

Agenda Item 4.1
June 4/19 Board Meeting

From: Lemay, Élyse <Elyse.Lemay@londonlife.com>
Sent: May-03-19 12:27 PM
To: Brendan Wycks <brendan.wycks@cafii.com>
Cc: Ewen, Dallas <dallas.ewen@GWL.CA>; Gamache, Stephanie <Stephanie.Gamache@londonlife.com>; 'michele.jenneau@bnc.ca' <michele.jenneau@bnc.ca>
Subject: TR: New Development On AMF Spousal Coverage Issue

Hi Brendan. Michèle Jenneau and I, together with a colleague from Industrial Alliance and Michèle Hélie from CLHIA, had a meeting this morning with the AMF. Nathalie Sirois, Mario Beaudoin and a few others were present from the AMF.

I presented the policy arguments in relation with the loss of spousal coverage, more particularly for the credit card products (**automatic coverage but also for non-automatic coverage**).

Although Mario focused again on their legal arguments, Nathalie demonstrated a good openness to our points and indicated that the AMF's intention was not to deprive the Quebeckers from some valuable coverages. We concluded by saying that our letters will be sent today but that CLHIA will send in another letter to express in writing our arguments in favor of the value of the spousal coverage, specifically for credit card products given their particular target market.

The AMF is interested to get some data demonstrating the value. I would be interested to know if CAFII can help on this front.

Élyse Lemay, LL.B., MBA
Vice-présidente, Affaires juridiques et réglementaires, Québec | Vice-President, Quebec Legal and Regulatory Affairs
1350 boul. René-Lévesque Ouest, 13e étage | Montréal QC H3G 1T4 | M-1320
Tél : 514 393-4059 | Fax : 514 842-6940

De : Brendan Wycks <brendan.wycks@cafii.com>
Envoyé : 2 mai 2019 13:41
Objet : [EXT] New Development On AMF Spousal Coverage Issue

CAFII Board, EOC, and Working Group On AMF Spousal Coverage Issue Members:

For your information, Élyse Lemay of Canada Life has shared with CAFII the following new development on the AMF spousal coverage issue.

In recent days, Michèle Hélie of CLHIA/I'ACCAP met AMF staff executive Louise Gauthier at an industry conference, at which Louise told Michèle that the AMF's intent is **not** to close down this line of business (creditor insurance coverage offered to spouses/other-than-the-debtors under the DWR regime).

CLHIA/l'ACCAP therefore had a further meeting of members on this issue yesterday and it was decided that three Québec-based representatives from member companies (Élyse Lemay, along with representatives from National Bank Insurance and Industrial Alliance (IA)) would meet again with the AMF and try to educate them on the credit card-based creditor insurance product which offers automatic coverage to the spouse, in order to ensure that they understand that

- the cost of this coverage depends solely upon the balance on the credit card; and removing the spouse from coverage would not affect the premium because it is not dependent on the fact that the debtor has a spouse; and
- the AMF's current policy position on this product/issue will remove coverage for Québeckers who
 - in many instances, participate in and contribute to the family's/household's financial well-being;
 - might otherwise not be insurable; and
 - might not have access to an advisor or simply do not need access to an advisor (because they do not have assets; can't save to build up assets; and perhaps even do not need to save for retirement due to the adequacy of the public pension system under their personal circumstances, etc.)

In that meeting with the AMF, which is scheduled to take place on Friday, May 3/19 at 10 a.m., Élyse and her National Bank Insurance and IA counterpart representatives intend to ask the AMF to be tolerant -- at least for the credit card-based creditor insurance product which offers automatic coverage to the spouse -- and to undertake a review of the *Regulation Under the Act Respecting Insurance* (RALA) in the near future.

Brendan Wycks, BA, MBA, CAE

Co-Executive Director
Canadian Association of Financial Institutions in Insurance

From: Brendan Wycks

Sent: May-02-19 11:47 AM>

Subject: CAFII-Provided Boilerplate Content For Affected Members' Consideration and Possible Use In Preamble To Action Plan Submission To AMF On Creditor's Group Insurance Spousal Coverage Issue

CAFII EOC and Working Group On AMF Spousal Coverage Issue Members:

Those who participated in our April 25/19 teleconference meeting to consider next steps following the AMF's response letter of April 18/19, in which it rejected the proposals put forward in CAFII's March 29/19 *Proposed Strategies and Possible Solutions Submission Re Creditors Demonstrating That They Have A Pecuniary Interest In the Life and/or Health Of A Debtor's Spouse In Order To Offer Him/Her Creditor's Group Insurance Coverage Under Quebec's Distribution Without a Representative Regime*, will recall that the one Action Item which emerged from our discussion was for CAFII to provide some boilerplate content (re-purposed from the Association's submissions to the AMF on this issue) for affected Members' consideration and possible use in the introduction/preamble to their Action Plan submissions to the AMF on this issue, due May 3/19.

That proposed preamble content is set out below, beneath my signature block, in both English and French. Both a shorter version and a slightly longer version have been provided; and the French translations of the original English content were done by CAFII's professional translation firm, Megalexis of Montréal.

As discussed in last week's teleconference, the purpose of the proposed boilerplate content is to give Members some ready-made preamble wording for their individual Action Plans, which states that the company continues to disagree with the AMF's recent interpretation of Section 76 of the *Regulation Under the Act Respecting Insurance*; and briefly reiterates why the firm believes that all aspects of its offerings of group debtor life, health, and employment insurance in Québec are in compliance with the applicable legislation and Regulations.

We have tried to design the proposed preamble in inverted pyramid style, such that it should be easy to use just some, rather than all, of the content of the shorter or the longer version, as a Member desires. For example, a Member may decide to use just the first two paragraphs of the shorter version, and not the third paragraph; and omitting the third paragraph will still allow the preamble to have good flow and impact.

(And, of course, the underlined words in the following paragraph do not apply to all affected Members, as the AMF had engaged with some companies on this issue prior to December 11/18:

We were surprised by the AMF's December 11/18 letter to us, which brought to our attention for the first time that this issue was of regulatory concern to the AMF, particularly given the fact that the Regulation Under the Act Respecting Insurance has been in existence for many years and a number of industry players have been offering creditor's group coverage to Québec spouses who are not co-debtors for more than 25 years, based on their desire to make simple, accessible, and affordable insurance protection available to consumer households; and their understanding of both federal law and Québec law.)

If you have any questions about or need clarification on any of the proposed preamble content, don't hesitate to reach out to me and Keith Martin.

Brendan Wycks, BA, MBA, CAE

Co-Executive Director

Canadian Association of Financial Institutions in Insurance

Brendan.wycks@cafii.com

Shorter Preamble Statement (English)

As a preamble to this requested Action Plan submission, company name must restate its (or "we must restate our") strongly held view that the Autorité's recent invoking of an interpretation of Section 76 of the *Regulation Under the Act Respecting Insurance* to rule that, under creditor's group insurance offered under the province's Distribution Without A Representative regime, no life or health insurance can be provided to the spouse of a debtor, when such spouse is not a co-debtor, because the creditor has no pecuniary interest in the life or the health of the non-debtor spouse is based upon an incorrect interpretation of relevant Québec legislation and the Regulation.

We believe that spouses are so closely financially integrated with and dependent upon each other that the creditor does indeed have a pecuniary interest in the life and health of the spouse, for a number of compelling reasons which were outlined in CAFII's submission to the AMF of January 28, 2019. And we also hold to the view that had Québec's legislators intended Section 76 of the *Regulation Under the Act Respecting Insurance* to limit creditors group insurance to covering only guarantors on loans in addition to the actual debtors, such a limitation would have been explicitly stated. Given that Section 76 does not expressly define "other than debtors" as guarantors only and given the financial interdependence that exists between spouses, the rules of statutory interpretation suggest that Section 76 was not intended to prohibit the offering of creditor's group insurance coverage for non-debtor spouses.

We were surprised by the AMF's December 11/18 letter to us, which brought to our attention for the first time that this issue was of regulatory concern to the AMF, particularly given the fact that the *Regulation Under the Act Respecting Insurance* has been in existence for many years and a number of industry players have been offering creditor's group coverage to Québec spouses who are not co-debtors for more than 25 years, based on their desire to make simple, accessible, and affordable insurance protection available to consumer households; and their understanding of both federal law and Québec law.

We therefore believe that all aspects of company name's (or "our") offerings of group debtor life, health, and employment insurance in Québec are in compliance with the applicable legislation and Regulations.

That said, we understand the AMF's concerns with respect to the fair treatment of consumers and have prepared the requested Action Plan set out below.

Shorter Preamble Statement (Français)

En préambule à la demande de plan d'action demandée, nous devons réaffirmer notre ferme conviction que la récente invocation par l'Autorité d'une interprétation de l'article 76 du *Règlement d'application de la Loi sur les assurances* pour dire qu'en vertu de l'assurance collective du créancier offerte sous le régime de la Distribution sans représentant, aucune assurance vie ni aucune assurance maladie ne peut être proposée au conjoint d'un débiteur, si ledit conjoint n'est pas un codébiteur, puisque le créancier n'a aucun intérêt pécuniaire dans la santé ou la vie du conjoint non débiteur, repose sur une interprétation erronée de la législation québécoise pertinente et du règlement.

Nous croyons que les conjoints sont si étroitement intégrés financièrement l'un à l'autre et dépendent l'un de l'autre que le créancier a effectivement un intérêt pécuniaire dans la vie et la santé du conjoint, pour un certain nombre de raisons probantes qui ont été décrits dans le mémoire de l'ACIFA à l'AMF du 28 janvier 2019. Et nous considérons également que si les législateurs du Québec avaient voulu que l'article 76 du *Règlement d'application de la Loi sur les assurances* limite l'assurance collective des créanciers aux seules garanties sur les prêts, en plus des débiteurs réels, une telle limite aurait été explicitement énoncée. Étant donné que l'article 76 ne définit pas expressément les personnes « autres que les débiteurs » comme étant des garants seulement et étant donné l'interdépendance financière qui existe entre les conjoints, les règles d'interprétation législative laissent à penser que l'article 76 n'avait pas pour but d'interdire l'offre d'une assurance collective par les créanciers pour les conjoints non débiteurs.

Nous avons été surpris par la lettre de l'AMF du 11 décembre 2018 qui nous signalait pour la première fois que cette question préoccupait l'AMF, d'autant plus que le Règlement d'application de la Loi sur les assurances existe depuis de nombreuses années et que certains de nos membres ont offert une couverture collective des créanciers aux conjoints du Québec qui ne sont pas des codébiteurs depuis plus de 25 ans, motivés qu'ils étaient par leur volonté de mettre à la disposition des ménages consommateurs une protection d'assurance simple, accessible et abordable et par leur compréhension du droit fédéral et du droit québécois.

Nous croyons donc que tous les aspects de nos offres de l'assurance-vie, de la santé et de l'assurance-emploi collective des débiteurs au Québec sont conformes aux lois et règlements applicables.

Cela dit, nous comprenons les préoccupations de l'AMF concernant le traitement équitable des consommateurs et nous avons préparé le plan d'action demandé présenté ci-dessous.

Longer Preamble Statement (English)

As a preamble to this requested Action Plan submission, company name must restate its (or “we must restate our”) strongly held view that the Autorité’s recent invoking of an interpretation of Section 76 of the *Regulation Under the Act Respecting Insurance* to rule that, under creditor’s group insurance offered under the province’s Distribution Without A Representative regime, no life or health insurance can be provided to the spouse of a debtor, when such spouse is not a co-debtor, because the creditor has no pecuniary interest in the life or the health of the non-debtor spouse is based upon an incorrect interpretation of relevant Québec legislation and the Regulation.

It is clear that Québec legislation allows insurers and distributors to offer creditor’s group insurance to a non-debtor spouse. And while Section 76 of the *Regulation Under the Act Respecting Insurance* does require creditors to have a pecuniary interest in the life or health of persons who are “other than debtors” in order to offer them creditor’s group insurance coverage, a distinction must be made between spouses and other persons.

The purpose of creditor’s group insurance is to ensure that the debt will continue to be paid in the case of the death, disability, or critical illness of a debtor. The death, disability, or critical illness of any spouse (married, civil union or common law) is of pecuniary interest to a creditor because the debtor will more likely be in a position to continue debt repayment if his/her spouse is healthy and contributing to the household.

We believe that spouses are so closely financially integrated with and dependent upon each other that the creditor does indeed have a pecuniary interest in the life and health of the spouse, for a number of compelling reasons which were outlined in CAFII’s submission to the AMF of January 28, 2019. And we also hold to the view that had Québec’s legislators intended Section 76 of the *Regulation Under the Act Respecting Insurance* to limit creditors group insurance to covering only guarantors on loans in addition to the actual debtors, such a limitation would have been explicitly stated. Given that Section 76 does not expressly define “other than debtors” as guarantors only and given the financial interdependence that exists between spouses, the rules of statutory interpretation suggest that Section 76 was not intended to prohibit the offering of creditor’s group insurance coverage for non-debtor spouses.

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Il est clair que la législation québécoise autorise les assureurs et les distributeurs à offrir l'assurance collective du créancier à un conjoint non débiteur. Et bien que l'article 76 du *Règlement d'application de la Loi sur les assurances* exige clairement que les créanciers aient un intérêt pécuniaire pour les personnes « autres que les débiteurs », une distinction doit être faite entre les conjoints et les autres personnes.

Le but de l'assurance-crédit est de s'assurer que la dette continuera d'être remboursée en cas de décès, d'invalidité ou de maladie grave d'un débiteur. Le décès, l'invalidité ou la maladie grave d'un conjoint (marié, en union civile ou conjoint de fait) présente un intérêt pécuniaire pour un créancier parce que le débiteur sera plus susceptible de continuer à rembourser sa dette si son conjoint est en bonne santé et contribue au ménage.

Nous croyons que les conjoints sont si étroitement intégrés financièrement l'un à l'autre et dépendent l'un de l'autre que le créancier a effectivement un intérêt pécuniaire dans la vie et la santé du conjoint, pour un certain nombre de raisons probantes qui ont été décrits dans le mémoire de l'ACIFA à l'AMF du 28 janvier 2019. Et nous considérons également que si les législateurs du Québec avaient voulu que l'article 76 du *Règlement d'application de la Loi sur les assurances* limite l'assurance collective des créanciers aux seules garanties sur les prêts, en plus des débiteurs réels, une telle limite aurait été explicitement énoncée. Étant donné que l'article 76 ne définit pas expressément les personnes « autres que les débiteurs » comme étant des garants seulement et étant donné l'interdépendance financière qui existe entre les conjoints, les règles d'interprétation législative laissent à penser que l'article 76 n'avait pas pour but d'interdire l'offre d'une assurance collective par les créanciers pour les conjoints non débiteurs.

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