

19 September, 2019

Ms. Nathalie Sirois,
Senior Director, Supervision of Insurers and Control of Right to Practise
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1

c.c. Mr. Frédéric Pérodeau, Superintendent, Client Services and Distribution Oversight
Mr. Patrick Déry, Superintendent, Solvency
Ms. Louise Gauthier, Senior Director, Distribution Policies

Dear Ms. Sirois:

Re: Credit Protection Group Insurance coverage offered to Québec non-debtor spouses

As you know, CAFII has recently made several written and in-person submissions to the AMF to communicate our Association's view that the long-standing practices of our members with respect to enrolling non-debtor spouses in credit protection group insurance have been, and continue to be, in compliance with existing Québec legislation and regulations. However, the AMF has clearly indicated that it does not share our view.

That being the case, CAFII's affected insurer members have recently submitted follow-up Action Plans, in compliance with the AMF's requirements, on how they will either demonstrate a pecuniary interest in the life and/or health of such non-debtor spouses, consistent with the AMF's preferences and expectations, or otherwise indicate how they will stop offering credit protection group insurance coverage to such non-debtor spouses in the future.

However, in an unexpected recent development, we have learned that the AMF has expanded its regulatory expectations on the spousal coverage issue by also requiring insurers to cancel and remove existing, in-force credit protection group insurance coverage for non-debtor spouses. It is our understanding that the AMF is no longer willing to allow existing credit protection group insurance coverage for non-debtor spouses to remain in force indefinitely.

It is our understanding that this change in the AMF's position was only recently communicated to insurers in response to their original 3 May, 2019 Action Plan submissions. We also understand that through these very recent communications with our members, the AMF is now requiring insurers to submit additional Action Plans by 30 September, 2019 to address the AMF's new requirement that existing, in-force credit protection group insurance coverage for non-debtor spouses be cancelled and removed.

Our members have indicated that they need additional time to assess the potentially significant operational and non-operational ramifications of cancelling and removing existing, in-force credit protection group insurance coverage from non-debtor spouses. The non-operational ramifications include consumer protection issues as well as legal and reputational risks.

While there has not been sufficient time to conduct a comprehensive analysis of the potential impact of the AMF's new requirement, a preliminary assessment has underscored the strong potential for its implementation to give rise to consumer complaints; to lawsuits (including class action suits) against insurers and distributors by consumer advocacy groups; to legal actions by consumers themselves; and to attendant reputational risks for industry participants. Those risks are exacerbated by the fact that there does not appear to be a compelling consumer protection reason that makes it imperative for such coverage to be cancelled and removed.

In addition, CAFII understands that any action that could be perceived as a unilateral removal by an insurer of existing, in-force credit protection insurance coverage without the consent of the policyholder (the creditor/distributor) could violate the Civil Code of Québec, further compounding the risks noted above.

We are therefore writing to you now, on behalf of all CAFII members, to request a deadline extension of at least four months (until at least January 31, 2020) to give affected insurers and their distributor partners sufficient time to consider and assess the ramifications of this most recent AMF requirement, given the high degree of complexity and risk involved, before submitting the required additional Action Plans.

We thank you for your consideration of this deadline extension request and the related considerations raised in this letter, on behalf of all CAFII members. Should you require additional information or clarification related to these matters or wish to arrange a meeting with CAFII representatives for that purpose, please contact Keith Martin, Co-Executive Director, at keith.martin@cafii.com or 647-460-7725.

We look forward to receiving your response at your earliest convenience.

Sincerely,

Martin Boyle
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 travel, life, health, property and casualty, and creditor's group insurance across Canada. In particular, creditor's group 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 that helps ensure Canadian consumers get the insurance products that suit their needs. Our aim is to ensure appropriate standards are in place for the distribution and marketing of all insurance products and services.

CAFII is currently the only Canadian Association with members involved in all major lines of personal insurance. Our members are the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Financial Security; National Bank Insurance; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players American Express, Assurant, Canadian Premier Life Insurance Company, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and The Canada Life Assurance Company.