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Regulatory Update – CAFII Executive Operations Committee, May 15, 2022

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CLHIA Issues Advisory On Mandatory Destination-Provided Travel Health Insurance

On April 1/22, CLHIA issued an Advisory titled “What you need to know about mandatory destination-provided travel health insurance.”

That Advisory reads as follows:

Planning to travel abroad? Be aware that some countries have begun to require Canadian travellers to purchase mandatory travel health insurance as a condition of visiting. This insurance must be purchased from a specified insurer.

The coverage offered by mandatory destination-provided travel health insurance may differ significantly from other forms of travel insurance. For instance, it may not provide sufficient coverage for hospitalization, and additional living expenses in quarantine. It may also exclude coverage for conditions or accidents unrelated to COVID-19.

For this reason, travellers are encouraged to carry Canadian travel insurance when travelling abroad.

Consider these steps:

- *Research the current entry requirements for your destination to find out if travellers are required to purchase insurance at destination. The International Air Transport Association provides a helpful [resource](#).*
- *If you are required to purchase other insurance, it is recommended you also have Canadian travel insurance as the foreign coverage may be very limited.*
- *Read your insurance policy carefully to understand what is covered and the relevant exclusions and limitations. If you have questions, contact your insurer.*

Know what you are heading into. Check the Government of Canada’s travel advisories for your destination so you can make informed decisions and travel safely to and at your destination. The latest advisories are at travel.gc.ca/travelling/advisories.

Register your trip (Register of Canadians Abroad: travel.gc.ca/register) so the Canadian government can keep you informed while you are abroad.

Financial Consumer Agency of Canada (FCAC)

FCAC Publishes 2022-2023 Business Plan

The FCAC has recently published on its website its 2022-2023 Business Plan. The following *Message from the Commissioner* Judith Robertson introduces and summarizes the Business Plan:

I am pleased to present the 2022–2023 Business Plan for the Financial Consumer Agency of Canada (FCAC). It provides information on our planned initiatives, the results we expect to achieve during the upcoming fiscal year, and how we will advance the Agency’s strategic goals set out in our 2021 to 2026 Strategic Plan.

As we embark on this ambitious plan, we are mindful that the COVID-19 pandemic has resulted in many challenges for Canadians, particularly the most vulnerable.

The plan reflects the multi-year nature of our investments and new initiatives. One of the challenges at this uncertain time is how to continue progressing as an Agency while remaining flexible and adaptable in the face of a changing environment. To that end, we have identified 4 critical priority areas that are fundamental to fulfilling our mandate and will guide our decisions.

Our first priority area is to advance the new Financial Consumer Protection Framework (FCPF). This marks an important milestone for financial consumer protection in Canada and the plan recognizes the importance of the FCAC building the capacity to implement this higher standard of financial consumer protection.

Our second priority area is to advance the goals of the National Financial Literacy Strategy. The pandemic has underscored the need to produce better outcomes for financial consumers, adding urgency to our work with stakeholders in the financial ecosystem to help Canadians build financial resilience. The plan reflects the need for important progress through a nationally co-ordinated and evidence-based approach.

Our third priority area is to enhance our ability to contribute our consumer protection expertise to policy development. This includes supporting the federal government's commitment to move to a single external complaints ombuds for banking and to launch a made-in-Canada model of open banking. We will also expand our research capacity to monitor and evaluate emerging consumer trends.

Our fourth priority area is to enhance our capacity to be responsive to an increasingly digital world, where technology and data are reshaping how financial products and services are created, sold and used. Throughout this plan there is a focus on advancing our data and analytics strategy and ensuring that our people have the necessary tools to derive new insights and conduct the important work of the Agency.

Beyond the 4 priority areas and the specific initiatives and activities outlined in the plan, we will continue to enhance and advance FCAC's core functions—that is, the important daily work to protect, supervise and educate—which enable the Agency to fulfill its legislated requirements, as set out in the Financial Consumer Agency of Canada Act and other statutes.

Our diverse and talented employees are the foundation for this plan, and I am committed to providing them with the support and resources they need to continue serving the interests of Canadians with operational excellence. Underlying all our work is an inclusive organizational culture of innovation, collaboration and excellence. We remain focused on our people's well-being and on enhancing the tools, business processes and organizational functions that support their service to Canadians.

The uncertain external environment has underscored the importance of FCAC's work to protect financial consumers and strengthen their financial literacy. FCAC's 2022–2023 Business Plan demonstrates that we are ready to overcome the challenges and capitalize on the opportunities before us.

Provincial/Territorial Alberta

Alberta Government

Alberta Government Legislates Greater Fee-Setting Discretion For Insurance Council

Effective February 23, 2022, the Alberta government amended the province's Insurance Act to authorize the Minister of Finance to establish fees associated with the regulation of insurance professionals, outside of regulation.

Previously, fees could only be set by Order in Council.

In accordance with the amended section 498.1 of the Act, the Minister has also sub-delegated fee-setting authority to the Alberta Insurance Council (AIC) and Accreditation Committee (AC), through Ministerial Directive, in order to give those two bodies greater discretion and flexibility. This authority includes the power to set:

- fees for examinations and licensing of insurance professionals, as well as continuing education courses and providers; and
- levies, penalties, or other charges associated with the regulation of insurance professionals.

Any fees set by the AIC and AC under this authority are subject to prior Ministerial approval.

This will allow for greater flexibility in establishing fees associated with the regulation and licensing of insurance professionals.

Manitoba

Insurance Council of Manitoba (ICM)

Insurance Council Publishes Restricted Insurance Agent Summary Of Obligations

In its Spring Update 2022 e-newsletter, the Insurance Council of Manitoba published the following Restricted Insurance Agent Summary of Obligations on its website:

The RIA Summary of Obligations, which identifies the responsibilities of the Designated Official, as outlined in The Insurance Act of Manitoba (the "Act") and Regulation 389/87R, is now posted to the ICM website under the Restricted Insurance Agents - Incidental Sale of Insurance Information page.

Things that an RIA licence holder must NOT do are listed under section 30(2) of Regulation 389/87R and include the following:

- tied selling – an RIA licence holder must not make the provision/sale of the goods or services conditional on the consumer's purchase of insurance;

- Adequate training – an RIA licence holder must not allow anyone to sell on their behalf unless that person has been adequately trained; and
- Purchase Required – an RIA licence holder must not permit an employee to tell a consumer that the consumer is required to purchase insurance, or is required to purchase insurance only through them.

Failure to abide by any of the ICM's requirements may result in the cancellation of the RIA licence and/or disciplinary action being imposed upon the RIA. Disciplinary actions may include fines or a review of the suitability of the RIA to hold a licence.

Insurance Council Publishes Licensee Statistics In Spring 2022 Newsletter

In its Spring Update 2022 e-newsletter, the Insurance Council of Manitoba shared the following licensee statistics:

As at December 28, 2021, there were 19,336 active licenses held with the ICM and they break down as follows:

- Residents: 9,980 = 52%; Non-Residents: 9,356 = 48%
- 343 = Insurance Adjusters: 65% are Non-Resident; 35% are Resident
- 6,174 = General Agents: 58% are Non-Resident; 42% are Resident
- 12,208 = Life/Accident & Sickness Agents: 44% are Non-Resident; are 56% Resident
- 611 = Restricted Insurance Agents: 18% are Non-Resident; are 82% Resident

Insurance Council Announces Two New Senior Staff Member Appointments

In ICM's Spring Update 2022 e-newsletter, Executive Director Stacey Aubrey announced the appointment of a new Director of Compliance and a new Manager, Licensing & Administration. Both appointments are internal promotions.

The new Director of Compliance is Ruby Calvez. Ms. Calvez began her insurance career as a general insurance broker in 2002, and has worked for a number of brokerages and agencies throughout Manitoba and Saskatchewan. Her past experience includes holding a Branch Manager role and a Team Leader role.

She holds her Canadian Accredited Insurance Broker (CAIB) designation, has completed the Leadership Excellence Course through Workplace Education Manitoba, and has completed the National Certified Investigator/Inspector Training Specialized Program. She continues to work towards completing her Chartered Insurance Professional (CIP) Designation.

Ms. Calvez joined the Insurance Council of Manitoba as an Investigator in 2017. With her extensive knowledge of the Insurance Act of Manitoba, related Regulations, Rules and Council policies, she has proven her ability to provide oversight and management to her Compliance Department as the newly appointed Director of Compliance.

The new Manager, Licensing & Administration is Sandi Saluk. Ms. Saluk joined the ICM in 2001 and has gained a vast amount of licensing experience during her 20 years in a multitude of positions in the licensing department. Her past experience, prior to joining the ICM, includes a strong customer service background as a Customer Service/Office Supervisor. She is working towards obtaining her Chartered Insurance Professional (CIP) Designation, having completed many CIP courses to date. She has also completed the General Insurance Essentials (GIE) and The Complete Essential People Management Skills courses through the Insurance Institute of Canada, as well as various computer and customer service courses at Red River College. Sandi brings an array of expertise to her department as the Manager, providing her team of five with the knowledge needed to operate a well-oiled licensing machine.

Ontario

Financial Services Regulatory Authority of Ontario (FSRA)

FSRA Releases 2022-2025 Annual Business Plan

On April 26/22, the Financial Services Regulatory Authority of Ontario (FSRA) released its 2022-2025 Annual Business Plan (ABP), which sets out the Authority's strategic direction, priorities, and financial plan for the next three fiscal years.

The priorities outlined in the Annual Business Plan focus on consumer protection and regulatory effectiveness and efficiency, including delivering good value for money.

To support 2022-23's priorities, FSRA is introducing a new Strategic Framework that forms the foundation for its strategic planning through 2025. The Framework is reflective of FSRA's legislative objects, vision, and mission, and consists of four pillars that were used to develop the strategic priorities:

1. operate effectively to be a high-performing regulator
2. transform our regulatory processes to make evidence-based and risk-based decisions
3. protect the public interest to enhance trust and confidence in the sectors we regulate
4. attract talent and evolve our culture to achieve the mission and vision of the organization

The 2022-2025 Annual Business Plan was approved by the Minister of Finance on April 5/22, and addresses the expectations outlined in the Minister's mandate letter.

FSRA Takes Steps To Balance Credit Union Growth With Member Protection

On April 28/22, FSRA released its final *Business and Investment Activities Guidance* as a vehicle for helping to foster a sustainable credit union sector: by balancing the obligation to protect depositors with the need for credit unions to be competitive and take reasonable risks.

The Business and Investment Activities Guidance sets out what it will consider before approving or authorizing new or expanded business and investment activities, variations, and extensions by credit unions.

The *Credit Unions and Caisses Populaires Act, 2020* broadens the scope of eligible activities for credit unions. Credit unions must obtain FSRA's approval or authorization before engaging in certain transactions identified in the Guidance.

"It is important for the credit union sector to know FSRA's criteria for approving new business and investment activities so they can enter new businesses, take risks, and grow prudently while maintaining the confidence of their members and depositors," said Mehrdad Rastan, FSRA's EVP of Credit Union & Insurance Prudential.

FSRA Takes Steps To Ensure Large Credit Unions Have Plans In Place To Better Protect Members

On April 27/22, the Financial Services Regulatory Authority of Ontario (FSRA) released its final Resolution Planning Guidance with respect to large credit unions that do business in the province. The Guidance helps ensure large credit unions with over \$1 billion in assets have a solid resolution plan in place.

"It is critical that credit unions prepare for severely adverse scenarios as disorderly failures may have material impact on the stability and reputation of the sector," said Mehrdad Rastan, FSRA EVP of Credit Union & Insurance Prudential. "No one wants to see a credit union fail but having robust and credible resolution plans in place will enhance confidence in those credit unions and the sector."

The Guidance sets out the principles of effective resolution planning and FSRA's expectation of what constitutes a sound and effective resolution strategy. Credit unions must develop a plan that meets the goals of:

- protecting sector stability;
- ensuring business continuity;
- protecting members and depositors; and
- minimizing exposure of the Deposit Insurance Reserve Fund (DIRF) to losses.

As a result of stakeholder feedback, the final Guidance includes revised interim and final plan submission timelines staggered based on credit union asset size.

FSRA Introduces Whistle-Blower Program For Non-Securities Financial Services And Pension Sectors

On April 27/22, the Financial Services Regulatory Authority of Ontario (FSRA) introduced a new Whistle-blower Program to more effectively identify misconduct in Ontario's non-securities financial services and pension sectors and better protect consumers.

Whistle-blowers are a valuable source of information and this program and new guidance will assist individuals and entities who want to come forward by helping determine who qualifies as a Whistle-blower and who will receive protection.

New amendments to the *Financial Services Regulatory Authority of Ontario Act, 2016* (FSRA Act) provide enhanced protection for Whistle-blowers. The Whistle-blower program will apply to any individual or entity who comes forward in good faith with valuable, timely and non-public (i.e., insider) information related to an alleged or intended contravention in any of the sectors which FSRA regulates.

FSRA's Whistle-blower Program is designed to encourage individuals with important information about misconduct to come forward on a confidential basis without fear of reprisal.

FSRA is required by law to protect Whistle-blowers' identities. This is a result of new amendments to the FSRA Act specifically adopted to:

- protect Whistle-blowers' identities from disclosure; and
- protect Whistle-blowers from reprisals (i.e., being fired, demoted or disciplined, etc.) and from liability in civil proceedings.

Those who do not meet the requirements under the Whistle-blower Program, or who do not receive a written assurance of confidentiality from FSRA, will not be considered Whistle-blowers under the FSRA Act and will not benefit from the protections afforded under the Whistle-blower Program.

Anyone wishing to submit information to FSRA completely anonymously, may do so through their lawyer.

Québec

Autorité des marchés financiers (AMF)

AMF Releases 2022-23 Annual Statement of Priorities

On May 2/22, the AMF released its annual statement of priorities for 2022-2023 to inform the public and various financial sector stakeholders of the main initiatives it intends to implement over the next year.

Among several projects, the AMF plans to devote significant efforts to improving its assistance services for consumers of financial products and services, to financial education, to its monitoring and oversight activities, and to enforcement of laws. It will also continue its work to optimize the compliance burden of its subject customers and will put forward new initiatives aimed at fintechs and innovation.

In addition, the AMF intends to step up its actions to promote the integration of environmental, social and governance (ESG) factors into financial activities and decisions.

The initiatives in the 2022-2023 annual statement of priorities are part of the implementation of the AMF's 2021-2025 Strategic Plan and the vision that the organization has set itself: "An Authority with added value for the consumer and the financial sector."

Quebec Court Acquits Car Dealership Facing AMF Criminal Proceeding Charges

On April 7/22, the AMF published on its website a report that on March 11/22, the Honorable Julie Dionne, presiding justice of the peace of the Court of Quebec, district of Rimouski, had granted a motion for dismissal presented by the defendant 9147-1227 Quebec inc. (doing business as Mont-Joli Chrysler Jeep Dodge).

The car dealership was acquitted of the charge filed against it by the Autorité des marchés financiers (the "Authority") as part of a criminal proceeding. The AMF accused the dealer of having, through its commercial director Stéphanie Dugas, exerted undue pressure on a customer or employee and made fraudulent maneuvers to encourage him to obtain a financial product or service.

The issues in dispute concerned the proof or lack of proof regarding the AMF's claim that Mont-Joli Chrysler Jeep Dodge acted as a distributor of the insurance product in question and mandated its director business to sell an insurance product.

According to the judge, Mont-Joli Chrysler Jeep Dodge cannot be qualified as a distributor within the meaning of the *Act respecting the distribution of financial products and services*, because that role instead relates to the company which granted the financing for the purchase of the vehicle, namely Location Access Credit Inc. Having ruled that the automobile dealer is not a distributor, the judge concluded that the latter could not have entrusted its commercial director with the task of distributing an insurance product.

The AMF does not agree with the court's conclusions and will appeal this decision to the Superior Court.