

Report on CAFII Liaison Visits to BC, Alberta, and Manitoba Insurance Regulators and Policy-Makers

Background

From 16-19 October, 2017, a CAFII delegation held six (6) meetings with insurance regulator and policy-maker bodies in British Columbia, Alberta, and Manitoba. This tour was part of the effort to fulfil a key element of the in-development CAFII Strategic Plan that has already received support and consensus, namely to meet face-to-face with all key insurance regulators and policy-makers in their home locales at least once every 18 months.

The CAFII delegation comprised Pete Thorn, TD Insurance and EOC Chair (not in attendance at three BC meetings); John Lewsen, BMO Insurance; Moira Gill, TD Insurance (not in attendance at Alberta Treasury Board and Finance meeting); Diane Quigley, CUMIS/Co-operators Group; Shawna Sykes, CUMIS/Co-operators Group; Charles MacLean, RBC Insurance; and Co-Executive Directors Brendan Wycks and Keith Martin.

Each of the meetings was structured around a three-part agenda—(i) participant self-introductions and get acquainted chat; (ii) a presentation led by CAFII's Co-Executive Directors titled "CAFII: Past, Present, and Future" which included some background on the Association, a brief review of its priorities, a snapshot of its recent research projects and their major findings, and an update on future initiatives such as our revamped website and our new Strategic Plan; and (iii) discussion of current regulatory/policy issues of specific relevance to each body. In our last meeting with the Insurance Council of Manitoba, at its request, we also made an additional presentation on "Creditor's Group Insurance Offered By CAFII Members" which reviewed some of the key features and salient points about our members' distribution of Creditor's Group Insurance, related Fair Treatment of Customers practices, and compliance with the rigorous CGI regulatory regime.

General Observations, Executive Summary, and Key Learnings

Some common themes were observed across all of the meetings, without exception. All of the sessions were notable for the genuine appreciation expressed at our making our way to the regulator/policy-maker's own physical location. There was a consistently high level of engagement and interest, and while the tone differed slightly in the meetings, there was a high degree of respectful and courteous dialogue. The presentations were well-received, with much interest expressed in the content. There was also strong and positive feedback on CAFII's expressed commitment to meet face-to-face with regulators and policy-makers in their own locales no less often than once every 18 months, as well as support for the proposal that we would engage in more research and share the results with regulators and policy-makers in our meetings and interactions with them. The CAFII website modernization initiative garnered much interest and there was a strong level of support for the "consumer focus" we were emphasizing. There was also interest in our Strategic Plan and a desire for us to share a high-level version of the finished Plan when we were able to do so.

17 October, 2017---Insurance Council of British Columbia

CAFII met with the retiring Executive Director of the Insurance Council of British Columbia Gerry Matier and his incoming successor Janet Sinclair at the Council's offices. Janet's participation was notable in that she does not officially join the Council's employ until November 1/17, yet made herself available for this meeting.

Also notable is that, for the first time ever for CAFII, we were invited to present to and meet with the actual Council members, not just the Executive Director and senior staff. These Council members included representatives from the life insurance brokerage community, and while there were some direct questions, the tone was very cordial and professional throughout. There was a high level of engagement and interest, so much so that at the end of the meeting we were told that there was no rush for us to end on time, and the formal meeting continued for 30 minutes past the allotted time; and after the meeting was complete, there was another 10 minutes of informal discussion as the CAFII delegation made its way out of the meeting room.

Brendan Wycks began the meeting by, on behalf of CAFII, paying tribute to outgoing Council Executive Director Gerry Matier, and thanking him for always treating the financial institutions-in-insurance sector as a vital stakeholder; and for maintaining a cordial, open, transparent, and mutually beneficial relationship with CAFII. He also congratulated Janet Sinclair on her appointment as the new Executive Director; and expressed CAFII's wish to have the same productive working relationship with her as it has enjoyed with her predecessor.

CAFII raised the issue of a Restricted Insurance Agent (RIA) regime possibly being introduced in British Columbia, and Gerry Matier indicated that the Council had not had a discussion about that yet. We indicated that in early 2018, when the BC Ministry of Finance releases its Policy Paper emerging from the 10-Year Review of the Financial Institutions Act/Credit Union Incorporation Act, an RIA regime is likely to be proposed. It was very interesting that some Council members indicated during this part of the discussion that they did not know what an RIA license was; and that when the explanation was given that under an RIA regime, it was a requirement for a corporate entity to have a license to permit its employees to sell incidental insurance, that appeared to be a new and foreign concept to some.

A Council member recalled that in its submission to the Ministry of Finance's 10-Year Review of the FIA/CUIA, the Council had recommended that the current licensing exemption for incidental sellers, including CAFII members who sell CGI, should be abolished or severely constrained; and that the Council had proposed a few options for achieving that end, one of which was to have a \$50,000 coverage limit on the licensing exemption, above which a licensed agent would need to be involved. CAFII representatives replied that our Association strongly disagrees with that proposal, as it would produce significant licensing and business process costs for our members.

Gerry Matier also emphasized that in its FIA Review submission, the Council had recommended that the federal Bank Act's prohibition against the selling of insurance in individual bank branches should be lifted.

There was also a very interesting discussion of the current political environment in British Columbia, and whether the minority government would be able to complete the 10-Year Review of the FIA/CUIA process before another election. Gerry Matier noted that minority governments tend not to continue to the end of their mandates, and therefore it's unlikely that the 10-Year Review of the FIA/CUIA will be completed before another provincial election is held in the province.

There were some interesting questions from the Council members. One of the CAFII slides indicated that our travel medical research results (Pollara) indicated that 99% of claims were paid, 75% fully and 24% partially. This was interpreted by a Council member to suggest that 24% of our claims were not fully paid, which she indicated was a poor outcome. It was explained by Charles MacLean from RBC Insurance that this situation can occur where, for example, an individual may be offered a trip back to Canada due to a medical condition, but they want to take an earlier flight than the insurance coverage offers, or they may wish to take business class, to cite a few illustrative examples—and that the insurance will only pay for the cost of the trip that the coverage allows, hence the partial payment. She found that to be a satisfactory answer.

Another member of the Council challenged the concept of an exemption from individual licensing for financial institution employees selling insurance, saying that it put consumers at risk. This individual said that three conditions were necessary for an appropriate sale—product knowledge of the seller, product knowledge of the buyer, and the suitability of the product; and that non-licensed individuals would not meet the “product knowledge of the seller” criteria. In reply, we explained both the relative simplicity of the CGI products our members sell, and the training and support that their employees receive.

Other points raised in the discussion were about the presentation made by CAFII to Saskatchewan Minister of Finance Kevin Doherty on June 1/17 regarding that province's introduction of PST on insurance premiums; on the importance of harmonization of licensing standards across jurisdictions, with a particular emphasis on the importance, if B.C. introduces an RIA regime, that it be as identical as possible to those already in place in the other Western provinces; and an update on CAFII's upcoming meeting with Saskatchewan Insurance Councils Executive Director Ron Fullan and his deputy April Stadnek on the possibility of achieving “representation” and a voice for restricted licence holders in that province through an advisory committee to the Executive Director, or to the Councils —something we urged the BC Council to consider if an RIA regime is introduced in its own province.

There was also an interesting discussion of a scandal re cheating on the Life Licence Qualification Program (LLQP) modular exams, by groups of individuals from particular organizations, which the Council has recently uncovered and is addressing. Gerry Matier also indicated that he did not feel that the Council's current loose, unprescribed continuing education requirements were sufficient for ensuring adequate protection of consumers, and that additional requirements were needed to achieve that goal.

Another key point that made by CAFII was that many of the transgressions and the lack of compliance that occurs in the sale of incidental insurance is with less-established or credible players; and that, in contrast, CAFII member bank and credit union financial institutions have tremendous reputational risk if they are not compliant. There is a strong culture amongst all of our members to ensure protection of consumers and adherence to regulatory regimes, with strong compliance departments that enforce this.

Janet Sinclair, the incoming Executive Director, was attentive but did not speak during the meeting. But she spoke in-person with several members of the CAFII delegation after the meeting and said that she found the meeting very informative and productive. She indicated that she was very pleased about our intention to meet in-person with the Insurance Council in Vancouver at least once every 18 months, and that she looked forward to working with us. She was cordial and friendly.

17 October 2017—British Columbia Ministry of Finance

We held a meeting with two individuals from the Ministry of Finance, namely Kari Toovey, Acting Executive Director, Strategic Projects & Policy (head of 10-Year Review project), (Kari is normally Director, Legislative Policy Projects, Strategic Initiatives Branch, Policy & Legislation Division, Ministry of Finance), along with a junior associate. Kari is acting in the Executive Director role because Elizabeth Cole is currently on an extended leave. Kari's colleague in the meeting did not participate in the discussion. They travelled to our meeting in Vancouver from Victoria, for which we expressed much appreciation.

Importantly, Kari mentioned that she expected that the possibility of an RIA regime in BC would be proposed in the Policy Paper now scheduled to be released in early 2018 as the next phase in the 10 Year Review of the FIA/CUIA. In that connection, on behalf of CAFII, Moira Gill stressed the critical importance of absolute harmonization with the other Western provinces that already have an RIA regime, and of a sufficient implementation period being provided for our members, between the notification about a new regime and the date of its implementation.

There was an open and fruitful discussion that covered many of the same issues discussed in our Insurance Council of British Columbia meeting, including our views on a possible RIA license regime in that province, and our concerns about being “tarred by the same brush” due to the behaviour of other players in the incidental sales of insurance space who do not adhere to the high standards we emphasize around compliance and the Fair Treatment of Customers.

Kari was very open about how the recent change in government in British Columbia, which had resulted in a new Minister and Deputy Minister of Finance, had slowed down the advancement of the 10 Year Review of the FIA/CUIA. She acknowledged that the Review was at least one year behind schedule on its original target of the Fall of 2018 as the “in force” date for any resulting legislative and/or regulatory changes. She said, however, that things were recently progressing more quickly and that it was her responsibility and the responsibility of her colleagues to act on the assumption that the current government would complete its mandate, and by extension to operate on the basis that completion of the 10 Year Review of the FIA/CUIA would be achieved by the current government.

Kari was very interested in our comments on commissioning more research, and indicated that she would be pleased to learn more about what topics we were planning to pursue. We also had a discussion about innovation and the pace of change in the industry, with CAFII members indicating that the regulatory regime can play an important role in either fostering, or constraining, innovation and technological change. It was mentioned that a flexible regulatory regime -- for example the willingness to use “regulatory sandboxes” that give innovators some temporary relief from some regulations during the critical initial stage of development -- was important in fostering innovation. Kari was interested in this concept and asked us to share with her, over time, any examples that come to our attention of regulatory rules that are constraining innovation in our industry.

17 October 2017 -- British Columbia Financial Institutions Commission (FICOM)

CAFII met with four staff executives from the B.C. Financial Institutions Commission (FICOM): Frank Chong, Acting Superintendent of Financial Institutions; Michael McTavish, Acting Executive Director, Market Conduct Supervision; Harry James, Senior Regulatory Advisor; and Doug McLean, Executive Director, Insurance and Trusts.

This meeting had a slightly different tone than any of the others, with a more formal and officious flavour and less of a sense of collaboration. The impression left was that FICOM intended to assert its authority and imprint on attendees and that it expects to be taken seriously. There was mention – by FICOM -- of the cease and desist order it had recently issued against Western Life Assurance; and the explicit point was made -- both by Frank Chong, the Acting Superintendent of Financial Institutions, and Michael McTavish, who led the investigative and enforcement efforts on this initiative -- that the order was meant to let the industry generally know that lack of compliance would not be tolerated, and would produce consequences. It was added that it was preferable for players to understand the importance of compliance as opposed to the regulator needing to enforce rules, but that if enforcement was required, it would occur.

These comments were made in the context of an earlier statement that travel insurance and CGI had been and would continue to be “an important focus for FICOM.” In the particular case of Western Life Assurance, the point was repeated that it was not sufficient to be compliant with one’s internal processes; FICOM stated that “insurers own the distribution” and were expected to exhibit knowledge of and exercise control over their distributors.

An added point was that there would be additional attention to enforcement of regulations on travel insurance from FICOM in the future, but the intention was not to surprise industry; institutions that are compliant will not be subject to action. FICOM representatives indicated that more general, thematic regulatory issues would be pursued through CCIR.

FICOM expressed an interest in the Financial Consumer Agency of Canada (FCAC) review taking place around alleged “high pressure sales” by banks, and CAFII members were asked if they could provide an update. A few CAFII members gave a high-level overview of where their institutions were in the review process. Frank Chong asked whether this review by FCAC on pressure selling included a review of the sale of CGI, and the response was that this was not a significant focus of attention in the review to date, with the strong focus instead being on core bank products.

FICOM representatives also stated that it was necessary to think about how the sales process ultimately affects the consumer. FICOM added that it was not an excuse if a sales practice by a third party was not understood by the institution whose product is being sold (hearkening back to the cease and desist order against Western Life Assurance).

Harry James spoke about the current status of the CCIR Travel Health Insurance Products Position Paper. He noted that Joan Weir at CLHIA is currently engaged in consumer testing, via focus groups, of some of the recommended changes to policy wording and design coming out of the industry reforms arising from the Position Paper. We indicated that we would follow up with Joan Weir about this.

We also mentioned that we are planning to do an update of our Pollara research study on consumers' experiences and satisfaction with travel medical insurance, and FICOM expressed an interest in our findings.

Frank Chong mentioned that the CCIR has created a Natural Catastrophes Working Group and that given B.C.'s experience with and vulnerability to these types of incidents such as wildfires and earthquakes, FICOM had been asked to chair this group for CCIR.

In closing, Frank Chong advised that FICOM is undergoing a governance review at the direction of the new government, which is being led by former B.C. Deputy Minister Bob de Faye. He was doing this governance review under very constrained timelines and a limited consultative outreach, but he would be meeting CLHIA CEO Stephen Frank. We asked about whether CAFII might be consulted, but the response was that the timelines were too tight to expand the consultative schedule.

18 October 2017--Alberta Treasury Board and Finance

CAFII met with a group comprised of the following Alberta Treasury Board and Finance staff executives: Nilam Jetha, Assistant Deputy Minister and Superintendent of Insurance, whom we met for the first time; David Sorensen, Deputy Superintendent of Insurance, whom we also met for the first time; Wayne Maday, Director, Insurance Policy; Laurie Balfour, Director, Financial Compliance, Insurance Regulation and Market Conduct Branch; and Linda Gorham, Special Assistant to the Assistant Deputy Minister.

There was a very open, collegial, and friendly tone to the meeting, with a spirit of collaboration and information-sharing. Nilam Jetha was interested and attentive, but did not offer many comments; Laurie Balfour was the most vocal and engaged of the attendees from ATBF.

There was interest and support for CAFII's key points in our opening comments and presentation; and appreciation for our intention to visit regulators and policy-makers in Alberta on a regular basis. On the subject of research, there was an explicit request for us to share our research findings on a regular basis, and a suggestion that we should make a plan to do so as well with CCIR.

CAFII provided updates of interest to ATBF -- several related to recent discussions with the Alberta Insurance Council (AIC), including our discussions with them in the past year on their definitions of the four types of credit-related insurance that can be offered under a Restricted Certificate of Authority.

Laurie Balfour gave a detailed and transparent update on the status of the CCIR's Annual Statement on Market Conduct. She indicated that while tweaks and adjustments re instructions and related explanations were being made to the Year 2 version of the Annual Statement, any material changes to the Statement would only be introduced in the Year 3 version of the Statement, at the earliest, and only after consultation with the industry. It was observed and agreed that IFRS 17 – an international accounting standard related to the recognition of insurance contracts – could have an impact on the CCIR Annual Statement, and delay the introduction of any substantive changes until the Year 4 version.

CAFII mentioned that CCIR Policy Manager Martin Boyle had previously advised CAFII that CCIR would be in a position to share an aggregated results report from the Year 1 Annual Statement in late 2017.

However, Laurie Balfour advised that sharing aggregated results from Year 1 was not realistic, and that there would likely be delays in analyzing results in general. Furthermore, she indicated that the Year 1 survey was based on “best efforts” attempts by industry participants, and that a learning was that this was interpreted widely by industry participants, such that consistency of inputs and the ability to affectively analyze information was challenging. The unstated impression left was that there were significant data and analytics challenges facing the reporting of results from the Annual Statement, which would be consistent with industry experience.

An interesting fact shared with CAFII was that no ATBF representative would be attending the CCIR Annual Stakeholder Meetings coming up on October 25/17 in Toronto in-person, due to travel restrictions on government departments, and instead they would be teleconferencing into the meeting.

ATBF reiterated their interest in CAFII’s research efforts and asked us to keep them informed of our progress in this area; and they indicated a great interest in our new Strategic Plan and asked us, if possible, to share a copy with them when that initiative was complete.

Brendan Wycks informed the ATBF representatives that in CAFII’s meeting with the Alberta Insurance Council that afternoon, he would be extending thanks and kudos to the AIC and its CEO Joanne Abram for strong, steady, veteran executive leadership of Council; principles-based regulation; finding a fair balance between consumer protection and fostering industry efficiency and innovation; and progressive leadership within CISRO.

18 October, 2017--Alberta Insurance Council

CAFII met with the following four Alberta Insurance Council staff executives in Edmonton: Joanne Abram, CEO (Edmonton office); Anthonet Maramieri, Chief Operating Officer (Calgary office); Warren Martinson, Director of Legal & Regulatory Affairs (Calgary office); and Sylvia Boyetchko, Director of Licensing (Edmonton office).

The meeting was notable for its cordiality and atmosphere of partnership, with Joanne Abram and Anthonet Maramieri very engaged. There was much interest in the CAFII presentation, with Joanne and Anthonet asking several questions about CAFII’s website modernization initiative. They indicated an interest in being advised of when the new site was formally launched. Research by CAFII was also an area they expressed interest in, and they seemed genuinely interested in taking us up on our invitation to share with us their views of research topics that they would find helpful to get more information about.

An ongoing issue that we have been interfacing with the AIC on is their intention to publish definitions on their website of the four types of credit-related insurance that can be offered under a Restricted Certificate of Authority in Alberta. Both CAFII and CLHIA have shared some recommendations on alternative wording on some of the definitions, which were largely incorporated into a new July 2017 draft of the proposed definitions. However, in a recent conversation with CLHIA, we learned that there is still concern within that Association about some of the proposed wordings, and a desire for the definitions to not be published by the AIC.

Joanne Abram, in updating us on this issue, explained that with a relatively new government in Alberta, there was a desire to review the governance process for appointments to public agencies and Councils such as the AIC. As a result, while the Council currently has adequate insurance industry representation to meet quorum requirements and make decisions, both of the two public representative seats on the Council are currently vacant. Joanne feels that it is important for public representatives to be part of the deliberations on her recommendations to Council on this issue; and, as a result, this agenda item is in limbo and being held on the back burner until two new public representatives are appointed and have had a chance to familiarize themselves with this issue.

CAFII raised the issue of trying to create a vehicle for representation and a voice for RIA licence holders on the Alberta Council. Joanne Abram reiterated that she is supportive of that effort and said that she would be keenly interested in the outcome of CAFII's and CLHIA's discussions on this issue, slated to take place on 27 October, 2017, with Ron Fullan, Executive Director, and April Stadnek, Director of Compliance, Insurance Councils of Saskatchewan. Joanne requested that we keep her informed. Mention was made that the CLHIA had developed a document outlining the Terms of Reference for such an representational/voice body, and Joanne Abram requested that we ask CLHIA if they can send a copy to her attention.

CAFII noted that there had been mention of some changes to the licensing regime in Alberta, and Joanne Abram responded that some comments she had made on a panel at the 2017 CLHIA Compliance and Consumer Complaints Conference in London, Ontario had been misinterpreted. She had indicated that there was exploration of expanding the mandate of the Council, but this was not intended in any way to suggest that the structure or purpose of the existing RIA regime was undergoing a review. Rather, the issue is that with new technologies and players cropping up in the industry, it was important for the Council to have the flexibility to review and respond to new developments. She mentioned the possibility that some of the current arrangements for travel insurance-related licensing may be reviewed as part of this effort.

Joanne Abram also noted that currently, renewals of licenses can currently be done online in Alberta, and it is the intention of the AIC to extend this online capability to applications for new licenses starting in the Spring of 2018.

The AIC expressed interest in the work being done on wording for travel insurance documents as part of the efforts of the CAFII Travel Medical Experts Working Group. We let the AIC representatives know that at our BC FICOM meeting, we learned that the CLHIA was sending some of the proposed wording and design enhancements out for consumer testing via focus groups. There was interest in the outcome of that effort and a request that it be shared with the AIC.

In concluding the meeting, on behalf of CAFII, Brendan Wycks extended thanks and kudos to the AIC staff and CEO Joanne Abram for strong, steady, veteran executive leadership of Council; principles-based regulation; finding a fair balance between consumer protection and fostering industry efficiency and innovation; and progressive leadership within CISRO, including developing the Canadian Insurance Participant Registry (CIPR) as the platform for a nationally harmonized insurance licensing system.

19 October, 2017--Insurance Council of Manitoba

CAFII's final meeting in its Western tour was with the Insurance Council of Manitoba. The meeting was unique in that the members of ICM's Incidental Sales of Insurance (ISI) Committee (an ad hoc committee established in 2015, at the time that Manitoba implemented its new RIA regime) were invited to attend as well. Because of the large size of the group of attendees at the meeting, it could not be accommodated at the ICM's offices, so the Chair of the ISI Committee, Paul Brett, hosted it at his law firm Thompson, Dorfman, Sweatman LLP. In attendance from the Insurance Council of Manitoba were Barbara Palace Churchill, Executive Director; Lee Roth, Investigator; and Heather Winters, Director, Licensing & Compliance. Also in attendance was Deputy Superintendent of Insurance Scott Moore from the province's Financial Institutions Regulation Branch (FIRB).

The meeting attendees were engaged and interested, with much dialogue occurring in a nearly two-hour meeting. At this meeting, we presented the same "CAFII: Past, Present, and Future" presentation along with another presentation on "Creditor's Group Insurance Offered By CAFII Members" which reviewed some of the key features and salient points about our members' distribution of Creditor's Group Insurance, related Fair Treatment of Customers practices, and compliance with the rigorous CGI regulatory regime.

There was interest in our CAFII website modernization initiative and our intention to conduct more research. There was discussion around the impact of technology and innovation on the industry, and it was suggested that CAFII and ICM could collaborate on these developments and their impact on the regulatory environment.

CAFII asked a question about possible upcoming adjustments to the RIA regime in Manitoba, to which Scott Moore gave a detailed response. He explained that it was not the intention to change the approach around RIA licenses for those holding them, but rather any adjustments to the system were about allowing the Council to respond more quickly to developments in the marketplace, for example giving it the ability to respond to ISI players who were emerging but didn't fall under the auspices of the RIA regime as currently provided for in legislation and regulations. It was noted that the ICM's mandate is under the jurisdiction of the Superintendent of Insurance, and the intention is to give Council the ability to have the flexibility to look at new products and services and to recommend quickly to the Superintendent appropriate policies and oversight, and to shut down inappropriate activity.

Lawyer and meeting host Paul Brett was very engaged in the dialogue throughout and noted that he was very supportive of, and recommending to the ICM, "delegated regulatory approaches" – also known as a "Delegated Administrative Authority" – under which a regulatory authority allows for regulations to be administered by outsourced third parties to avoid bottlenecks. He said that FSCO was a prime example of a regulator that used this sort of regulatory practice and that it was highly effective.

There was an interesting discussion on the impact of technology on the industry, and specifically how incidental sales of insurance would occur when the product that the insurance was associated with was sold online; and how such online activities could best be regulated and licensed. It was agreed that this was a significant emerging issue that CAFII and the ICM could collaborate on.

CAFII also mentioned that we were exploring with Saskatchewan Insurance Councils Executive Director Ron Fullan and his deputy April Stadnek the possibility of an advisory committee for achieving representation and a voice for RIA licence holders, and we were asked to keep the Manitoba Council informed of developments.

One member of the ISI Committee mentioned concern around a specific product sold in car dealerships, where the insurance coverage related to a vehicle purchase was being sold under a “single premium” structure and being wrapped into the principal. This product had resulted in instances where the policyholder was not getting refunded a portion of the premium paid where he/she had paid off the loan before the amortization period was complete. We said that we were not aware of the existence of such a product; and ICM investigator Lee Roth challenged this, noting that he had encountered it and suggested that our members were selling it indirectly through car dealerships in Manitoba. We had a discussion around this product and offered to investigate internally to better understand the issue.

Overall, there was a high level of engagement and interest in the dialogue throughout this meeting, so much so that at the end of the meeting we were told that there was no rush for us to end on time, and the formal meeting continued for 15 minutes past the allotted time. And after the meeting was complete, there was another 10 minutes of informal discussion as the CAFII delegation made its way out of the meeting room.