

***Agenda Item 3.10(iii)(3)  
November 28/17 Board Meeting***

From: Brendan Wycks [mailto:brendan.wycks@cafii.com]  
Sent: Monday, November 20, 2017 9:14 AM  
To: 'Sylvie Bourdeau'  
Cc: 'Keith Martin'  
Subject: CAFII Feedback on "Fee estimate for discussion"

Bonjour, Sylvie.

As Keith Martin and I discussed with you in our phone call on this matter on Wednesday, November 15/17, below is written confirmation of CAFII's feedback on your "Fee estimate for discussion," set out below, with respect to our Association's request that you prepare a "Bill 141 and Bill 150 Legal Issues Identification Analysis From the Perspective of CAFII Members":

- please proceed with a teleconference with Eric Stevenson and/or Louise Gauthier of the AMF to receive clarification and any further intelligence with respect to CAFII-relevant issues arising from Bill 141 and/or Bill 150;
- for budget limitation reasons and the fact that our Association wants to reserve the bulk of our available financial resources for your services for the subsequent phase of providing feedback on the draft Regulations -- which the AMF will be preparing after Bill 141 and Bill 150 have passed by the National Assembly -- we require that you limit the scope of this "Bill 141 and 150 Issues Identification Analysis From the Perspective of CAFII Members" assignment solely to those issues pre-identified by CAFII in my email of November 8/17 to you (below) and any other relevant issues that have already come to your attention at this point. Please do not spend time completing an exhaustive review of the entirety of Bills 141 and 150; and
- we appreciate your indication, in our call on November 15/17, that you will make every effort to limit the cost of this initial engagement assignment from CAFII to our Association's 2017 budget provision for this file of \$15,000 plus HST.

Thanks and best regards,

Brendan Wycks, BA, MBA, CAE  
Co-Executive Director  
Canadian Association of Financial Institutions in Insurance  
Brendan.wycks@cafii.com

From: Sylvie Bourdeau [mailto:sbourdeau@fasken.com]  
Sent: Tuesday, November 14, 2017 9:17 AM  
To: Brendan Wycks (brendan.wycks@cafii.com); keith.martin@cafii.com  
Subject: Fee estimate for discussion

Dear Brendan and Keith,

It was nice meeting you in person yesterday at the Rendez-vous de l'Autorité des marchés financiers. As discussed please find our fee estimate related to our mandate involving the review and analysis of Bill 141 and 150 recently tabled by the Government of Québec.

As agreed, our mandate is limited as a first step to reviewing Bill 141 and Bill 150 in order to identify issues arising therefrom and provide an analysis of their relevant provisions from the perspective of CAFII members, which are particularly of interest for the incidental sale of insurance. This analysis will, in a subsequent step, be used to prepare CAFII representations on the Bills at the National Assembly committee and/or the Ministry of Finance if invited or even on an unsolicited basis, in the context of a formal or informal consultation process. Our estimate does not contemplate our involvement for the preparation of such submission considering that we will discuss the best approach and the scope of our involvement in a next step and provide you with our estimate related to this portion of the work once we will have a better idea of the scope of work.

Consequently, our goal is to prepare a table that will identify all provisions respectively from Bill 141 and 150 related to the Insurers Act, An Act respecting the distribution of financial products and services and the Civil Code of Québec that may be of interest for CAFII members, refers to the amended version of the relevant sections, provide general comments on each relevant Section and determine if clarification or changes should be proposed to the Minister of Finance. This table will be completed by an executive summary of our analysis related to the various changes arising from Bill 141 and Bill 150.

Finally, as discussed yesterday, our objective is to schedule a call with Eric Stevenson and Louise Gauthier from the AMF in order to have a discussion on the principles that raise issues for CAFII in order to see if according to their understanding they represent the objective of the Minister of Finance. I will send an email to Eric Stevenson and Louise Gauthier this morning to schedule a call this week with them if they are available.

We will work intensively this week with the objective to provide you with a draft of our work on Monday at the latest. According to the date of our call with Eric Stevenson and Louise Gauthier we will determine if we wait for this call before providing you with our preliminary analysis or we submit it to you, subject to any comments we may have further to our discussion.

We estimate our fees related to the first step of this mandate as follows, including discussions with you to adjust our presentation and identify the main issues:

- Associate/articling student (hourly rate of 230-250\$): approx. between 40 and 60 hours
- Partner, Sylvie Bourdeau: (hourly rate of 590\$): approx. between 20 to 25 hours

Please do not hesitate to contact me if you wish to discuss the scope of our estimate.

Best regards,

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From: Brendan Wycks [mailto:brendan.wycks@cafii.com]  
Sent: Wednesday, November 08, 2017 12:23 PM  
To: 'Sylvie Bourdeau'  
Subject: CAFII Project: "Bill 141 and Bill 150 Legal Issues Identification Analysis From the Perspective of CAFII Members"

Bonjour, Sylvie.

As promised, below are the Bill 141 and Bill 150 issues which our CAFII members have identified (mainly their internal legal counsel) as possibly being of concern re their ability to offer creditor's group insurance, travel insurance, and other types of life, health, and accident & sickness insurance to Quebecers, especially with respect to their distribution of those products via alternate distribution channels such as in-branch (to clarify what I mentioned on the phone on Monday: CGI and travel insurance, as Authorized Insurance Products under the federal Bank Act, can be offered in a bank branch; whereas other types of insurance such as term life and home & auto insurance can only be sold in a separate physical premises that is not a branch of the bank itself); client contact centres; online/internet including via digital/mobile devices (an potentially also, down the road, via automated/robo-advisors); and direct mail:

#### Bill 141 Issues

- Clause 49 within Chapter III (found on page 24 of 472 in the attached English translation of the Bill), because it could apparently make an authorized insurer vulnerable to arbitrary and capricious decisions on the AMF's part with respect to the insurer's chosen TPA or other third party/outsourced partner. That clause reads as follows: "The Authority may prohibit that an authorized insurer's obligations under this Act be performed by a third person on the insurer's behalf if, in the Authority's opinion, such performance would render the application of this Act difficult or ineffective. Before rendering its decision, the Authority must notify the prior notice prescribed by section 5 of the Act respecting administrative justice to the insurer in writing and grant the latter at least 15 days to submit observations."
- Bill 141's indication that Section 408 of the Act respecting the distribution of financial products and services, which currently reads as follows:

"408. An insurer may, in accordance with this Title (Distribution without representative), offer insurance products through a distributor. A distributor is a person who, in pursuing activities in a field other than insurance, offers, as an accessory, for an insurer, an insurance product which relates solely to goods sold by the person or secures a client's adhesion in respect of such an insurance product."

will be modified by the addition of the following sentence

“Only a natural person may distribute an insurance product on behalf of a distributor.” (clause 530 of Bill 141, p. 389)

- as currently worded, Bill 141 only allows for online insurance sales so long as a licensed person works for the firm. But banks cannot be licensed as firms. This would seemingly impact CAFII members’ ability to sell creditor insurance through banking channels.

#### Bill 150 Issues

- Clause 257, which indicates that Section 426 of the Act Respecting the Distribution of Financial Products and Services will be repealed. Section 426 of the Distribution Act reads as follows:

426. For the purposes of this Title, the following insurance products are deemed to be insurance products which relate solely to goods and to which clients adhere:

- (1) debtor life, health and employment insurance;
- (2) investor life, health and employment insurance.

- the indication in Clause 256 that Section 409 will also be repealed. Clause 409 in the Act Respecting the Distribution of Financial Products and Services includes a direct reference to sales of creditor insurance and it is inter-connected with Clause 426 (by direct reference).

Please send me your proposal/estimate for preparing for CAFII a “Bill 141 and Bill 150 Legal Issues Identification Analysis From the Perspective of CAFII Members” asap.

Also, for additional background context, see below for an update message which I sent to CAFII Executive Operations Committee (EOC) members, following our phone discussion on Monday.

I will send you a copy of the Bill 141-relevant Summary Notes from our October 23/17 “CAFII Industry Issues Dialogue With AMF Staff Executives” very shortly.

Finally, a reminder to contact Lyne Duhaime, President-Quebec and Senior VP, Distribution (Canada) at CLHIA/ACCAP, if and when appropriate to see if she is willing to share any intelligence/insights with you arising from l’ACCAP’s liaison meeting with a Quebec Ministry of Finance official(s) – scheduled to occur as informal lunch today, I believe – with respect to CLHIA/ACCAP’s concerns about Bill 141 and Bill 150.

Thanks and regards,

Brendan Wycks, BA, MBA, CAE  
Co-Executive Director  
Canadian Association of Financial Institutions in Insurance  
Brendan.wycks@cafii.com