

Agenda Item 2(a)
November 19/19 EOC Meeting

CAFII Executive Operations Committee
Summary Notes of Teleconference Meeting, 29 October, 2019

In Attendance:

Martin Boyle, BMO Insurance (EOC Chair)
Tony Pergola, ScotiaLife Financial (Treasurer)
Monika Spudas, Manulife Financial
John Lewsen, BMO Insurance
Scott Kirby, TD Insurance
Laura Bedford, RBC Insurance
Brad Kuiper, ScotiaLife Financial
Charles Blaquiere, Canadian Premier Life/valeyo
Dana Easthope, Canadian Premier Life/valeyo
Joanna Onia, CIBC Insurance
Sharon Apt, Canada Life Assurance
Andrea Stuska, TD Insurance
Afzal Baig, TD Insurance
Michelle Costello, CUMIS Services Inc.
Dallas Ewen, Canada Life Assurance
Anita Mukherjee, RBC Insurance
Moirra Gill, TD Insurance
Brendan Wycks, CAFII
Keith Martin, CAFII
Natalie Hill, Managing Matters
Jemma Wilson, Managing Matters

A set of consent items were approved or received without discussion (Meeting notes for September, 2019 EOC In-Person meeting; Regulatory Update for October, 2019; Consultations/Submissions timetable; Committee reports addressing CAFII priorities from 1 October, 2019 Board meeting; Regulator and Policy-Maker Visit Plan; and the program for the AMF Rendez-Vous in Montreal on Monday, 25 November, 2019).

Treasurer Tony Pergola updated participants on the CAFII financial statements as at 30 September, 2019, noting that the budget and the forecast were on track overall, but some timing issues were likely to increase expenses relative to costs over the remainder of the year.

While the financial reserves as a percentage of annual operating expenses currently sit at 33%, they are forecasted to end up at 27% at the end of the fiscal year.

The minutes for the 1 October, 2019 Board meeting have not been finalized, but they will be tabled at the 19 November, 2019 EOC meeting for approval, well before the 3 December, 2019 Board meeting.

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 develop their recommendations for next year's budget.

Brendan Wycks noted that at the 1 October, 2019 Board meeting it was suggested that the materials for the Board meetings had to be prepared much earlier than they had been recently, to allow Board members the opportunity to review them well in advance of the meeting. That same reality is true as well for EOC meetings, and as a result CAFII management will strive to have all materials available at least one full week prior to EOC and Board meetings. That was largely achieved for this EOC meeting, and that will continue to be a commitment that is made going forward.

The CAFII Board had approved, at its 1 October, 2019 meeting, the proposed 2020 schedule of CAFII meetings and events, with one important change, which was in principle, subject to confirmation from the AMF that it can accommodate this change, to switch the October 6, 2020 Board meeting in Quebec City, to be hosted by Desjardins, to the April 7, 2020 meeting, and have the AMF liaison meeting on that day.

It was noted that the Board approved the proposal from the EOC to provide Associates with the monthly Regulatory Update, in order to enhance the value proposition for this category of member. The details are being finalized and it is the intention to provide Associates with this document on a monthly basis going forward. As well, they will be provided with the last 2-3 Regulatory Updates when they are first informed of this new value-add element to membership, and they will be included going forward on the list of those to whom CAFII Alerts are sent, albeit via a separate transmittal.

The Board supported the concept of striking an EOC Working Group to review the possibility of developing a new lower dues category of CAFII membership. CAFII management will send out an email asking for volunteers from the EOC, and will then organize meetings of the Working Group to explore this idea.

An update was provided on the upcoming 3 December, 2019 Board meeting to be held at the TD Conference Centre at Bay & King in Toronto, including the ensuing Reception at which Melissa Carruthers of Monitor Deloitte will be our guest speaker on the topic of **“Modernize & Transform: Winning in The Future of Life & Health Insurance.”**

An update was provided on the meeting held the prior day, 28 October, 2019, in Ottawa with Judith Robertson, new Commissioner of the FCAC, and two senior executives of hers, Teresa Frick, Director, Supervision, Division; and Jérémie Ryan, Director, Financial Literacy and Stakeholder Engagement. The CAFII delegation identified three principal objectives for the meeting, which were to develop the relationship, to agree to a follow-up meeting in the not-too-distant future, and to invite Ms. Robertson to be the guest speaker at CAFII’s 2020 Annual Members Luncheon early next year. All three of these objectives were successfully achieved at the meeting.

The FCAC meeting included a CAFII presentation which focused on what CAFII was about; on the impact of technological changes and innovation on the life and health insurance industry; and on the research results from CAFII’s recent Pollara consumer research on Mortgage and HELOC credit protection insurance. The FCAC participants were very engaged, asked a lot of questions, and were open and collegial. Ms. Robertson raised an interesting issue of “dueling research” where organizations engage in research with different results; in discussion on this, it was agreed that CAFII and the FCAC could try to coordinate or discuss CAFII research efforts to ensure that we took into account particular research interests of the FCAC.

An update was provided to the EOC by Keith Martin and Brendan Wycks on the recent 21-25 October, 2019 Western Tour. Keith Martin outlined the content of the CAFII presentation made to each of the nine regulatory authorities, which was essentially the same presentation made to the FCAC as outlined above. Mr. Martin then provided a brief summary of the meetings held in Manitoba and Saskatchewan.

On 22 October 2019, CAFII met in Winnipeg, Manitoba with Insurance Council of Manitoba Executive Director Barbara Palace Churchill, Director of Licensing Stacey Aubrey, Director of Compliance Lee Roth; along with Superintendent of Insurance Scott Moore. Scott Moore said there was no movement afoot in Manitoba to do anything legislatively regarding a Fair Treatment of Consumers Guideline. “We already have the tools in place to endorse and support the CCIR/CISRO FTC Guidance,” he said. Barbara Palace Churchill said there were no plans in the works to develop a Code of Conduct for Restricted Insurance Agent licence holders.

Scott Moore raised concerns around the “single premium issue” which he said often arise in credit union space. Barbara Palace Churchill chimed in that similar concerns come up with sub-prime lenders and sales finance companies regarding “insurance premiums and fees being greater than the actual loan amount.”

Given that CAFII has credit union members, Scott Moore encouraged CAFII to engage with the Canadian Credit Union Association on its already in-development “Market Code of Conduct for Credit Unions.” Right now for credit unions, the Superintendent in Manitoba “has no tools” to address market conduct issues, so he is pleased that CCUA is doing something proactively in this area. The CCUA has reached out to Mr. Moore and is “keeping him apprised” on its development of a Code.

The recently re-elected Premier of Manitoba Brian Pallister has put out a 100 Day Action Plan which includes a focus on Red Tape.

Barbara Palace Churchill noted that the ICM is “revenue positive” for the Manitoba government and allocates surplus funds at the end of each fiscal year back to the province’s Financial Institutions Regulation Branch (FIRB) as “dividends.”

Ms. Palace Churchill said that an RIA Advisory Committee does not really make sense in Manitoba—it is a different situation and structure there. However, they will take a look at the RIA Advisory Committee to the Insurance Councils of Saskatchewan once it is launched; and they will continue to be open and consider CAFII’s information and rationale and will be open to eventually arriving at a different point-of-view.

On 23 October 2019, CAFII met in Regina, Saskatchewan with Roger Sobotkiewicz, Superintendent of Insurance; Jan Seibel, Director, Insurance and Real Estate Division; and Shannon McMillan, Director of Communications, Financial and Consumer Affairs Authority (FCAA). The FCAA understood CAFII members’ preoccupation with getting the details sorted out around the new Saskatchewan Insurance Act, the related Regulations, and the FCAA’s expectations for the industry’s implementation of them especially given that the in-force date of January 1/20 is imminent. Ms. Seibel said she would try to finalize and issue the still-outstanding clarifications, Guidance documents, and Bulletins by the end of November 2019; Mr. Sobotkiewicz was more “committal” on getting those items done and released quickly, and for certain by the end of November, 2019.

CAFII mentioned the AMF Bulletin which extended the implementation period for certain complex compliance matters related to the Regulation on Alternative Distribution Methods by a further year to June 13/20; and Ms. Seibel said that she was very interested in that approach and asked us to send the AMF Bulletin and any related background material to her.

Mr. Sobotkiewicz asked CAFII to “put a plug in,” in our meeting that afternoon with Deputy Minister of Justice and Deputy Attorney General Glen Gardner that the province’s Superintendent of Insurance should have rule-making authority for insurance in order to allow Saskatchewan to be more nimble and respond more quickly to insurtech proposals and developments, support innovation, etc. (right now the Superintendent has rule-making authority for securities, but not for insurance). “As a Superintendent, you are really hamstrung if you don’t have rule-making authority,” he said.

Mr. Sobotkiewicz said the FCAA could not back off wording in the legislation around telling online consumers “you may want to get advice,” but this is not intended to favour one channel over another. He added that industry consultation is critically important to the FCAA. He said that if industry cannot get everything related to the new Insurance Act and related Regulations fully implemented by the 1 January, 2020 date, he is not going to take enforcement action so long as industry is moving ahead on a “best efforts basis” and keeps his office apprised of their progress.

Mr. Sobotkiewicz also asked CAFII to prepare and send to him a list of our members’ “second level contacts around complaints” to help the FCAA in assisting consumers who submit complaints to his office (as sometimes when the FCAA reaches out to a more junior-level contact at an insurer or distributor on a complaint matter, that person has no idea who the FCAA is and initially refuses to co-operate). Finally, he said that if there are still areas of uncertainty or concern around implementation of the new Insurance Act and related Regulations, CAFII was asked to send in a written submission on those.

Ron Fullan, Executive Director and April Stadnek, Director of Strategic Initiatives, Insurance Councils of Saskatchewan met with CAFII later that same day in Regina, Saskatchewan. This was a very informal and cordial meeting. Mr. Fullan advised that CCIR and CISRO had held a “joint day” together as part of their Fall 2019 meetings, both of which were held in Winnipeg in September. (Both bodies also had one-day of separate meetings unto themselves.) Current CCIR Chair Patrick Dery was a strong advocate of this joint approach, as was Ron Fullan as CISRO Chair. There is likely to be an increasing amount of collaboration and joint work and meetings between CCIR and CISRO in future.

Mr. Fullan said that with respect to industry players being able to document and demonstrate the Fair Treatment of Customers, especially given that many aspects of FTC are “business culture-related,” in some respects a negative proof is as important as being able to point to concrete actions and initiatives. In other words, Mr. Fullan said, you will know when you are not doing FTC well because consumer complaints, regulator intervention, etc. will inevitably come to the fore if you are not doing it properly.

April Stadnek said that data related to complaints handling and client retention are two key ways to demonstrate FTC. Ron Fullan said that CAFII's Pollara research was helpful, for example as a result of CAFII research he rarely hears anymore about "post-claims underwriting" for credit protection insurance. The CAFII delegation was informed that the ICS is ready to implement the RIA Advisory Committee on January 1/20, but it has to be done as part of the re-written and updated ICS Bylaws, and official and final approval of those is still pending from the Superintendent of Insurance.

After Mr. Fullan left a bit early due to another engagement, Ms. Stadnek shared an emotional story about a travel insurance claim which was initially denied, but which she then intervened on as a private citizen and ultimately got approved, for the boyfriend of her aunt. April asked CAFII to take under wing and look into this question as a travel insurance-related issue (perhaps for the CAFII Travel Medical Experts Working Group): *is there a way that in travel health insurance denial letters, the appeal process(es) can be more clearly laid out and explained in layman's terms?*

Finally, CAFII met in Regina, Saskatchewan with Glen Gardner, QC, Deputy Minister of Justice and Deputy Attorney General; and Shannon Williams, Executive Assistant to the Minister, Saskatchewan. Glen Gardner was very attentive and sympathetic; he made a lot of jokes and one-liners and the overall tone and atmosphere in the office seemed to be one of "levity" and "let's make this an enjoyable and great place to work."

Mr. Gardner seemed quite interested in the insurtech and Artificial Intelligence developments that are transforming the life and health insurance industry; and saw some parallel developments and obstacles to be overcome in his own Ministry of Justice, which has an Innovation Division which Shannon Williams (a lawyer by background) is integrally involved in.

He took note of CAFII's encouragement that the province's Superintendent of Insurance should have rule-making authority for insurance in order to allow Saskatchewan to be more nimble and be able to respond quickly to insurtech proposals/developments, support innovation, etc. (right now the Superintendent has rule-making authority for securities, but not for insurance). Glen Gardner was also, at times, quite cynical about his own Ministry in terms of its ability to evolve and modernize.

Brendan Wycks then proceeded to provide updates on the meetings in Alberta and British Columbia.

On 23 October, 2019, CAFII met in Edmonton, Alberta with Alberta Superintendent of Insurance Darren Hedley; Deputy Superintendent of Insurance David Sorensen; Wayne Maday, Director of Insurance Policy; and David Mulyk, Executive Director, Pension and Insurance Policy. A key learning here was that the new Kenney government in Alberta has decided to put an “indefinite pause” on the plans to create a single, integrated financial services regulator in the province as the government has other priorities and bigger fish to fry in terms of its priorities and available resources; and it does not expect to revisit that proposal within the foreseeable (certainly not within its current term of office). Within the next few weeks, the government plans to make an announcement to that effect – but “to the industry only” as the single regulator proposal was never released to the public or media.

Overall the meeting was characterized by positive, engaged conversation. There was a lot of interest in the CAFII presentation. David Sorensen asked “What’s the proportion of credit protection insurance sales constituted by mortgages and HELOCs versus other debt obligations such as car loans, short-term loans, etc.?” He said that he’d be interested in the CPI stats for those types of loans which are typically taken on by what he calls “the more vulnerable type of consumer.”

The regulators appreciated the laudatory slide in CAFII’s presentation about ATBF’s recent amendment to its Fair Practices Regulation to allow electronic insurance transactions, including electronic beneficiary designations, provided that the consumer provides consent. They particularly appreciated the fact that we were including this slide in all nine presentations to insurance regulators and policy-makers on our current Western Canada tour. They jokingly asked us to remove the final bullet point which referenced the fact that Alberta’s regulatory amendment brought it into harmony with BC, which has had similar permissive legislation in place since 2012.

Darren Hedley raised the issue of “post-claims underwriting” but backed off when we said that is an adversarial myth propagated by competitors in the advice-based channel.

Later that same day, also in Edmonton, Alberta, CAFII met with the Alberta Insurance Council CEO and Executive Staff. Joanne Abram brought her whole senior team to the meeting, from both the Edmonton head office and the Calgary satellite office, with six staff executives in attendance. This was a very cordial meeting with lots of very engaged conversation. Ms. Abram said that the AIC’s key focus over the past two to three years had been on preparing for the possibility of a single, integrated financial services regulator in Alberta and how the Council would fit into it; but now that is no longer happening.

The definitions of the various forms of “credit-related insurance” which can be offered in Alberta under a Restricted Certificate of Authority have been published on the AIC’s website (although it’s not intuitive and easy to find them). Sylvia Boyetchko provided Brendan Wycks with printed copies of the two relevant pages from the AIC website.

It was suggested that the Alberta government will have to introduce some legislative changes as it pertains to the Insurance Council at some point, as when it was originally created, the enabling legislation did not envision certain developments which have become new realities such as the extensive use of Third Party Administrators (TPAs) by Restricted Insurance Agent licence holders. The AIC is looking into the possibility of requiring an education program to be licenced to sell travel insurance in the province, which would almost certainly include an endorsement and adoption of THIA’s recently launched Travel Insurance Program (TIP) education program. Also, Ms. Abram strongly supported greater integration between CCIR and CISRO.

On 24 October, 2019, in Victoria, British Columbia, CAFII meet with Kari Toovey, Director, Legislative Policy Projects and 10 Year Review of Financial Institutions Act Project Lead; Tara Richards, Assistant Deputy Minister, Policy and Legislation; Rachel Franklin, Executive Director, Financial and Corporate Sector Policy Branch; and Sally Reid, Senior Policy Advisor, BC Ministry of Finance. Tara Richards was there for the first hour of the 90-minute meeting and then had to leave for another appointment, but seemed genuinely interested.

A major focus of the meeting was about the just-tabled Bill C-37: The Financial Institutions Amendment Act, 2019, which has passed first reading in the legislature, and was expected to be fully passed by 30 November, 2019. Ms. Toovey said that the sections of Bill C-37 which are most relevant to CAFII and its members are: Code of Market Conduct for the Insurance Sector; Sale of Insurance Online; Rule-Making Authority; and Restricted Insurance Agent Regime. She noted that regulations will be critical to bringing the new Act into force and they will be developed, consulted on with the industry, and then finalized over the next two years. Everything will be brought into force in stages. An RIA regime will be implemented by the Insurance Council of BC, the Ministry, and the BCFSa – a detail that CAFII was very concerned by this as it could lead to disconnects.

Ms. Toovey said that the reference to “post-claims underwriting” under the RIA regime-related clauses in Bill C-37 were really about online sales of insurance and protecting consumers who do not have a broker, to help guide them through the insurance process. CAFII explained that “post-claims underwriting” is an adversarial myth propagated by competitors in the advice-based channel; and if protecting consumers in an online sales situation is the issue, then a different term should be used.

CAFII offered to have a dedicated meeting with Ministry officials, at the appropriate point in time, either electronically via Zoom or in-person in Victoria, to explain everything about the credit protection insurance sales, underwriting, and claims processes in detail. Kari Toovey and Rachel Franklin readily accepted CAFII's offer of a meeting with that focus. It was agreed that early in 2020 would be a good time to schedule that meeting.

CAFII emphasized that 18 months is needed to implement changes, starting from the date that the changes are finalized and proclaimed into force. CAFII mentioned the AMF Bulletin which extended the implementation period for certain complex compliance matters related to the Regulation on Alternative Distribution Methods by a further year to June 13/20; Ms. Toovey said that she was interested in learning more about that approach and asked us to send the AMF Bulletin and any related background material to her.

Later that day, in Vancouver, B.C., CAFII met with BC FICOM/BC Financial Services Authority (effective November 1/19) Staff Executives. Blair Morrison, recently appointed CEO, said hello, then left. Frank Chong and Harry James participated in the entirety of the meeting. Whereas Frank Chong was somewhat confrontational and almost hostile during CAFII's liaison with FICOM in October 2017, this time he was charming, engaged, and supportive.

BCFSA has a somewhat complex Board structure and the Board has vested in it significant regulatory decision-making authority which typically would be assigned to and reserved for "management" in other organizations. BCFSA will have rule-making authority and be an independent Crown Corporation. Frank Chong advised that as part of the transition into a new regulatory body, BCFSA has retained 99% of FICOM's staff and also expanded its staff team by filling a lot of vacancies. As a result of being much more fully "staffed up," the BCFSA will by trying to move towards a more "functional-based" approach to fulfilling its regulatory mandate as opposed to an ad hoc approach.

The result of the Fees Consultation related to BCFSA is that the model proposed in the paper has been recommended to Treasury Board and is awaiting its approval; there will not be a phase-in of the proposed steep increase for non-credit union insurers over two years. Credit unions need to stop cross-subsidizing other sectors, and that has to be done as quickly as possible.

Why, Frank Chong asked, if fostering innovation via regulatory forbearance and sandboxes is an issue, does he never get asked for such approvals from start-ups? A good discussion on this question ensued with several possible reasons offered in answer by CAFII, including some discussion on the AMF being the most "open for business" jurisdiction in Canada, such that many insurance industry players will always approach Quebec exclusively for trialing their innovative developments.

Harry James mentioned, casually and in passing (such that the significance of this news was not immediately seized upon by CAFII's representatives, until the ensuing meeting with the Insurance Council of BC), that the new RIA regime in BC will be developed and overseen by both the Insurance Council of BC and the BCFSa (a significant area of concern for CAFII re having to serve two masters; and possible disagreements between two regulatory authorities which, in a worst case scenario, could lead to dysfunction and paralysis).

Stemming from CAFII's presentation slides on the recent Pollara research on consumers who hold credit protection insurance on a mortgage or HELOC, Harry James asked about the claims payout rates for all four types of coverages: life, disability, critical illness, and job loss.

Later that afternoon, in Vancouver, British Columbia, CAFII met with Kandace Hopkins, Director, Practice and Quality Assurance, Insurance Council of British Columbia, and Brett Thibault, Director, Governance and Stakeholder Engagement, Insurance Council of British Columbia. CAFII learned that ICBC Executive Director Janet Sinclair's mother recently passed away unexpectedly, so she was not in attendance. Brett Thibault directly and specifically drew to CAFII's attention the fact that the just-tabled Bill C-37 calls for the new RIA regime in BC to be developed and overseen by both the Insurance Council of BC and the BCFSa. This led to some discussion about the potential downsides of this "dual regulators" approach; and Brett Thibault and Kandace Hopkins encouraged CAFII to bring its concerns about this to the Ministry of Finance's attention if we believe that there should be just a single BC regulator responsible for the new RIA regime.

Post-claims underwriting was raised by Brett Thibault and CAFII explained how it is an adversarial myth propagated by competitors in the advice-based channel.

There was lots of interest in CAFII's presentation, especially in the slides on the Insurtech, Innovation, AI, and the potential impact on the future of the life and health insurance industry, as both Mr. Thibault and Ms. Hopkins had recently attended the 2019 Insurtech Annual Conference in Las Vegas in September (which occurred at the same time as the CCIR and CISRO Fall meetings in Winnipeg).

The next item covered at this EOC teleconference-only meeting on October 29/19 was the effort to find a lawyer to make a representation to the AMF on the legal and technical issues raised by the expectation that in-force, existing policies that did not meet the AMF's definition of pecuniary interest needed over time to be cancelled. Mr. Martin thanked Élyse Lemay of Canada Life, and Michele Jenneau of National Bank Insurance, for their considerable assistance on this file. A lawyer, Marc Duquette from Norton Rose, had been identified and approved by the Board, and the scope of his mandate and his quote were now being developed for review and approval.

Martin Boyle provided an update on the AMF review of critical illness insurance, which required industry players to answer one of two questionnaires, one less detailed and the other more detailed. That is currently in progress.

Apparently, the AMF expects that embedded coverages will require a Product Summary and Fact Sheet, a position CAFII and its members do not agree with. Two members, Royal Bank Insurance and TD Insurance, would like CAFII to reach out to the AMF for clarification and to share our point of view. A conference call on this issue with CAFII members will be set up.

Martin Boyle noted that the Credit Protection Insurance Working Group on Best Practices was now focused on sub-groups, called Workstreams, which were meeting on specific elements of the Working Group's overall efforts, and that much progress was being made. Meetings were ongoing with full Working Group meetings currently focused on reports from the Workstreams.

Keith Martin provided an update on the RFP around the possibility of CAFII taking over the CBA's Benchmarking Study on Credit Protection Insurance. Towers Watson and RSM Canada have now received the RFP, and their responses to it are due by 13 November, 2019. A meeting will be held on the morning of 19 November, 2019 to hear from those two actuarial firms about their RFP response submissions, with a recommendation to be arrived at by those CAFII members in attendance, to the Board at its upcoming 3 December, 2019 meeting.

The meeting then ran out of time, so it was agreed that the remaining agenda items would be carried over to the next EOC meeting, to take place in-person on the afternoon of 19 November, 2019.