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Regulatory Update – CAFII Executive Operations Committee, 14 February, 2023

Prepared by Keith Martin, CAFII Co-Executive Director

Federal/National	3
Canadian Life and Health Insurance Association	3
CLHIA Testifies Before a Senate Committee on Bill C-242, An Act to Amend the Immigration and Refugee Protection Act	3
Travel Health Insurance Association of Canada	3
THIA Holds a Webinar with Marc Desormeaux, Desjardins, on the Economic and Financial Outlook for Canada	3
Canadian Association of Financial Institutions in Insurance (CAFII)	4
CAFII Creates a New Quebec/AMF Issues Committee	4
Membership of the CAFII Quebec/AMF Issues Committee, as at 14 February, 2023....	5
CAFII Holds a Webinar with Dallas Ewen, Canada Life, and David Elder, Stikeman Elliott, on Privacy Issues and Trends in Insurance	6
CAFII Holds a Webinar with Blair Morrison, CEO of the British Columbia Financial Services Authority	7
CAFII Holds a Webinar on “Travel Trends and Travel Insurance Implications As Society Emerges From the COVID-19 Pandemic”	10
The Canadian Club Toronto	12
The Canadian Club Toronto Holds a Webinar on Diversity, Equity and Inclusion in the Workplace	12
International Association of Insurance Supervisors (IAIS)	13
The International Association of Insurance Supervisors (IAIS) Holds a Virtual Meeting on IAIS Work on Diversity, Equity, and Inclusion in the Insurance Industry, with FSRA CEO and IAIS Market Conduct Working Group Chair Mark White As One of the Panelists	13
Ontario	15
Financial Services Regulatory Authority of Ontario (FSRA)	15
FSRA Holds a “FSRA Exchange” Event on 19 January, 2023 in Downtown Toronto	15
FSRA Board Chair Joanne De Laurentiis Opens FSRA Exchange Event	16
Remarks Made by Ontario Minister of Finance Peter Bethlenfalvy, and by Stephen Crawford, Parliamentary Assistant to the Ontario Minister of Finance.	16
Mark White Makes Comments to the FSRA Exchange	17

Panel on “Effective Governance and Oversight in a Principles Based Regulatory Regime”	17
Discussion of Governance and Risk-Based Supervision for Credit Unions	18
Life & Health Insurance Discussion with Eric Hiemstra and Swati Agrawal	18
FSRA Appoints Three New Members to its Consumer Advisory Panel	18
Quebec	19
Autorité des marchés financiers (AMF)	19
Louis Morriset Will Not Seek a Third Term as AMF President and CEO	19
AMF Releases Videos of its 22 November, 2022 Annual Rendez-Vous Conference	19
AMF Releases Report on “Summary of Specific Consultations on Products and Services Offered Via the Internet and the Regulation Respecting Alternative Distribution Methods”	19
AMF Releases Paper on Overview of Trends in Digital Financial Services	22

Federal/National

Canadian Life and Health Insurance Association

CLHIA Testifies Before a Senate Committee on Bill C-242, An Act to Amend the Immigration and Refugee Protection Act

An federal government Act which CLHIA and THIA are opposed to has been passed the House of Commons and is now being reviewed by the Senate. CLHIA testified before a Senate Committee reviewing the Act on 1 February, 2023. The Act would allow “supervisa” holders (who are allowed to remain in Canada for longer than most visa holders) to obtain travel health insurance coverage from non-Canadian insurers.

CLHIA had previously written to the government to make the case that while foreign carriers may offer travel insurance coverage at rates that are less expensive than Canadian carriers, the risk is that a person with such insurance may have less thorough coverage, and this ultimately could cause consumer harm and impose costs upon the Canadian health care system.

CLHIA has now adjusted the main arguments in its petition to the government to focus on the need for any foreign carrier to meet the same prudential and market conduct regulatory standards that are expected of Canadian-based carriers.

Travel Health Insurance Association of Canada

THIA Holds a Webinar with Marc Desormeaux, Desjardins, on the Economic and Financial Outlook for Canada

The Travel Health Insurance Association of Canada (THIA) held a 19 January, 2023 webinar with Marc Desormeaux of Desjardins, on the economic and financial outlook for Canada.

Mr. Desormeaux said that inflation is high globally at this time, and central banks are raising rates to rein it in. He added that part of the solution to inflation is that weaker global goods demand is reducing supply chain pressures. As well, oil prices have fallen and that will reduce inflationary pressures as well. Desjardins believes that interest rates will begin to fall in late 2023.

Mr. Desormeaux predicted that the housing market will drive a recession in Canada in 2023, and there will be an increase in unemployment. But the recession will not be as bad as in prior recessions. He indicated that population growth through immigration in Canada offers a boost to the Canadian economy that will be an offset to the recessionary pressures.

Mr. Desormeaux noted that a high interest rate environment tends to put pressure on discretionary spending items such as travel, so that is an industry that may find some challenges as the Bank of Canada tries to rein in inflation.

The webinar can be accessed here:

[\(146\) Economic Outlook with Marc Desormeaux - YouTube](#)

Canadian Association of Financial Institutions in Insurance (CAFII)

CAFII Creates a New Quebec/AMF Issues Committee

With multiple regulatory and legislative changes in Quebec, CAFII has created a permanent Quebec/AMF Issues Committee that will initially be meeting monthly, supplemented by additional *ad hoc* meetings as needed, to tackle emerging issues in Quebec. The Committee is chaired by Jennifer Russell (Assurant) and its Vice-Chair is Iman Muntazir (RBC Insurance), and it has already met twice (1 February, 2023 and 9 February, 2023). The initial focus has been on how to respond to the Charter of the French Language (Bill-96). While some provisions of Bill 96 came into effect as of **June 1, 2022**, others will come into effect over the ensuing three years.

There is still some uncertainty about what is a “contract of adhesion,” which is a final, non-negotiable contract; these must always be presented first in French to residents of Quebec, and only subsequently, if requested by the customer, can an English version be made available. Whether a credit protection insurance Certificate of Insurance qualifies as a “contract of adhesion” is not clear, nor is there consensus on how to deal with insurance benefits which are embedded in a credit card.

For further information on the Charter of the French Language legislation, following are two legal updates.

[Charter of the French language | Knowledge | Fasken](#)

[Stikeman Elliott: Charter of the French Language](#)

Membership of the CAFII Quebec/AMF Issues Committee, as at 14 February, 2023

First	Last	Company
Susan	Gibaut	Assurant Canada
Nadine	Roy	Assurant Canada
*Jennifer	Russell	Assurant Canada
Cecillia	Xiao	Assurant Canada
Greg	Caers	BMO Insurance
Silvana	Capobianco	BMO Insurance
Sergio	Gomes	BMO Insurance
Deliska	Beauregard	Securian Canada
Farhad	Eslah	Canadian Tire Bank
Catherine	Latulippe	Canadian Tire Bank
Ibrahim	Idowu	CIBC Insurance
Kristal	McKay	CIBC Insurance
Mandy	Rutten	CIBC Insurance
David	Self	CIBC Insurance
Doug	Weir	CIBC Insurance
Casandra	Litniansky	CUMIS/The Co-operators
Michelle	Costello	CUMIS/The Co-operators
Isabelle	Choquette	Desjardins Insurance
Maude-Marie	Dorval	Desjardins Insurance
Léa	Dufresne	Desjardins Insurance
Bessie	Paliouras	Manulife Financial
Stephanie	Lessard	National Bank Insurance
Ivan	Murray	National Bank Insurance
Jonathan	Poulin	National Bank Insurance
**Iman	Muntazir	RBC Insurance
Belinda	Lynch	Scotia Insurance
Sherri	Kuzio	Scotia Insurance
Pete	Thorn	TD Insurance
Marc-Andre	Chartrand	The Canada Life Assurance Company
Elyse	Lemay	The Canada Life Assurance Company
Lindsey	LeClair	Valeyo
* Chair		
** Vice-Chair		

CAFII Holds a Webinar with Dallas Ewen, Canada Life, and David Elder, Stikeman Elliott, on Privacy Issues and Trends in Insurance

CAFII held a webinar on privacy issues and trends in insurance on 26 January, 2023 with Dallas Ewen, Canada Life, and David Elder, Stikeman Elliott.

David Elder said that from a business perspective, privacy laws to date in Canada have been quite effective. In the common-law provinces, those laws are largely principles-based, and Privacy Commissioners have been able to deal with a wide variety of issues. There are significant non-monetary penalty reasons why companies want to comply with privacy requirements. One problem, however, is that there is no real way to appeal a ruling made by a Commissioner. Dallas Ewen agreed that the privacy regime is largely effective in Canada. He also agreed that there is difficulty challenging privacy rulings, but the new federal Bill C-27 does provide for a tribunal that, to an extent, addresses this shortcoming.

Dallas Ewen noted that there is a lack of privacy laws harmonization in Canada from jurisdiction to jurisdiction. There is the federal Personal Information Protection and Electronic Documents Act (PIPEDA) which applies everywhere in Canada except where there are provincial regimes that have been deemed to be substantially similar to PIPEDA — which is the case for British Columbia, Alberta, and Quebec (Personal Information Protection Acts (PIPA) in BC and Alberta, and a different name in Quebec). But there are some small differences between the different regimes. The most significant difference between the regimes is around the obligation to report breaches. David Elder echoed Mr. Ewen's sentiments, but noted that those challenges are not that different from other jurisdictional issues that exist in Canada in other sectors. There is also broad co-operation and co-ordination between regulators, which is helpful. However, new challenges may come about with Quebec's recently modernized privacy legislation, which will make it a bit of an outlier.

David Elder built on those comments by noting that Quebec has recently taken a very different approach and is making major amendments to its privacy regime. Quebec's amendments are taking place over several years and reflect a new direction, which is more similar to the approach taken in Europe (the European Union's *General Data Protection Regulation* or GDPR). In general, there are higher standards and expectations now in the Quebec requirements as well as new, additional requirements. Quebec's new law is also imposing requirements not just for activity outside of the country, but outside of Quebec. There are also now significant new monetary penalties in the Quebec legislation, and a right of private litigation. Dallas Ewen agreed that the new rules are different from elsewhere in Canada and quite intense. There is more of a philosophy in this new regime around viewing privacy as a human right.

Notwithstanding Quebec developments, most other jurisdictions in Canada are also looking mainly at international developments, including in California and the European Union's GDPR. The federal privacy rules that are being modernized in Bill C-27, if passed, will replicate many of the features of the Quebec rules. Canadian privacy laws will likely have to be reformed in order to align more closely the GDPR and with international developments generally, especially in terms of enforcement and having significant monetary penalties for non-conforming businesses.

Any business that is data-dependent will have to deal with the issues around the use of personal information. If data was once personal information and in aggregated form could be tied back to an individual, such data could now be captured by the more stringent rules in Europe and elsewhere.

There were attendees at the webinar from allied industry associations CLHIA, THIA, and the Canadian Bankers Association (CBA), and from regulatory and policy-maker organizations including:

- the Canadian Insurance Services Regulatory Organizations, or CISRO;
- the Insurance Councils of Saskatchewan, or ICS;
- the Alberta Insurance Council, or AIC;
- the Government of Alberta;
- the British Columbia Ministry of Finance; and
- the British Columbia Financial Services Authority, or BCFSa.

The webinar was recorded and a copy of the recording can be found here:

<https://www.cafii.com/category/events/>

<https://www.youtube.com/watch?v=s-i3lmHanxw&t=2s>

CAFII Holds a Webinar with Blair Morrison, CEO of the British Columbia Financial Services Authority

CAFII held a 1 December, 2022 webinar with Blair Morrison, CEO of the British Columbia Financial Services Authority.

Mr. Morrison said that as a relatively new organization launched three years ago, BCFSa has undergone a significant journey since 2019. The Financial Institutions Commission of British Columbia, FICOM, was the predecessor to BCFSa. The Minister of Finance wanted the new regulatory authority to be “modern, effective, and efficient.”

BCFSa is an integrated financial services regulator that needed to make changes from the way that FICOM had operated. In particular, BCFSa has emphasized the importance of dialogue with the industry, and it views conversation and consultation as critical to its mandate. As an integrated regulator, it is responsible for credit unions, insurance companies, real estate companies, trust companies, pensions, mortgage brokers, real estate licensees, and deposit-taking institutions.

Mr. Morrison said that there is a Superintendent model at BCFSa where he is ultimately the lead regulator for all the different financial services sectors; but because no one person can manage all those areas, he has many senior people supporting him. However, there is a functional approach as opposed to a siloed approach, so different staff executives cut across the different sectors. This is important because decisions in one area will have an impact in many other areas, so executives need to understand the overall picture. Mr. Morrison also takes a very delegated approach. He said that BCFSa has 350 employees, with a budget of \$60 million which comes from fees paid by industry. Employees operate in a hybrid model, working both from home and in the office.

Mr. Morrison said that he is supportive of a principles-based regulatory approach, but there also need to be rules to ensure consumer protection. BCFSa knows that it does not have all the answers, and it believes in communication and dialogue; but there are times when enforcement is required. However, the starting point is the larger principle of what the regulator is trying to achieve.

BCFSa has rule-making authority, and Mr. Morrison said that was necessary to provide it with the types of tools it may need to use for consumer protection. Rule-making authority, however, is part of a very clear and transparent process and does involve consultation with industry. BCFSa also has some emergency powers but they are also subject to a process. In terms of regulatory priorities, BCFSa wants the industry to succeed. It has a three-year roadmap which it has shared with industry.

There is a BCFSa Insurer Code of Market Conduct consultation that is ongoing. Industry has provided a lot of input on this, but there are constraints on what BCFSa can do (or not do) because developing a BC Code is a statutory requirement. Climate change is another major priority for BCFSa. But all those priorities are subject to ongoing discussions with industry — everyone, the regulator and the industry included, has too many jobs and not enough resources, so it is important to work collaboratively to achieve the best outcomes. BCFSa has strong, productive relationships with the BC Ministry of Finance and with the Insurance Council of British Columbia. It also consults with federal bodies such as the Bank of Canada, and it works closely with the Canadian Council of Insurance Regulators (CCIR).

On digitization, Mr. Morrison said that data is incredibly important and regulators will need to use data well to make better decisions. There needs to be more sharing of data, as regulators will need it to understand what is happening in the industry and how best to respond. With digitization, there are always risks of leaks and breaches, and regulators need to keep a close eye on those risks. Regulators will also increasingly need to use regulatory software applications to operate more efficiently.

Mr. Morrison said that he supports regulatory harmonization, but every province may have different priorities or approaches from time to time. When that happens, there will be dialogue with industry and an explanation of why that unique or separate approach is being taken.

Mr. Morrison ended the webinar fireside chat by noting the important role of mental health in the workplace and that supporting employees at BCFSa is a key priority for the organization and for him personally.

There were representatives in attendance at this webinar from the CLHIA and from the Insurance Bureau of Canada, or IBC, and from the following regulator and policy-maker organizations:

the Office of Nova Scotia's Superintendent of Insurance;

- Quebec's Autorité des marchés financiers, or the AMF;
- the Financial Services Regulatory Authority of Ontario, or FSRA;
- the Insurance Councils of Saskatchewan;
- Saskatchewan's Financial and Consumer Affairs Authority, or FCAA;
- the Ministry of Finance, Government of British Columbia;
- the Insurance Council of British Columbia;
- the British Columbia Financial Services Authority, or BCFSa; and
- the Government of the Northwest Territories.

The webinar was recorded and can be found here:

<https://www.cafii.com/category/events/>

https://www.youtube.com/watch?v=O3s_oelEeUo

Some polling questions were asked during the webinar and the results can be found here:

<https://www.cafii.com/wp-content/uploads/2023/01/CAFII-Webinar-Dec-1-English-Poll-Results.pdf>

CAFII Holds a Webinar on “Travel Trends and Travel Insurance Implications As Society Emerges From the COVID-19 Pandemic”

CAFII held a 3 November, 2022 webinar with four expert panelists: Eliot Draga, from the Travel Health Insurance Association of Canada; Sheila Burns, from the Canadian Life and Health Insurance Association; Katia Umotonuwase, from Manulife and the Chair of the CAFII Travel Insurance Experts Committee; and David Moorcroft, travel blogger and host of “The Business of Blockchain” podcast.

David Moorcroft said that travel is still recovering, with only half the level of travel globally occurring in January to May 2022 relative to that same period in 2019. Elliott Draga said that travel spend in Canada is about 75% in Q4 2022 relative to 2019, so that is another indication that there is still more recovery to occur. Sheila Burns also noted that some of the Canadian travel may be due to use of travel vouchers, so the numbers may not even be as good as they seem. Katia Umotonuwase agreed that there is definitely a recovery in place, and hopefully things will return to normal in 2023.

Another factor is that people are thinking of cutting back on travel due to inflation and higher interest rates. On the other hand, people have accumulated significant savings over the past few years during the COVID-19 pandemic. Snowbirds are also less likely to be affected by inflation than other Canadians. Older Canadians who wanted to travel but could not do so due to COVID are likely to spend what is needed to get the experience they want, no matter the cost.

The panel spoke about some of the challenges at airports and with obtaining passports. There are definitely significant service delays as governments and airlines try to adapt to heightened delays, mostly due to staffing shortages. This is the same situation with the surge in demand for passports, with the government not having anticipated the level of demand that occurred in a short span of time.

The panel was asked about how travel has changed since the onset of COVID-19, and Katia Umutoniwase said that clients are now initiating questions about travel insurance. There is an increase in people taking large, complex trips, she added. Elliott Draga said that there are definitely more travel insurance policies being issued, and people are paying more attention to the terms and conditions of their insurance.

The panel spoke about the adjustments that have been experienced in other areas, such as the shortage of pilots, the computer chips shortage, and the challenges in the car rental business. There was also reference to some issues with the system for expedited passage across the Canada-United States border, called Nexus.

It was noted that now that there are lower level advisories regarding COVID-19, coverage for COVID-related illness is now provided in regular travel insurance for most policies, without the need for purchasing additional coverage or riders. It is still very important for consumers to do their research and determine exactly what a policy covers, and what it does not.

Most panelists felt that the next time a pandemic occurs, governments will be better prepared and will use a more scientific approach to some of their requirements. The population may be better educated about the best response to take individually including more willingness to be vaccinated. However, every situation is different and it is hard to predict how such a situation will unfold in future.

A recording of this webinar can be found at:

<https://www.cafii.com/category/events/>

[CAFII Travel and Travel Insurance Webinar 3 November 2022](#)

Some polling questions were asked during the webinar and the results can be found here:

<https://www.cafii.com/wp-content/uploads/2022/11/CAFII-Webinar-Nov-3-English-Poll-Results.pdf>

In attendance at this webinar were representatives from allied industry Associations CLHIA and THIA, and from the following members of the insurance regulator and policy-maker community:

*The British Columbia Financial Services Authority, or BCFSa;
Alberta Treasury Board and Finance;
the Alberta Insurance Council;
Insurance Council of Manitoba;
the Financial Services Regulatory Authority of Ontario;
Quebec's Autorité des marchés financiers, or AMF;
the New Brunswick Financial and Consumer Services Commission, or FCNB;
the Office of the Superintendent of Insurance, Government of Nova Scotia; and
the Office of the Superintendent of Financial Institutions, or OSFI.*

The Canadian Club Toronto

The Canadian Club Toronto Holds a Webinar on Diversity, Equity and Inclusion in the Workplace

The Canadian Club Toronto held a webinar on 26 January, 2023 on "Driving Diversity, Equity and Inclusion in the Workplace," with panelists Krystal Abotossaway from Toronto Dominion Bank; author Michael Bach; Dr. Julie Cafley from Catalyst Canada; and Kike Ojo-Thompson from KOJO Institute. The webinar was moderated by Scott Belton, Senior Vice-President, TD Canada Trust. Toronto Dominion Bank was also the sponsor of the event.

Scott Belton asked what was going well in the area of diversity, equity, and inclusion (DEI). Kike Ojo-Thompson said that the importance of DEI had been normalized, and that was very positive. Krystal Abotossaway, Senior Manager, HR Leadership Development Program, TD said that there was improvement in the number of representatives from under-represented groups on corporate Boards. Michael Bach said that progress was being made, and that there was much more discussion than in the past about diversity. Canada is more of a world leader than other countries and that is positive as well.

Dr. Julie Cafley, Executive Director, Catalyst Canada, said that this issue was now being discussed at the most senior levels, and that was an important development.

The panel generally felt that while progress was being made, there was a lot more to be done. Many groups are afraid to speak out about their differences and this can produce an emotional toll. Michael Bach said that a lot of employers look at diversity but not at inclusion, and that omission results in hires from diverse groups having challenges succeeding. Often, leaders do not appreciate the reality of racism in the workplace and that creates issues as well.

Julie Cafley said that a lot of the comments made by executives are performative, and that what is needed is a strategy and a plan. Sales performance is not just celebrated; significant resources are dedicated to achieving sales objectives, and that is needed in the DEI space as well. What a company values is what it rewards, said Kike Ojo-Thompson—do companies reward anti-racism behaviour?

The panel shared some practical ideas about progress in DEI, but noted that it is hard work and requires a commitment of resources to achieving those objectives, and it has to be integrated into everything the company does. Julie Cafley said that in a recent study, 75% of employees said that they do not believe in the racial equity policies of their employers — rather, they view it as just public relations. Michael Bach spoke about unconscious bias, and said that he asks people at the presentations he makes how many times they have had people touch their hair without asking. A few people's hand may go up, he said, with the exception of Black women—all of their hands go up. Many in the audience are surprised to learn that this is an extremely common experience for Black women.

A recording of this webinar can be found at:

[Driving Diversity, Equity and Inclusion in the Workplace \(livemeeting.ca\)](https://livemeeting.ca)

International Association of Insurance Supervisors (IAIS)

The International Association of Insurance Supervisors (IAIS) Holds a Virtual Meeting on IAIS Work on Diversity, Equity, and Inclusion in the Insurance Industry, with FSRA CEO and IAIS Market Conduct Working Group Chair Mark White As One of the Panelists

Mark White, CEO of the Financial Services Regulatory Authority of Ontario (FSRA), participated in a 9 February, 2023 International Association of Insurance Supervisors (IAIS) virtual session on diversity, equity and inclusion. Other panelists were IAIS DEI Champion and Executive Committee Member Helen Rowell, who is Deputy Chair of the Australian Prudential Regulatory Authority; Anna Jernova, Chair of the IAIS Governance Working Group and Senior Manager at the UK's Prudential Regulatory Authority (PRA); and Lauren Eckermann, Senior Policy Advisor at the IAIS Secretariat.

Helen Rowell said that DEI is one of six current strategic themes for IAIS:

- Climate risk;
- Conduct and culture;
- Digital transformation;
- Diversity, equity and inclusion;
- Financial inclusions;
- Operational resilience and cyber risk.

In 2022, the IAIS set out to understand the activity on DEI already being undertaken by insurance supervisors, relevant insurance organizations, and the insurance industry. The investigation found a growing interest in DEI, but direct action is still at an early stage; and it identified the opportunity for a unique, value-adding contribution by IAIS.

In 2023, IAIS will focus on helping insurance supervisors further understand the benefits of DEI, the connection between promoting DEI and their supervisory mandates, and the range of available supervisory practices to promote DEI.

Anna Jernova said that the IAIS believes that DEI within an insurer can reduce the risk of groupthink, provide the safety to speak up, and improve decision-making, thereby improving governance and risk management.

Mark White said that the IAIS believes that when DEI is built into how an insurer conducts its business, that is a process that can lead to better consumer outcomes. It may facilitate greater innovation, prevent potentially discriminatory practices, and lead to better meeting consumer needs. DEI may also reduce misconduct by creating a stronger culture and stop misconduct from becoming systemic.

Mr. White also said that the Market Conduct Working Group at IAIS is looking to further explore how DEI considerations in insurers' and intermediaries' conduct of their business, and in regulators' supervision thereof, may result in fairer treatment of consumers who are vulnerable, under-served, or have specific needs.

More information about this IAIS virtual meeting, including access to the recording can be found here:

[Stakeholder session on the IAIS work on diversity, equity and inclusion \(DEI\) in the insurance industry – International Association of Insurance Supervisors \(iaisweb.org\)](https://www.iaisweb.org/en/stakeholder-session-on-the-iais-work-on-diversity-equity-and-inclusion-dei-in-the-insurance-industry)

Ontario

Financial Services Regulatory Authority of Ontario (FSRA)

FSRA Holds a “FSRA Exchange” Event on 19 January, 2023 in Downtown Toronto

The Financial Services Regulatory Authority of Ontario (FSRA) held a full-day FSRA conference on 19 January, 2023 at the Sheraton Hotel in downtown Toronto, at which 300 people attended in-person and 800 people attended virtually. (Keith Martin attended in-person and Brendan Wycks attended virtually.)

During the FSRA Exchange event, Keith Martin had a conversation with FSRA CEO Mark White, and let him know that Louis Morisset was stepping down in July 2023 as the CEO of the AMF, which was something that Mr. White had not yet learned. Keith Martin also ran into former BMO EOC member John Lewsen, and learned that he has been working for four months part-time as a consultant at FSRA. In a conversation with FSRA life insurance staff executive Erica Hiemstra, Keith Martin learned that Mr. Lewsen is helping develop new tools that FSRA can use to monitor and regulate the MGAs sector.

Keith Martin also learned from FSRA EVP Glen Padassery that Marlena Labieniec, Director of the Innovation Office at FSRA, is on a long-term disability leave and will not be returning to FSRA in 2023. Stuart Wilkinson, who frequently attends CAFII Reception events, has been seconded to the FSRA Consumer Office from the Ontario Ministry of Finance, and recently was appointed as the permanent Director of the Consumer Office. In a conversation with Keith Martin, Mr. Wilkinson accepted an invitation to participate in an upcoming CAFII webinar in the fall of 2023 about the FSRA Consumer Office, and Glen Padassery, Executive Vice President, Policy & Chief Consumer Officer at FSRA, also agreed to open that webinar with a few general remarks.

The Agenda for the 19 January, 2023 FSRA Exchange session can be found here:

<https://www.fsrao.ca/events/second-annual-fsra-exchange-register-today>

Biographies of the FSRA Exchange speakers can be found here:

<https://www.fsrao.ca/2023-fsra-exchange-bios>

FSRA Board Chair Joanne De Laurentiis Opens FSRA Exchange Event

Joanne De Laurentiis, FSRA Board Chair, opened the 19 January, 2023 FSRA Exchange event by noting the many achievements of FSRA since its founding, including its emphasis on a principles-based regulatory (PBR) approach, the creation of the first FSRA rule on Unfair or Deceptive Acts or Practices (UDAP), its new licensing rules, its promotion of open dialogue with stakeholders, its approval of credentialing bodies, and its outcomes-based approach to supervision.

Ms. De Laurentiis said that principles-based regulation does not mean there are no rules, no prescription, and no enforcement. PBR is always a hybrid model, with flexibility and never a one-size-fits-all approach. It does require the top of the house to be committed, and communication is also critical, which is why FSRA's industry Stakeholder Advisory Committees¹ (SACs) are so important to the Authority's principles-based regulation approach.

Ms. De Laurentiis added that FSRA's Technical Advisory Committees are also very important, as is the Consumer Advisory Panel. She then added four key points:

1. FSRA has made real progress in its mandate to protect consumers;
2. Principles-based Regulation is an example of how FSRA "thinks differently";
3. The SACs are an environment for frank conversation; and
4. At the end of the day, everything FSRA does is about serving the interests of consumers.

Remarks Made by Ontario Minister of Finance Peter Bethlenfalvy, and by Stephen Crawford, Parliamentary Assistant to the Ontario Minister of Finance.

Ontario's Finance Minister Peter Bethlenfalvy participated virtually and welcomed everyone to the FSRA Exchange event. Stephen Crawford, Parliamentary Assistant to Minister Bethlenfalvy, said that a key theme which the Minister is hearing in his current budget consultations is about the severity of the current labour shortage. Mr. Crawford said that the Ministry supports principles-based regulation and an outcomes-based regulatory approach, and added that Ontario is a global financial leader.

¹ Keith Martin represents CAFII on the FSRA Sectoral Advisory Committee (SAC) for Life and Health Insurance.

Mark White Makes Comments to the FSRA Exchange

Mark White, CEO of FSRA, emphasized the importance of a level playing field for businesses and the protection of consumers. In terms of the level playing field, financial services can be very complex and consumers must be enabled to understand what they are purchasing. He also emphasized the importance of regulatory harmonization, calling out the current “fragmentation of regulations.”

Many of the audience questions posed to Mr. White focused on challenges that FSRA has faced, including around PACE Credit Union; auto insurance issues; and the finding of the Auditor General of Ontario that FSRA is “a work in progress,” which Mr. White said was not a bad thing.

Mr. White spoke about managing general agencies (MGAs) and FSRA’s related investigation of multi-level marketing schemes being deployed by a small number of MGAs, which had caused “egregious harm” to consumers. He said this investigation and the associated enforcement action were important and ongoing. He said that FSRA has tools to deal with this situation, but it may need more as MGAs were not contemplated when regulatory tools were first developed.

Panel on “Effective Governance and Oversight in a Principles Based Regulatory Regime”

Dr. Cristie Ford, Professor, Allard School of Law, University of British Columbia, and a former webinar panelist with CAFII, said that principles-based regulation (PBR) does not mean that rules are gone. It does, however, necessitate thinking about when rules are appropriate and when they are not. The focus in PBR is on regulatory objectives, and a recognition that there can be more than one way to achieve those objectives. That requires buy-in by the regulated industry around how to make this regulatory approach work.

This approach requires more nuance, more data, and more oversight. It requires an excellent relationship and communication between regulated entities and the regulator. It cannot work if the regulator has a “gotcha” attitude -- regulated entities need to feel safe in revealing problems.

Discussion of Governance and Risk-Based Supervision for Credit Unions

Mehrdad Rastan, FSRA Executive Vice President, Credit Unions and Insurance Prudential, moderated a discussion of the risks facing the credit union space. Anthony Piscitelli, Your Neighbourhood Credit Union (YNCU) Board Chair, said that a checkbox approach is easier than PBR, but has less effective outcomes. Jo-Ann Gilfoy, CEO of Meridian Credit Union, said that the credit union space is facing existential threats. If it tries to compete with banks by imitating them, the sector will not survive. Credit unions must differentiate themselves based on their being based in the communities they serve, and being member-focused.

Life & Health Insurance Discussion with Eric Hiemstra and Swati Agrawal

Huston Loke, FSRA Executive Vice President, Market Conduct, moderated a discussion on life and health insurance with panelists Erica Hiemstra, FSRA Head, Insurance Conduct, and Swati Agrawal, FSRA Director, Life and Health Insurance. Ms. Hiemstra said that life insurance is based on a promise, and that promise must be kept; the industry is founded on ethics. It is an important product and the integrity and reputation of the industry must be protected.

Swati Agrawal said that the investigation of some MGAs looked at the entire sales process. Distribution has changed in the industry, and insurers are having trouble knowing what intermediaries are doing. With the MGA-level work largely now complete, FSRA will now turn its attention to behaviours at the agent level.

In response to a question from Keith Martin, Swati Agrawal said that FSRA is committed to harmonization in life insurance and will continue to work closely with CCIR on this important matter.

FSRA Appoints Three New Members to its Consumer Advisory Panel

On 26 January, 2023, FSRA announced that it had appointed three new members to its Consumer Advisory Panel, who will each serve a two-year term:

- Chris Robinson – Professor Emeritus of Finance and Senior Scholar at York University;
- Udia Umoette – Co-Founder and Advisor at Loystar Solutions;
- Todd White – Owner and Operator at Brookside Retirement Living and a former credit union board member.

FSRA thanked outgoing members Kristian Bonn and Anisha Chopra. Both Mr. Bonn and Mr. Chopra were original members of the Consumer Advisory Panel and FSRA said that they made significant contributions to building its capacity to provide FSRA with consumer-focused advice.

FSRA will publish an Annual Report from the Consumer Advisory Panel for its 2022 term in the coming months. More information about the Consumer Advisory Panel can be found here:

[Consumer Advisory Panel | Financial Services Regulatory Authority of Ontario \(fsrao.ca\)](https://fsrao.ca/consumer-advisory-panel)

Quebec

Autorité des marchés financiers (AMF)

Louis Morisset Will Not Seek a Third Term as AMF President and CEO

On 17 January, 2023, Louis Morisset announced that he will not seek a third term as AMF President and CEO after his current term ends on July 1, 2023. Under Quebec's Act respecting the governance of state-owned enterprises, the AMF President and CEO is appointed by the Government, on the recommendation of the AMF's board of directors, taking into account the expertise and experience profile approved by the board.

AMF Releases Videos of its 22 November, 2022 Annual Rendez-Vous Conference

The AMF held its annual Rendez-Vous mini-conference in Montreal on 22 November, 2022. Keith Martin attended this French-only event for CAFII. For those who are interested in reviewing some of the speeches and panel discussions, the AMF has now published a series of videos that can be accessed here:

[Rendez-vous avec l'Autorité - Videos](#)

AMF Releases Report on "Summary of Specific Consultations on Products and Services Offered Via the Internet and the Regulation Respecting Alternative Distribution Methods"

The AMF released a report in December 2022 on consultations it had conducted on the offer of insurance via the internet. CAFII has learned that a major reason for the report was that the AMF was surprised by industry comments that the RADM did not make direct offers on the internet as easy as was hoped for. CAFII did not participate in the consultations on this issue as the section of the RADM that is relevant to the CAFII mandate is a different section focused on "Distribution Without a Representative."

The report notes that insurers said that:

Most of the insurers that the AMF met with are also registered as firms and are therefore able to offer their products via the internet directly, without going through a third party.

AMF discussions with the insurers revealed that it is easier to comply with the regulatory framework when the products offered are property and casualty insurance and simple products, rather than life insurance products, which tend to be more complex. The insurers said that the technological developments needed to ensure regulatory compliance are very expensive. According to the insurers, the regulatory framework precludes financial products and services from being offered on mobile apps because too much information is required to be provided under the regulations and mobile devices are too small to accommodate it all.

Some insurers are asking for principles-based, rather than rules-based, regulation. According to them, the RADM is, on the whole, overly prescriptive of the means to be put in place to achieve the desired outcomes for consumers. The general opinion is that the amount of information to be provided to consumers and when it is to be provided (timing) is problematic.

Some insurers pointed out that the burdensome process prescribed by the regulations makes for an unpleasant consumer experience. After comparing websites located in Québec and websites located elsewhere in Canada, they have come to the opinion that websites located elsewhere in Canada are far more user-friendly than websites based in Québec.

Several insurers raised questions about the interpretation to be given to a number of provisions in the RADM. According to them, existing grey areas are dictating a cautious approach to managing the exposure to regulatory risk from the RADM and limiting them in offering products online.

Some insurers said that the representative's role in a transaction is not well-understood.

Some insurers suggested that the AMF review the vocabulary used to ensure consistency across the regulatory framework. For example, the RADM stipulates that firms must provide the client with “the product coverage, exclusions and limitations in relation to the needs identified,” whereas the Distribution Act stipulates that firms must “indicate clearly to the client any particular exclusion of coverage, if any, having regard to the needs identified and provide the client with the required explanations regarding such exclusions.”

Most insurers expressed the view that the policy specimen should not be accessible at all times on the digital space before the contract is made.

*For a number of **life and health insurers**, the challenges in applying the RADM are at odds with life and health insurance products, which is preventing some of them from developing their markets. According to them, the requirements go too far, to the point where designing compliant digital spaces would require too much in terms of technological development and would be too expensive. As an example, some insurers pointed to the requirements of section 14 of the RADM, which, in their opinion, contains too many restrictions.*

Some life and health insurers said they are at a disadvantage in relation to other market players who they consider comparable, such as GAFAM (Google, Apple, Facebook, Amazon and Microsoft) and the banks, which, in their view, are not as strictly regulated.

Some of those insurers believe that the obligations of representatives and firms should not be transferred to the context of products and services offered via the internet because those obligations are an impediment to innovation and creativity.

Some life and health insurers held the view that the obligation to analyze the client’s needs should be modulated according to the product the client is looking to buy.

A number of insurers are finding the procedure for replacing a life or health policy difficult to implement for products and services offered via the internet. Some life and health insurers suggested that providing advice not be required for products and services offered via the internet. According to them, this distribution method should be more closely aligned with distribution without a representative (DWR). Certain insurers provided examples to support this point of view, including one that suggested that it would be acceptable for a pregnant person to buy a travel insurance policy without a needs analysis being completed or without being warned that being pregnant is an exclusion under the contract.

The AMF indicated that it will engage in multiple activities, including financial education efforts and possible changes to the RADM, to address some of these issues, and it noted that “One finding that emerged from the consultations was that not everyone interprets the framework in the same way and that the AMF’s application of the regulations is sometimes more flexible than the reading of it by certain industry players. In these cases, the issues appear to have less to do with the regulations than with the industry’s conservative reading of the regulations.”

The report can be found on the AMF’s website here:

https://lautorite.qc.ca/fileadmin/lautorite/grand_public/publications/professionnels/Bilan_Offre_par_internet_12-12-2022_anglais.pdf

Law Firm Lavery has published an analysis of some of the clarifications that have been made in the AMF’s report, and that analysis can be found here:

[Clarifications regarding insurance products offered on the Internet \(lavery.ca\)](#)

AMF Releases Paper on Overview of Trends in Digital Financial Services

The AMF published in December 2022 an overview of trends in digital financial services. The report was developed in collaboration with Maya Cachecho, Professor of Law, Université de Montréal, and Sandrine Prom Tep, Professor, Department of Marketing, Université du Québec à Montréal. The report speaks to general trends and issues, and is a thought leadership paper. It includes discussion of key fundamental trends, digital financial services trends, and issues relating to digital financial services.

There is a section in the paper on insurance, starting on page 30, which states the following:

Like other financial sectors, the insurance industry has traditionally operated on a model characterized by generic products and services offered via conventional channels. Because of technological changes, this model has evolved considerably over the past few years. Many products are now being offered through the internet, and a growing number of innovations are enabling growth in a new creativity that is transforming distribution and administration in the insurance industry. Also, historically, insurance policies have covered property that is for the exclusive use of the insured. However, with the advent of the sharing economy, in which property can have a shared utility, certain fundamental principles in the insurance industry may be altered to reflect this new reality.

The report can be found at:

In English:

https://lautorite.gc.ca/fileadmin/lautorite/grand_public/publications/professionnels/doc-reflexion-consos-tech_an.pdf

En français:

https://lautorite.gc.ca/fileadmin/lautorite/grand_public/publications/professionnels/doc-reflexion-consos-tech_fr.pdf