeholders informed while work continues towards a smooth and seamless transition later this summer. Until the integration takes place, each organization will continue their work to protect the public interest under their separate regulatory mandates.

Following the integration of the three regulators, BCFSA will have regulatory responsibility for licensed real estate professionals; unlicensed real estate activity; real estate development marketing; mortgage brokers; credit unions; pension plans; trust companies; insurance companies; and the Credit Union Deposit Insurance Corporation of B.C.

BCFSA will announce its new organizational structure once the legislative amendments have been passed. Blair Morrison will remain as CEO with Erin Seeley (CEO, RECBC) and Micheal Noseworthy (Superintendent of Real Estate, Office of the Superintendent of Real Estate, Government of British Columbia) as members of a broader senior executive team.

BCFSA Launches Consultation On Draft Information Security Guideline

On February 18/21, BCFSA launched a 60 day public consultation on a draft Information Security Guideline for all BC credit unions, insurance and trust companies and pension plan administrators ("PRFIs").

In its bulletin announcing the consultation, BCFSA stated the following:

Organizations are becoming increasingly reliant on information technology to enhance their operations and provide better services to their clients resulting in more digital and online services. At the same time, organizations face increasingly aggressive and sophisticated attempts to circumvent security measures. The potential consequences of information security breaches constitute a concern for BCFSA.

As a result, BCFSA welcomes comment on the draft Information Security ("IS") Guideline which outlines expectations for PRFIs to mitigate their information security risks.

While developing this IS Guideline, BCFSA considered a range of best practices including guidance issued by other regulators. The principles and expectations discussed in the draft IS Guideline draw heavily from the National Institute of Standards and Technology report titled "Framework for Improving Critical Infrastructure Cybersecurity" (2018). Content from other national and international guidance documents was also considered. As well, BCFSA has retained the services of independent information security experts to assist with the development of the guideline.

The information security principles and expectations apply to all PRFIs regardless of size. However, in keeping with BCFSA's commitment to risk-based and proportionate supervision, the application of the IS Guideline will depend on the nature, scope, complexity, and risk profile of the PRFI.

The release of this IS Guideline draft signals the beginning of BCFSAs 60-day consultation process. BCFSAs values the feedback it receives during its consultations and, where appropriate, feedback will be used to amend and strengthen the IS Guideline. Once the IS Guideline is finalized, BCFSAs will communicate an appropriate transition period for implementation.

Please send all comments on the draft guideline to regulation@BCFSA.ca by April 19. BCFSAs will treat submissions of feedback as confidential records and will not publish individual submissions or attribute content. However, please note that all submissions received are subject to the Freedom of Information and Protection of Privacy Act.

BCFSAs Launches Consultation On Draft Outsourcing Guideline

On February 22/21, BCFSAs launched a 60 day public consultation on a draft Outsourcing Guideline for all provincially regulated financial institutions incorporated in BC ("PRFIs"), excluding pension plans as pension outsourcing responsibilities are covered by other legislation.

In its bulletin announcing the consultation, BCFSAs stated the following:

The draft Guideline outlines BCFSAs expectations for sound outsourcing risk management practices. The expectation are principles-based and closely align with guideline B-10 Outsourcing of Business Activities, Functions and Processes released by the federal Office of the Superintendent of Financial Institutions (OSFI).

Outsourcing is one of the major risks facing PRFIs. Businesses often outsource business activities, functions and processes to meet the challenges of technological innovation, increased specialization, cost control, and heightened competition.

However, outsourcing can increase an institution's dependence on third parties, which may increase its risk profile.

The draft Outsourcing Guideline takes a principles-based approach to assist PRFIs in managing this risk.

With the release of this draft Outsourcing Guideline, BCFSAs has commenced a 60-day consultation process (response submissions due by April 23, 2021). BCFSAs values the feedback it receives during consultations and, where appropriate, input will be used to amend and strengthen the Guideline. BCFSAs is particularly interested to receive feedback if there are any concepts or language that requires further clarification.

BCFSAs will review all comments prior to issuing a final Guideline and will allow for an appropriate transition period before implementation.

Insurance Council of BC

Insurance Council Adopts Proposed Continuing Education (CE) Guidelines

On February 24/21, the Insurance Council of BC announced that following analysis and assessment of stakeholder feedback on Proposed Continuing Education Guidelines obtained in a 2020 consultation, the voting members of the Insurance Council had approved the Proposed CE Guidelines and they will be brought into effect on June 1/21.

More information about this new Council policy and the supporting programs and additional resources that will accompany the new CE Guidelines roll-out and on the related timelines can be found here: <https://www.insurancecouncilofbc.com/news/articles/2021/february/ce-guidelines-update/>.

Insurance Council Publishes Analysis Of Stakeholder Feedback On Proposed CE Guidelines

On February 24/21, the Insurance Council of BC published the following analysis of stakeholder feedback received in response to its May 2020 consultation on Proposed Continuing Education (CE) Requirements for insurance licensees.

Consultation on the draft CE Guidelines indicated strong interest in the topic of continuing education. Based on the amount of feedback and questions we received, it was evident that insurance licensees and industry stakeholders wanted to be heard and provide input on this aspect of licensees' practice requirements. In just over two months, we received nearly 4,600 responses from our licensees and stakeholders, either through email or surveys.

Overall, we identified a number of key themes in the feedback from licensees and other stakeholders:

- *licensees understand the importance of CE and are generally supportive.*
- *the draft CE Guidelines clearly outline the Insurance Council's proposed CE program requirements.*
- *licensees and stakeholders want more information about what is considered acceptable course content, and which courses are eligible.*
- *licensees were supportive of changes that increased flexibility in meeting CE requirements.*
- *licensees felt that CE requirements should recognize experience, additional designations through reductions in CE requirements.*
- *licensees want more value, relevance and availability of CE courses.*

In the consultation responses, licensees and industry stakeholders generally agreed with the importance of CE—that staying current with knowledge of insurance products and regulatory requirements supports good practice.

When it came to understanding CE program requirements, responses to the consultation indicated that the draft CE Guidelines were effective in outlining proposed CE requirements for licensees. However, the feedback also told us that licensees wanted more explanatory information about what is considered acceptable course content and eligible for CE credit.

Generally speaking, licensees supported changes that would add more flexibility to help them meet their CE requirements, such as carrying over CE credits to the next year and partial credit. However, the majority were not in favour of eliminating reductions to the amount of required CE credits for those with five or more years of experience or certain designations. Reasons most frequently given were licensees' strong feelings that CE requirements should take into account the level of knowledge already acquired through additional education and on-the-job experience.

Consultation also highlighted licensee perceptions about the value, relevance and availability of courses eligible to meet the Insurance Council's CE requirements. Many licensees indicated their willingness to participate in courses and other learning opportunities but felt there was a lack of available CE credit eligible courses that were of value to them, or diminishing returns from CE courses the longer an individual was licensed due to repetition.

These comments from licensees and stakeholders pointed to a number of areas in need of further clarification by the Insurance Council: in particular, increasing licensee awareness about what is eligible for CE credit. Various industry events, symposia and courses may qualify for CE credit, but may not currently be claimed by licensees. As well, the absence of advertised course accreditation does not necessarily indicate that a course is ineligible for credit.

In considering licensees' concerns about eliminating reductions to CE credit requirements for those with five or more years of experience or certain designations, members of Council had to weigh this input against the rationale for eliminating the reduction.

Firstly, eliminating the CE reduction would create harmonization with other provincial jurisdictions, relevant to those registered in multiple jurisdictions.

Secondly, because licensees can hold a licence without being active in the industry, a CE credit reduction based on number of years licensed would not adequately support public protection goals. Furthermore, where professional designations are concerned, since professional associations have varied CE requirements for their designations—and in some cases do not have any—broadly applying a reduction in CE credit requirements is problematic and does not establish a consistent amount of insurance-specific learning for all licensees.

Based on feedback received, we also noted that licensees wanted the implementation and deadline dates for CE program requirements to continue to align with the licence year, starting in June, rather than the proposed calendar year.

Insurance Council Launches Free Webinar For New Life And A&S Agents

On March 22/21, the Insurance Council of BC announced its launch of a free continuing education webinar for new life and/or accident & sickness agents who were first licensed on June 1/19 or later.

The webinar will cover life agent definitions and expectations; life and accident & sickness professional responsibilities and conduct; continuing education and E&O requirements; and licence renewal.

Multiple sessions of this live webinar will be offered, with dates currently available from April through May 2021. This is an optional session. Licensees who hold a life and/or accident & sickness licence and who attend the webinar in its entirety will receive a certificate for one CE credit. Pre-registration is required. Further information and the registration page can be found here:

<https://www.insurancecouncilofbc.com/news/articles/2021/march/new-life-agent-webinar/>.

Online Application For Individual Insurance Licences Now Available In BC

In March 2021, the Insurance Council of BC announced that, thanks to recent upgrades to its online portal, applications for individual insurance licences – life; accident & sickness; general; adjuster -- can now be submitted online. Online application for corporate licences, travel insurance sole-proprietor licences, and trainee registrations is not yet available, but is currently in development.

Insurance Council Launches Rules Review

On January 28/21, the Insurance Council of BC announced that, to ensure that insurance licence requirements continue to be relevant to industry and regulatory practices, it is launching a comprehensive, multi-phase review of its Insurance Council Rules. Licensees and other industry will be stakeholders engaged and consulted with, as a part of this multi-year initiative.

The Insurance Council of BC's Rules were introduced in 2005. Over the years, there have been several updates, but the Rules have not been reviewed in their entirety since their initial introduction.

The Council Rules Review Project, currently underway, will examine each of the Rules, considering the impact they have on licensees, the industry, and the Council's mandate of public protection.

The review will identify provisions that need to be clarified or aligned with current practices, that are outdated and in need of updating, and that may need to be revised to achieve desired regulatory outcomes.

The nine Insurance Council Rules will be divided into groups for purposes of the review. Each group of Rules will be reviewed, and any proposed revisions will be brought to the voting members of Council to seek approval for public consultation. If approved, following a minimum 60-day consultation period, the feedback would be brought to Council to consider.

Council would then decide if and when to submit proposed Rule changes to the Minister of Finance for review and final approval.

The process for each group of Rules is as follows:



This process will be repeated for each group of proposed Rule changes until all the Rules have been reviewed. The Insurance Council expects this project to extend into 2023, owing to the volume and complexity of information to be considered, the time required for consultation, and legislative requirements.

Under BC's *Financial Institution Act* Regulations, proposed changes to Insurance Council Rules are subject to public consultation. As a part of the consultation process for each group of proposed Rule changes, the following will be made available to the licensees, the public and other stakeholders:

- the wording for proposed rule changes
- an explanation of the changes
- information on how to provide feedback.

This information for each group of Rule changes will be made available as they are confirmed for consultation by the voting members of Council.

On March 12/21, the Insurance Council opened a public consultation on the first set of Rules. That consultation on *Rule 5: Council Fees*; and *Rule 6(1)(b): Location Restrictions for General Insurance Salespersons* closes on May 11/21. For further information on this consultation arising from the Insurance Council's Rules Review can be found here: <https://www.insurancecouncilofbc.com/about-us/engagement/council-rules-review/rules-5-6/>.

Insurance Council Temporarily Stops Issuing Product-Specific Restricted Licences

On March 1/21, the Insurance Council of BC published a bulletin on its website advising that it had recently identified an issue with its process for granting licences restricted to the sale of one or more specific products; and, as result, it has temporarily stopped issuing new licences with product-specific restrictions.

In addition to its regular licensing process, the Insurance Council has for many years also issued restricted licences—a type of licence with conditions imposed on it to limit the scope of practice. This is done in occasional circumstances where individuals or companies applying for licensure do not meet the standard requirements for a full licence under the Insurance Council Rules, but their insurance activities are limited to the sale, or adjusting, of one or more specific products.

A recent legal review of the process for granting product-specific restricted licences has determined that while the Insurance Council has the legislative authority to issue restricted licences under the *Financial Institutions Act*, the process is not set out in the Insurance Council's Rules. This makes the act of granting these restricted licences *ultra vires*, i.e., beyond the scope of the powers currently defined in its rules. In order to avoid non-compliance with the *Act*, the Insurance Council has ceased issuing product-specific restricted licences until the matter can be resolved.

The Council advises that it is working diligently to address this situation. While it anticipates that this issue will not be resolved in the short term, it is a high priority and the Council will keep licensees and stakeholders informed as it works to resolve the matter.

The Council anticipates that addressing this matter will require the creation of one or more new Insurance Council Rules to establish a framework for a revised restricted licensing process. Section 225.1 of the *Financial Institutions Act* sets out the Insurance Council's ability to make rules.

The creation of Insurance Council Rules under the *Financial Institutions Act* is a complex undertaking and may take anywhere from 18 to 24 months. Any new Rule will need to be approved by government following legal analysis and public consultation in compliance with the *Act's* Insurance Council Rule-making Procedure Regulation. As such, a new rule is not expected to be in place before August 2022.

Alberta

Alberta Treasury Board And Finance (ATBF)

Alberta Appoints Mark Brisson As New Superintendent Of Insurance

In the Winter 2021 issue of its Communiqué newsletter – released March 1/21 and found here: <https://www.ccir-ccrra.org/Documents/View/3643> -- the Canadian Council Of Insurance Regulators (CCIR) reported that in its Winter Call held January 21/21, it welcomed Mark Brisson, Alberta's new Superintendent of Insurance, to the Council's membership.

Mr. Brisson replaced Sherri Wilson as Alberta's Superintendent of Insurance in December 2020. Ms. Wilson, who had been the province's Superintendent of Insurance for just one year, from January through December 2020, is now Alberta's Deputy Minister, Children's Services.

Mr. Brisson is Alberta's new Superintendent of Insurance, Pensions, and Financial Institutions and Assistant Deputy Minister, Financial Sector Regulation and Policy Division at Alberta Treasury Board and Finance. Over a 23 year public service career, he has held positions in both the Alberta and British Columbia provincial governments and those provinces' health systems. He has led business, technology, and policy transformation initiatives at the regional, provincial and pan-Canadian levels of the public sector, most recently as Senior Assistant Deputy Minister of Corporate Planning and Red Tape Reduction in Alberta.

Mr. Brisson holds Bachelor degrees in Economics and Health Information Science and professional certificates in project management and public sector policy.

Ontario

Financial Services Regulatory Authority of Ontario (FSRA)

FSRA Seeks Applicants For New Credit Union Technical Advisory Committee

On March 11/21, FSRA announced on its website that it was looking for members to join a new *Technical Advisory Committee for Credit Union Data Strategy and Digital Transformation*. This committee will play an important role in enhancing FSRA's credit union regulatory efficiency and effectiveness through data, analytics, and digital technology.

Members of this committee will provide FSRA with advice and insight to deliver on the following outcomes:

- advice to inform FSRA's data collection strategy and implementation plan to improve credit union regulation and the protection of member deposits; with a focus on regulatory reporting, risk data, and integrating data from the credit union system in an effective and efficient way;
- advice to inform the future state of data sharing in the credit union system;
- advice on regulatory implications governing the use of data to protect the safety and soundness of the sector while promoting market innovation; and
- advice on the framework used to assess the adequacy of the Deposit Insurance Reserve Fund.

The committee will consist of 10 to 14 members. FSRA is seeking representation from, but not limited to, credit unions, data experts, and fintech/regtech companies.

FSRA is encouraging applications from individuals with executive level or extensive experience related to data management, data governance, and predictive data analytics; risk management and stress testing; and regulatory technology (financial services). Members of the committee will participate in, at minimum, two meetings, scheduled to begin in May 2021 (with a potential meeting in late July 2021).

FSRA's stated deadline for applications was March 26/21. Click here for the committee's [Terms of Reference](#).

Québec

Autorité des marchés financiers (AMF)

AMF Appoints Kim Lachapelle As Interim Superintendent, Client Services and Distribution Oversight

The AMF recently updated the Senior Management and Internal Audit page on its website to indicate that Kim Lachapelle has been appointed Interim Superintendent, Client Services and Distribution Oversight. The AMF has not, to date, issued any official announcement about this interim appointment.

The Interim Superintendent role is in addition to Ms. Lachapelle's primary AMF responsibilities as Vice-President, Strategy, Risks, and Performance.

As Interim Superintendent, Client Services and Distribution Oversight, Ms. Lachapelle succeeds Frederic Perodeau, who vacated that AMF senior executive position in December 2020 to become a Quebec Superior Court judge.

Ms. Lachapelle's capsule biography on the AMF website reads as follows:

Kim Lachapelle has been Vice-President, Strategy, Risks and Performance at the Autorité des marchés financiers (AMF) since September 2018.

In this role, she is responsible for the AMF's integrated risk management program and for supporting the AMF's various units by monitoring, developing and maintaining the relevance of the organization's performance indicators.

Ms. Lachapelle supports and oversees the strategic monitoring activities of AMF staff and their participation in various national and international forums so as to promote an integrated view of market developments and the work conducted within those forums and enhance the AMF's strategic directions and risk management. Ms. Lachapelle also develops, coordinates and monitors the AMF's strategic planning and annual activity plan.

In early 2020, her responsibilities as Vice-President were expanded to encompass changes to AMF Monitoring, Risks and Performance and the addition of a new branch, AMF Data Valorization, Fintech and Innovation. This new branch enables the AMF to both optimize the use of data in support of its actions and be as proactive as possible with respect to technology and industry transformation. The branch is responsible for developing and co-ordinating data governance and valorization activities, furthering the development of the fintech strategy, and rolling out the innovation strategy.

Prior to this, from 2008 until her appointment at the AMF, Ms. Lachapelle was Secretary General of the Canadian Securities Administrators (CSA), the council of the securities regulators of Canada's provinces and territories, where she helped to improve the management and co-ordination of regulatory proposals and initiatives and to develop and implement the CSA strategic plan.

Before joining the CSA, Ms. Lachapelle served as Corporate Secretary of Jean Coutu Group (PJC) Inc., where she oversaw large transactions. She was also Corporate Secretary and Legal Counsel at Pebercan Inc. and, prior to that, practised insurance law with Robinson, Sheppard, Shapiro. Ms. Lachapelle is known for her leadership in the management and governance of complex environments and the development of lasting relationships with internal and external stakeholders.

Ms. Lachapelle holds a Bachelor of Laws from the Université de Montréal and has been a member of the Québec Bar since 1992. In 1999, she completed an MBA at HEC Montréal. Ms. Lachapelle is also a Fellow of the Institute of Chartered Secretaries and Administrators Canada and completed the Canadian Securities Course (CSI) with honours. She is a member of the boards of directors of the Externat Mont-Jésus-Marie corporation and the Québec branch of the Institute of Chartered Secretaries and Administrators (ICSA). From 2011 to 2016, Ms. Lachapelle served as director and then chair of the board of the Centre d'accès à l'information juridique (CAIJ).

AMF Seeks Candidates For Technological Innovation Advisory Committee

On March 21/21, the AMF announced that it was seeking candidates to fill five positions on its Technological Innovation Advisory Committee ("TIAC").

The TIAC serves as a forum for sharing practical insights into technological innovation in the financial services and products industry and maintaining an open dialogue between industry stakeholders and the AMF. The TIAC's mission is to monitor technological developments in the financial markets and assist the AMF in identifying and analyzing issues related to financial innovation in Québec's financial sector. To maximize its effectiveness, members must have extensive experience in their respective fields and a solid understanding of financial markets or the regulation of financial markets.

Set up and co-ordinated by the AMF, the TIAC is composed of up to 15 outside experts from various sectors and professions related to technological innovation in the financial industry and representatives of the AMF.

The members of the TIAC are selected by the AMF, which reserves the right to invite one or more other individuals to participate on a regular or *ad hoc* basis where the AMF considers it necessary to ensure appropriate representation or to meet the committee's needs. If a member resigns from the TIAC, the AMF will select a successor.

Members are appointed for an initial two-year term, renewable in accordance with terms and conditions determined by the AMF. TIAC meetings are planned in co-operation with the members and take place four to six times per year. The meetings may vary in frequency and duration depending on the current issues and matters discussed.

The deadline for applications is April 23, 2021. Further information can be found here:

<https://lautorite.qc.ca/en/general-public/media-centre/news/fiche-dactualites/amf-seeking-candidates-for-five-positions-on-technological-innovation-advisory-committee>.

New Brunswick

Financial and Consumer Services Commission of New Brunswick (FCNB)

FCNB Announces Tabling Of Insurance Act Rewrite Legislation; CAFII Obtains Clarifications

On March 17/21, David Weir, a lawyer and long-serving staff executive at the Financial and Consumer Services Commission of New Brunswick (FCNB), issued the following notice to industry stakeholders including CAFII:

Dear Stakeholder,

As you may be aware, today the Minister of Finance and Treasury Board introduced a Bill seeking to amend the New Brunswick Insurance Act. The Bill is not posted yet, but should be later today or tomorrow on this page - <https://www.qnb.ca/legis/bill/FILE/60/1/Bill-33-e.htm>.

The primary purpose of this Bill is to update our intermediary licensing frameworks. This is a two stage process as some of the proposals for modernizing the intermediary licensing framework will be in the amended Act and other parts will be in a new Rule that will be forthcoming from the Commission later in the year.

As one of our key stakeholders, below you will find highlights of some of the changes found in the Bill:

- *Rule-Making Authority* – As alluded to above, the Bill will provide the Financial and Consumer Services Commission with concurrent authority to make rules on various matters within the Commission’s regulatory mandate. Rules are similar to regulations passed by government and must be approved by the Minister. The ability to make Rules provides greater flexibility to deal dynamically with an ever-changing insurance marketplace. While the Bill introduces many changes respecting licensing of intermediaries, many of the details of the licensing framework will be in the Rule. The intent is that the Rule will incorporate and update many things that are currently in various regulations (e.g., licensing levels, qualifications and market conduct matters) and provide specific details on other licences that are being introduced (adjusting firms, agencies, managing general agents and restricted licences).

Most of these items had previously been raised in consultation papers issued by the Commission on various topics. The Bill also proposes to repeal some provisions in the Act. The intent is to move some of these to the new Rule. This includes certain exemptions to licensing requirements currently found in the Act and the requirements related to trust accounts. Other antiquated provisions are being eliminated. When the draft Rule is complete, the Commission will publish it for comment and then make any necessary changes to finalize the Rule.

With respect to licensing, the Bill includes the following changes:

- *Eliminating Distinct Non-Resident Licence* – New Brunswick currently has a distinct non-resident broker licence for general insurance. Eliminating it means that all licence holders carrying out similar activities will hold the same licence and be subject to the same qualifications and responsibilities. The Rule will allow for equivalences for non-residents.
- *Eliminating Agent/Broker Distinction for licensing purposes* - The Bill proposes merging agents and brokers for licensing purposes for general insurance with a new definition of “agent” that captures both. Again, this will ensure that all licence holders carrying out similar activities will hold the same licence and be subject to the same qualifications and responsibilities. The Bill protects brokers and consumers by placing restrictions on who can hold themselves out as a “broker or brokerage”. The specific classes and levels of agent licences will be in the Rule.
- *Prohibiting the use of unlicensed individuals or businesses* – Although the Act currently prohibits individuals from acting as an intermediary without a licence, the Bill introduces a clear prohibition against an insurer or others allowing individuals or businesses to act on their behalf if the individual or business is not licensed or otherwise authorized or exempted.

- Licensing Corporations, Partnerships and Sole Proprietorships – The Bill introduces licensing of adjusting firms and agencies (which includes brokerages). The Bill also introduces licensing for managing general agencies (MGAs) and third-party administrators (TPAs) to clearly bring them within the Commission's regulatory authority.
- Licensing for Incidental Sales of Insurance – The Bill introduces authority for the Superintendent to issue a restricted insurance representative licence to certain individuals and businesses that sell insurance incidentally to the sale of other products or the provision of services (e.g., life insurance on a mortgage). The details of the restricted insurance representative licence and the various consumer protections specific to the licence will be in the Rule.
- Insurance with Unlicensed Insurers Through Special Insurance Brokers – The Bill will expand the types of insurance that can be obtained from an unlicensed insurer beyond just fire and marine insurance. The amendments will allow all lines of insurance other than automobile, life and accident and sickness to be arranged through a special insurance broker. This allows insureds with hard to place risks to go outside New Brunswick or even Canada.

The Commission also recommends requiring the special broker to advise a consumer of certain risks about purchasing insurance through an unlicensed insurer.

- Elimination of Damage Appraiser Licence – The Bill will eliminate licensing of damage appraisers (New Brunswick is the only province that currently licenses damage appraisers). However, the Bill maintains regulatory oversight of individuals engaged in damage appraising. In particular, an insurer or adjusting firm allowing a damage appraiser to act on its behalf must ensure that the damage appraiser is properly qualified and must provide oversight.

The Superintendent will also have the authority to prohibit an individual from acting as a damage appraiser if the person is not suitable.

Other changes include:

- Eliminating the Requirement on Insurer to File Notice or Process – This requirement does not provide a lot of information on industry practices or trends to the Commission. Reviewing court decisions and accessing insurers' annual market conduct statements provide better information to help understand what is happening in the marketplace. Eliminating the requirement would remove an unnecessary burden on insurers.
- Allowing for Diagnostic and Treatment Protocols – The amendments provide authority to introduce diagnostic and treatment protocols for motor vehicle accident victims who suffer a common collision injury. The over-riding objective of the protocols is to ensure that people who are injured in collisions receive fast and effective treatment to support their recovery. This would be accomplished by regulation, but the Act needs to be amended to include regulation-making authority to enable the adoption of the protocols.

While some of the changes will be coming into effect as soon as the Bill receives Royal Assent, several provisions will come into effect at a later date (on proclamation). This will allow time for the Rule to be finalized and for the Commission's systems to be updated.

I trust that you will find this information helpful. Although you are free to discuss the subject matter with others in your organization, I would ask that you keep it within your organization. If you have any comments or questions, please do not hesitate to contact me.

Subsequent to Mr. Weir's announcement on behalf of FCNB, CAFII reached out to him and obtained the following clarification information (responses appear in red font) on two key follow-up questions:

- with respect to the new Rule that will be forthcoming from the Commission later in 2021, will you be holding a public/industry consultation on the proposed contents of the new Rule (i.e. on an advanced/refined draft of the Rule)?; and

The Commission practice is to post a proposed Rule for 60 days to allow for stakeholder comment. As you may recall, we had done this for our proposed Rule for fee changes several years ago. The Rule will have significant details for the insurance intermediary licensing framework. If there are issues that we need feedback on prior to the posting, we will reach out to targeted stakeholders as required.

- with respect to any new measures/compliance requirements that are introduced in either the amended Insurance Act or the new Rule which will have IT systems change and/or consumer notification implications for industry players, will there be a reasonable transition period allowed prior to the "in force date" of any new measure or requirement? As you may recall, CAFII always requests a transition period of 12 to 18 months whenever changes are introduced which have IT systems change implications.

As you can appreciate, the Commission has been seeking to update our intermediary framework for a long time. Therefore, we feel that it important to not delay introducing the changes too long. However, we appreciate that some stakeholders may require some lead up time before implementation.

We feel that many of the changes that are in the Act or will be in the Rules with respect to intermediary licensing are matters that have already been discussed in the several consultation papers that the Commission had published.

Although there are some changes to the proposals based on feedback from the consultation, the essence of the proposals is intact. Also, many of the proposals mirror what is already in place in some other jurisdictions. Given that the Bill has been introduced, we are hopeful that industry will be looking into what, if any, IT changes will be required. Are there any specific matters that cause CAFII particular concern in this regard?

Given our Association's highly relevant expertise and experience in the area of restricted insurance representative licensing regimes, we are very keen to have a consultation opportunity -- including a face-to-face or virtual meeting with you and/or other FCNB colleagues -- to provide feedback on "the details of the restricted insurance representative licence and the various consumer protections specific to the licence" which you've indicated will be in the new Rule.

As I'm sure you can appreciate, CAFII's view is that when it comes to introducing such a new licensing regime in New Brunswick, the details will be critically important to its efficient and effective functioning; and, in an apt phrase, "the devil will be in the details."

As indicated, we will be publishing our proposed Rule for 60 days comment. The Rule will have the details of the restricted insurance representative framework. However, I would welcome discussions with CAFII on any thoughts that you may have about our proposals beyond the feedback that CAFII had provided in your response to our consultation paper. Perhaps we can set up a virtual meeting in a few weeks.