

October 3, 2022

Kari Toovey, Director, Financial Institutions
Financial and Corporate Sector Policy Branch
Ministry of Finance
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Dear Ms. Toovey:

CAFII thanks the BC Ministry of Finance for the opportunity to offer our Association's feedback comments in response to your *Consultation Regarding Restricted Insurance Licences*.

Below, we have divided our submission into two main sections: (i) *High Level/Strategic Feedback*, on issues related to BC's overall development and implementation of a Restricted Insurance Agent (RIA) licensing regime (pages 1 to 4); and (ii) *Specific Feedback Arising From Issues and Questions Raised In The Consultation Paper* (pages 4 to 8). In that latter section, we have decided not to comment on certain issues which are out-of-scope for our Association, such as those related to product warranty insurance.

High Level/Strategic Feedback

While CAFII believes that BC's current system of insurance retailing and licensing exemptions is working well, our members support the province's decision to introduce an RIA licensing regime.

In addition to the Ministry's own current consultation which is limited to the Regulations required to introduce an RIA licensing regime in the province, an ensuing thorough consultation with industry stakeholders by the Insurance Council of BC -- around the Rules that it will need to introduce regarding initial licensee qualifications, ongoing licence requirements, licensee conduct, fees, licence cancellation provisions, and remuneration of licensees, etc. to govern its oversight responsibilities with respect to the RIA regime -- will be just as critically important to ensuring that the regime is structured in a manner that produces the results which the Ministry, the Council, BCFSa, and the industry seek.

CAFII also requests that industry stakeholders such as our Association be consulted on the proposed definitions for the classes of insurance eligible for RIA licensing, in order that we may help ensure that they are aligned with the definitions of Authorized Insurance Products set out in the federal *Bank Act* and *Insurance Business (Banks and Bank Holding Companies) Regulations*.

If carefully designed and implemented, an RIA regime can be an effective tool for managing the sale of certain insurance products, including the two product lines which bring CAFII members together in common cause within this Association: credit protection insurance (CPI) and travel insurance.

We strongly encourage harmonization, to the maximum degree possible, of the Regulations that will govern BC's new RIA regime with those that already exist in the predecessor RIA regimes in Alberta, Saskatchewan, Manitoba, and, soon, New Brunswick. That is a critical requirement for the industry, the absence of which would compel regulated entities to dedicate significant resources to inefficient 'exception management.'

We also support alignment with international regulatory best practices, such as those set out in the International Association of Insurance Supervisors' (IAIS) Insurance Core Principles (ICPs).

As the Canadian insurance industry Association that is perhaps most directly relevant to RIA licensing regimes, CAFII was directly and centrally involved – from an industry expertise and advisory perspective – in the establishment of the existing RIA regimes in Alberta in 2000; in Saskatchewan in 2010; and in Manitoba in 2015. As our members are prominent RIA licensees in each of those jurisdictions, we have also closely monitored and evaluated the evolution, growth, and relative success of each of those three regimes.

We therefore take this opportunity to highlight those features which our Association views as optimal best practices in an RIA regime.

Embed Authorization for Third Party/Outsourced Contractors Within An RIA Licence

Third parties contracted by a restricted licensee (such as a third party administrator) – where the licensee is a federally or provincially regulated financial institution – should be considered authorized under the financial institution (FI)'s RIA licence.

It is critically important to include contractors of such RIA licensees as parties authorized under the RIA licensee's licence because most such FIs outsource certain business activities, functions, and processes to meet the challenges of technology innovation, increased specialization, cost control pressures, and heightened competition. The RIA regime should not require an FI's contractor to hold a separate/independent licence, but rather it should require the FI to take ultimate responsibility for outsourced activities.

Further, federally regulated entities are subject to OSFI's outsourcing Guideline B-10 (currently in the process of being updated) which sets standards for an FI's monitoring and oversight of their contractors and requires them to take ultimate responsibility for outsourced activities. Including contractors under the authority granted to FIs holding an RIA licence would recognize the application of OSFI's outsourcing guideline and be appropriate with respect to the continued distribution of RIA regime-authorized insurance products by national FIs in BC.

Council Oversight Of RIA Regime

We are uncertain at this time as to whether BC plans to utilize industry appointees to assist the Insurance Council in carrying out its oversight of the new RIA regime. Each of the other three Western provinces taps into industry expertise, to some degree, to assist the Council in governing and adjudicating matters related to their RIA regime, and CAFII strongly encourages BC to follow suit.

In that connection, Insurance Councils in Canada have been designed on the basis of 'peer regulation and proportional representation,' administrative law principles which are intended to preclude conflicts of interest and ensure that Council representatives have appropriate knowledge and direct experience in the business they are being called to advise upon with respect to regulation.

Given the unique nature of RIA Regime-authorized insurance products and of alternate, direct-to-consumer distribution channels, impartial adjudication and successful oversight of those products requires expertise from individuals who come from various business models in the marketplace; and it also relies upon effective management of competitive sensitivities relative to the matters before a Council at a given point in time.

Ensuring that an Insurance Council has representation from all categories of market participants on a proportional basis helps to ensure that an impartial, fair, and informed approach is taken in Council deliberations with respect to oversight of all regulated entities. More specifically, the principles of impartiality and fairness indicate that the Insurance Council of BC should be structured and operated in a 'channel neutral' manner. That is to say, the Council should be designed and populated such that the interests of all distribution channels are well-served and the representatives of any particular channel are not in a position to make decisions which could negatively impact consumers' access to products offered by competing distribution channels.

Based on the above-noted considerations, CAFII recommends that -- in conjunction with designing and introducing a new RIA regime -- the BC Ministry of Finance should undertake a review of the Insurance Council of BC's structure and governance to ensure that they are in harmony with the principles of peer regulation; and that they ensure proportional representation and impartiality/fairness for all distribution channels, given the Council's new oversight responsibility for an RIA regime.

Need For An Industry Voice To Advise Insurance Council of BC On Operating/Maintaining An RIA Regime Efficiently And Effectively

Particularly because some adjudication/disciplinary issues are technical in nature and best understood by industry practitioners who have direct experience and expertise in the field, we believe that a Restricted Insurance Agent Advisory Group would provide the Insurance Council of BC with a valuable mechanism for consultation and advice. Such an Advisory Group -- called a Restricted Insurance Agent Advisory Committee (RIAAC) -- has been developed by the Insurance Councils of Saskatchewan, in consultation with industry stakeholders (CAFII and CLHIA), and was launched in 2021.

CAFII strongly believes that the Insurance Council of BC would benefit immeasurably from an industry Advisory Group akin to the one recently launched in Saskatchewan.

Two Other Key Optimal Features

CAFII highlights the following two features as being central to an optimal RIA regime which can have ongoing success, and be recognized as striking the "right balance" between achieving consumer protection through appropriately detailed and rigorous licensing, while not burdening businesses with overly restrictive requirements or red tape:

- ensure sufficient clarity as to which insurance products may be offered under each RIA licence category (see previous comment re consulting industry stakeholders on proposed definitions for the classes of insurance eligible for RIA licensing); and

- implement, as a central component, an online licensing/registration portal and digital platform, with timely electronic reminders and notifications of licence renewal dates, compliance requirements, etc.

Need for Reasonable Lead Time to Prepare For New Licensure Regime

When provinces are finalizing new regulatory changes, and especially when a new licensure regime is being launched, CAFII always requests that lead time of 12 to 18 months be provided to allow for our members' implementation of the required changes.

These changes inevitably become major projects within our member organizations and it takes time to ensure that the necessary systems changes are made, forms revised, staff trained, and consumers notified of how the changes will affect them.

Specific Feedback Arising From Issues and Questions Raised In The Consultation Paper

Classes of Licensees and Classes of Insurance

CAFII supports a full repeal of the Insurance Licensing Exemptions Regulation (ILER), as we view that step as critical in establishing an efficient and effective RIA regime, one which is not bogged down by confusion caused by legacy holdovers from a former regime.

CAFII is pleased that the Ministry of Finance "recognizes that other provinces already offer restricted insurance agent licences to certain businesses and that prescribing the same or similar classes of eligible licensees will promote consistency and simplicity which can be beneficial to both the insurance sector and consumers in BC."

However, we note that the Ministry follows up that reassuring comment with an assertion that it is willing to take a divergent, BC-unique approach whenever it sees reason to do so. CAFII urges the Ministry to reconsider its willingness to take an unharmonized 'go it alone' approach. That's because the cumulative effect of jurisdictions each having differences, subtle or otherwise, in their regulations and licensing approaches, while all seeking the same consumer protection objectives, is an undermining of the achievement of those very objectives due to the addition of confusion, expense, and inefficiencies to the licensing and regulatory compliance processes faced by regulated entities. We encourage the Ministry to take CAFII members' lived experience concerns to heart; to promote harmonization not just in principle, but in practice, and to harmonize the BC RIA regime to the maximum extent possible with those already in place in Alberta, Saskatchewan, Manitoba, and, soon, in New Brunswick.

With respect to Classes of Insurance, CAFII again strongly encourages BC to harmonize to the maximum degree possible with the classes prescribed under the existing RIA regimes in Alberta, Saskatchewan, Manitoba, and, soon, in New Brunswick.

Incidental Sale of Insurance

CAFII recommends that BC give full and serious consideration to harmonizing with the approach utilized by Alberta and Saskatchewan by introducing an RIA regime which does not rely on defining an “incidental seller of insurance.” Such an approach would give your province maximum flexibility to include, at a later date, other existing insurance products which are suitable for a restricted licensing regime, without having to go back and re-open a definition that is codified in legislation or a regulation. It would also make it easier for BC to add new types of insurance products which may be introduced to the market in the future to the restricted licensing regime.

In that connection, CAFII strongly recommends that BC abandon use of the term “incidental sale of insurance” in establishing its RIA regime. Our Association views that term as a negative term that is not an accurate descriptor, nor is it in common usage within the industry. Nearly all of the types of insurance that are offered under an RIA corporate licence – in particular, CPI and travel insurance – are not just inconsequential, add-on insurance protection that is offered in conjunction with the sale of another product. Rather, they constitute insurance that is critical to a consumer’s needs, provides meaningful choice in the marketplace, and provides protection against catastrophic financial loss.

Careful Wording Requested With Respect To Addition to Bill 37 of Section 174 (2): “A restricted insurance agent licence authorizes the licensee, through the licensee’s employees and agents in British Columbia, to act or offer to act as an insurance agent in respect of one or more prescribed classes of insurance that are specified in the licence.”

Some of CAFII’s members either operate their own contact centres or contract with third party contact centres that may be physically located outside of British Columbia. While any contact centre customer service representative (CSR) who deals with residents of British Columbia will have been thoroughly trained in BC-specific regulations and rules relating to the products offered (and would thereby be operating under the corporate RIA licence), we encourage the Ministry to word the Regulation that addresses Section 174(2) very carefully (specifically with respect to “through the licensee’s employees and agents in British Columbia”) in order to make it abundantly clear that this clause does not restrict the ability of an RIA licensee to offer products to BC residents via CSRs who are situated in contact centres physically located outside the province. Deletion of the words “in British Columbia” would resolve the problem which CAFII perceives.

Comments on Amendment to Bill 37 to Amend Section 225.1 (2) by adding: “(iii) restricting post-claim underwriting by those licensees, employees and agents, and”

CAFII disagrees with the assumptions and misunderstandings underlying this statement because they do not accurately reflect the CPI and travel insurance products offered by our members.

Underwriting refers to determining the risk involved in offering coverage to a potential insured, and then determining the premium or “price” required to assume or “underwrite” that risk.

At the time of offering the insurance coverage at the appropriate premium/price, there is a trade-off between the amount of information gathered, and the simplicity, efficiency, and consumer-friendliness of the underwriting process.

As part of the process that the consumer goes through in applying for coverage, CPI attempts to simplify things by asking only limited health-related questions and avoiding, where possible, the taking of para-medical bodily fluid samples.

This process of “simplified underwriting” is now commonplace throughout the entire life and health insurance marketplace. It is not unique to CPI, and is deployed by all major term life insurance underwriters.

At the time of a claim, the insured’s responses to the questions asked at the time of application need to be verified. This is not “post-claims underwriting,” but rather a claims verification process that all insurers employ for all types of life and health insurance coverage. Before paying out a claim, all insurers go through a process of confirming that no material misrepresentations were made in response to the health questions asked at the time of application; that the claim is not the result of a pre-existing medical condition that was excluded at the time of application; and that eligibility is met.

“Post-claims underwriting” is a term that does not line up with the marketplace reality: a reality in which CPI insurers are the very same insurers that underwrite term life and other forms of non-CPI life and health insurance coverage.

Consumer Disclosure Requirements

The consultation document contains three sections that pertain to consumer disclosures. CAFII members take consumer disclosures and transparency very seriously, and they have in place rigorous disclosure practices to ensure that consumers fully understand the insurance coverage which they are applying to obtain, including cost, features, benefits, limitations, and exclusions. CAFII members also comply fully with CLHIA Guidelines G5 (Travel Insurance), G7 (Creditor Insurance), and G9 (Direct Marketing), as applicable.

CAFII recommends that the Ministry of Finance should strive not to be overly prescriptive, and try not to anticipate and fix a problem that does not currently exist. We strongly encourage BC to align with the consumer disclosure expectations that exist in the Alberta, Saskatchewan, Manitoba, and New Brunswick RIA regimes; to remain principles-based; and not to impose additional regulatory burden through new, unharmonized disclosure requirements that would not bring clear additional benefit to consumers.

“Should there be any requirements for warranty cancellations and premium refunds?”

While product warranty insurance is out-of-scope for CAFII, our Association is comfortable with the requirements that are in place for premium refunds in the existing RIA regimes. Our members offer the right to cancel the CPI insurance coverage offered in the RIA regimes in Alberta, Saskatchewan, and Manitoba and receive a full refund during a ‘review period,’ which typically lasts a minimum of 20 days from the onset of coverage.

Should any classes of insurance products sold by a restricted insurance agent licensee be subject to a cooling off period or include a right of rescission?

As per above, CAFII members already provide a 'review period' with a full premium refund provided if the coverage is terminated within 20 days of its onset; and thereafter, consumers can always cancel the coverage at any time and avoid future premium payments.

CAFII notes that there is one important exception to the above-noted right of rescission with a full premium refund, which applies in the case of travel insurance. If, for example, a person obtains travel insurance starting on March 1, then immediately takes a trip on March 2 which lasts through March 10, and then (not having incurred any claims during that trip) cancels the insurance after their return from the trip, having such a scenario fall within the scope of the review-period-with-full-premium-refund would undermine a fundamental principle of insurance and would not be appropriate.

Insurance covers and mitigates against a risk; and in the example provided above, a risk has been covered and a premium earned — even though no claim was made.

"...should the licensee be required to facilitate contact with the insurer providing the policy if the customer has a question the licensee is unable to answer?"

With respect to CPI, in accordance with CLHIA Guideline G7 (Creditor Insurance), CAFII concurs that RIA licensees should be required to provide applicants with a statement which addresses, among other things, (i) who is eligible to apply for the insurance; and (ii) the name of the insurer and instructions on how to contact the insurer to obtain further information or clarification.

"Should there be any restrictions on how a restricted insurance agent holds themselves out...?"

CAFII recommends that the Ministry of Finance should avoid imposing restrictions upon regulated entities that have a strong commitment to the fair treatment of customers, and which operate in a competitive environment where their brands and reputations are of paramount importance.

Should any restricted insurance agent licensees be limited in the commissions or fees they may charge?

CAFII believes that dealing with expectations around commissions or fees is best approached on a nationally harmonized basis through the joint *CCIR/CISRO Guidance: Conduct of Insurance Business and Fair Treatment of Customers*. That Guidance references compensation issues in its section 6.2 on Conflicts of Interest; and there is also ongoing CCIR/CISRO joint work to update, modernize, and enhance the Guidance document with additional commentary on incentives management issues.

In addition, CAFII again strongly recommends harmonization with the existing RIA regimes on this important matter. Under the existing Western Canada RIA licensure regimes, if the licensee, or a qualified entity acting on its behalf, receives compensation, inducements, or other benefits from the insurer, only the fact that compensation will be received must be disclosed to the consumer. Requiring licensees to disclose the simple fact that they will receive compensation, rather than imposing limits on the amount of the compensation paid, is, in our view, a proven RIA regime best practice.

Is a deferred sales model appropriate for any restricted insurance agent licences? For example an insurance product could not be marketed until a set number of days after the primary purchase is made or contract agreed to.

CAFII and its members have serious reservations about consideration being given to the implementation of a deferred sales model for any RIA regime products because the result would be contrary to the policy objectives that underlie RIA licensure frameworks.

RIA regimes can make insurance more accessible to consumers at the place where and at the time when they are obtaining credit, a mortgage, a service, or an item which they are looking to insure. In contrast, CAFII believes that a deferred sales model would make it more difficult for people to get insurance and could lead to further under-insurance among Canadians. RIA regimes should make access to insurance easier, not more difficult.

Thinking about one's death, disability, critical illness, or loss of employment is not something people enjoy doing; and obtaining related life and health insurance coverage is not a subject people seek to discuss. That social reality helps explain why Canadians generally are so vastly under-insured or uninsured¹.

Because all life and health insurance is typically "sold; not bought," unless an offer of CPI is presented to the consumer – conveniently, accessibly, and optionally – at the time that he/she/they is taking on a new debt obligation, such as a mortgage or line of credit, that consumer is much less likely to apply for the insurance coverage at a later point in time. The linking of optional life, disability, critical illness, and loss of employment insurance to the taking on of a new mortgage or other debt obligation provides consumers with a simple, accessible, and affordable way to obtain insurance protection that they otherwise would not go out of their way to secure.

A deferred sales model would not give rise to any incremental consumer protection benefits and instead would do consumers a disservice by limiting choice and access.

CAFII and its members believe that sufficient customer protection already exists under the CCIR/CISRO *Guidance: Conduct of Insurance Business and Fair Treatment of Customers*. In addition, the 20-day minimum 'review period' provided to all CPI insureds provides a period during which they can cancel their insurance and obtain a full refund, if they so wish.

Conclusion

As a key industry stakeholder Association, CAFII very much appreciates the opportunity to review and provide feedback on the BC Ministry of Finance's *Consultation Regarding Restricted Insurance Licences*. We thank the Ministry, in advance, for giving our Association's feedback your thorough consideration.

¹ LIMRA Canadian Life Insurance Ownership Study — 2019 Person-Level Report finds that 50% of Canadians do not have life insurance, and that this coverage gap disproportionately affects lower-income Canadians.

Should you require further information from CAFII or wish to meet with representatives from our Association on this or any other matter at any time, please contact Keith Martin, CAFII Co-Executive Director, at keith.martin@cafii.com or 647-460-7725.

Sincerely,



Rob Dobbins
Board Secretary and Chair, Executive Operations Committee

About CAFII

CAFII is a not-for-profit industry Association dedicated to the development of an open and flexible insurance marketplace. Our Association was established in 1997 to create a voice for financial institutions involved in selling insurance through a variety of distribution channels. Our members provide insurance through client contact centres, agents and brokers, travel agents, direct mail, branches of financial institutions, and the internet.

CAFII believes consumers are best served when they have meaningful choice in the purchase of insurance products and services. Our members offer credit protection, travel, life, health, and property and casualty insurance across Canada. In particular, credit protection insurance and travel insurance are the product lines of primary focus for CAFII as our members' common ground.

CAFII's diverse membership enables our Association to take a broad view of the regulatory regime governing the insurance marketplace. We work with government and regulators (primarily provincial/territorial) to develop a legislative and regulatory framework for the insurance sector which helps ensure that Canadian consumers have access to insurance products that suit their needs. Our aim is to ensure that appropriate standards are in place for the distribution and marketing of all insurance products and services.

CAFII's members include the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Insurance; National Bank Insurance; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players Assurant; Canada Life Assurance; Canadian Premier Life Insurance Company; Canadian Tire Bank; CUMIS Services Incorporated; Manulife (The Manufacturers Life Insurance Company); Sun Life; and Valeyo.