

CLHIA Conference 2-4 May 2018: Summary Notes

During the CLHIA Conference, CAFII organized four in-person meetings with insurance regulators. The attendees from CAFII (attending at least one of the sessions) are listed below.

Isabelle Choquette, Desjardins Financial Security
John Lewsen, BMO Insurance
Scott Kirby, TD Insurance
Rob Dobbins, Assurant
Diane Quigley, CUMIS Services Inc.
Moira Gill, TD Insurance
Fay Coleman, TD Insurance
Arunesh Sohi, BMO Insurance
Martin Boyle, BMO Insurance
Brad Kuiper, ScotiaLife Financial
Dana Easthope, valeyo
Dominique Julien, CIBC Life Insurance
Shawna Sykes, Co-operators
Casandra Litniansky, CUMIS Services Inc.
Luke O'Connor, Manulife
Christine Dear, Manulife
Brendan Wycks, CAFII
Keith Martin, CAFII

The four CAFII in-person sessions with regulators are listed below.

<u>Thursday, 3 May 2018</u>	<u>Thursday, 3 May 2018</u>	<u>Thursday, 3 May 2018</u>	<u>Friday, 4 May 2018</u>
lunch with Janet Sinclair, Executive Director; and Rob Tanaka, Director of Policy, Insurance Council of British Columbia	coffee with Ron Fullan, Executive Director; and April Stadnek, Director of Compliance, Insurance Councils of Saskatchewan	pre-dinner drink with Barbara Palace Churchill, Executive Director, Insurance Council of Manitoba	breakfast with Joanne Abram, CEO, Alberta Insurance Council; Warren Martinson, Director of Regulatory & Legal Affairs, AIC Calgary office; and Kenneth Doll, Vice Chair, AIC Life Insurance Council

Thursday, 3 May 2018 meeting with Janet Sinclair, Executive Director, and Rob Tanaka, Director of Policy, Insurance Council of British Columbia

- Janet Sinclair indicated that she was climbing a very significant learning curve since starting in her new Executive Director role in November 2017.
- We reviewed our views on the Preliminary Recommendations Paper from the BC Ministry of Finance on the 10-year Review of the Financial Institutions Act.
- Among these was our openness to the introduction of an RIA regime in BC, so long as it is consistent with the regimes in the other Western provinces. Harmonization is key to CAFII members, we stressed.
- Janet asked which of the existing RIA regimes – Alberta, Saskatchewan, or Manitoba – did we feel was most effective and why?; and we indicated that we would get back to her with a response.
- We also raised our concerns with Recommendation #47 on “Post-Claims Underwriting” which we said was based on myths. Janet Sinclair said that perhaps this recommendation could be about clarity of communications, as there is a perception that some creditor products are different when the claim is made than what the customer thought they had purchased.
- There was particular concern expressed by Janet Sinclair around perceptions that consumers think they have travel insurance coverage only to learn later, often at the time of a claim, that they do not have that coverage in place.
- Janet and Rob were keenly interested in “third party sellers” and how CAFII members manage and monitor them. This related to call centres that might not consist of employees; and to third party sales forces. It was explained that whether they are employees or not, they are still subject to the same rules and oversight.
- There was interest in arranging an opportunity for CAFII to present the results of our Pollara travel health insurance consumer survey to the Insurance Council of BC.
- In a side-conversation with Rob Tanaka, it was explained that some insurance coverages for travel insurance may be via an employee benefits plan, and these are group insurance coverages that you need to read to know the limitations and exclusions for your policy. For example, you may get the travel insurance coverage in a group employee policy that has exclusions for pre-existing conditions, but you need to know this before you travel. You are not asked questions for this type of policy as you did not individually sign up for it; you are covered simply as an employee with the company offering the group benefits. Surprises about coverages may be what causes the perception that individuals are not covered when they think they are, but it was explained this is not the same as “signing up” for a travel policy on its own, where you will be asked questions to determine eligibility.

Thursday, 3 May 2018 meeting with Ron Fullan, Executive Director, and April Stadnek, Director of Compliance, Insurance Councils of Saskatchewan

- CAFII advised that good progress had been made in its joint efforts with CLHIA to produce a joint proposal for a Restricted Insurance Agents Advisory Committee in Saskatchewan; and that after some further due diligence, the two Associations should be in a position to submit that proposal to Ron Fullan in early June.

Ron Fullan indicated that he was committed to the concept of a RIA Advisory Committee in Saskatchewan; and to seeing this through. With the new Saskatchewan Insurance Act now released, the ICS was working on the required Regulations to implement the legislation, with a target “in force” date of January 1, 2019. Ron felt that if he receives the joint CAFII/CLHIA proposal in June, the timing would be very opportune to update the ICS’ bylaws to allow for an RIA Advisory Committee, with the same January 2019 implementation date.

- There was some discussion around the recent conversations between CAFII and the Saskatchewan Ministry of Finance regarding the rules for refunding the PST paid on insurance premiums since 1 August 2017; and our satisfaction with the ultimate blanket exemption from PST for all creditor’s group insurance products.

Thursday, 3 May 2018 meeting with Barbara Palace Churchill, Executive Director, Insurance Council of Manitoba

- There was discussion of the issue of single premium insurance policies, about which we had written a letter to Scott Moore, Deputy Superintendent, Financial Institutions, Financial Institutions Regulation Branch, Government of Manitoba on 9 March, 2018. We noted that the letter reviewed the oversight of these policies, and emphasized that there was full disclosure of the features of this type of policy.
- We raised the issue of the openness of the Insurance Councils of Saskatchewan to an RIA Advisory Committee. Barbara Palace Churchill countered that there was some industry representation on her ICM ad hoc “ISI Committee” already; and we spent a bit of time differentiating CAFII members and explaining how they offer insurance directly to consumers, without an advice channel, and that advice channel players would have a different perspective than our members on some issues.

Friday, 4 May 2018 meeting with Joanne Abram, CEO, Alberta Insurance Council, Warren Martinson, Director of Regulatory & Legal Affairs, Calgary, and Kenneth Doll, Vice Chair, AIC Life Insurance Council

- Joanne Abram provided an overview of some of the licensing issues that she and her colleagues had been dealing with, including the effort to improve their website and provide for expanded online capacities.
- There was discussion around some of the licensing challenges the AIC faces and the limits to validating information through audits, given resource constraints.
- The issue of publishing on the AIC website definitions of the types of credit-related insurance that can be sold in the province under a Restricted Certificate of Authority was raised. This was something that had caused some concern last year mainly at CLHIA, and a final decision was delayed because some public appointees were missing from the AIC. These public appointee positions had just recently been filled and we should expect an update on the AIC’s approach to the website definitions in the near future, Ms. Abram advised.
- Ms. Abram noted that the AIC is doing some work on licensees’ E&O coverage. They are mostly attempting to work through the sponsoring insurance companies to get this information. They are also always on the look-out for better processes and welcome any suggestions from the industry in that area.

CLHIA Conference**Highlights from Key Sessions of Interest to CAFII****2 May, 2018****Tone at the Top—Peter McCarthy, President & CEO, BMO Life Assurance Company**

Peter McCarthy, in a well-received opening address to the CLHIA Conference, said that life and health insurance had previously passed through the age of the captive agent, and then the age of the broker, to finally arrive at the age of the consumer, which we are now living through. This consumer focus is revolutionizing the industry and changing customers' expectations. Customers evaluate us not based on industry norms, but on their experience with Amazon, Apple, and Netflix—and they expect no less of a positive experience from any other company.

Peter also touched on the negative industry developments in Australia, with respect to the Royal Commission on banks and financial services currently underway there, noting that while he felt the Canadian reality was much different, it would have repercussions here. Finally, he cited the two main risks for the industry as cyber security, and reputational risk.

Update from the CCIR—David Sorensen, Deputy Superintendent of Insurance Regulation and Market Conduct, Treasury Board and Finance, Government of Alberta

David Sorensen reviewed CCIR's current priorities, placing an emphasis on the Fair Treatment of Consumers. He said that while this is not a new concept, it was one gathering momentum and importance for regulators. He cited the importance of CCIR alignment with the IAIS' Insurance Core Principles (ICP), and noted that the regulators were very alert to the regulatory importance of both manufacturers and distributors. David noted that CCIR is increasingly coordinating activities with CISRO.

Regulatory Perspectives from Across Canada**Anatol Monid, Executive Director, Licensing and Market Conduct Division, Financial Services Commission of Ontario**

Anatol Monid mentioned the current FSCO consultation on its 2018 Statement of Priorities; and the current FSCO consultation on the draft Guideline on Treating Customers Fairly. He said that FSCO will continue to engage in examinations of insurance activity. He mentioned that the three top sources of complaints are around suitability of products; mis-selling of products; and regulatory activities. FSCO will continue to align its oversight to behavior and the risk of insurance failure.

Mr. Monid said that FSCO, in its Guideline on the Fair Treatment of Consumers, wants to protect *all* financial services consumers. The objective, he said, is to ensure consumer protection; to clarify FSCO's expectations for the industry; and to align FSCO with international guidelines. FSCO also intends to align with CCIR Guidelines, and with the AMF's Sound Commercial Practices Guideline. Having said that, FSCO realizes that there is not a "one size fits all" solution—some institutions may require a lighter regulatory touch, especially if they do not pose the same level of risk as a larger institution. The consultation on FSCO's TCF Guideline closes May 8, 2018, and the final document will be released in the Summer of 2018.

On the CCIR Annual Statement on Market Conduct, Mr. Monid noted that not all companies need to file the entire report. He also said that FSCO had determined that 72% of the industry has a code in place for FTC, 87% said FTC mattered, and 80% had a process in place to ensure point of sale information—to which Mr. Monid asked, what does that say about the other companies that did not answer in the affirmative?

Mr. Monid referred to the Ontario Securities Commission's "Regulatory Supersandbox" and the development of a new Fintech accelerator's office, which are intended to better equip Ontario to dealing with emerging technology challenges. The Insurance Act, he noted, is 90 years old, and there needs to be changes made to it to respond to the new regulatory and industry realities. He noted that a regulatory sandbox should not be viewed as a mechanism to deal with startups alone. Properly constructed, a regulatory sandbox should allow the broader industry to have ways of innovating, including for the regulator itself. A challenge for the regulators, as they deal with innovations, is to think about what could go wrong—and how to respond to such a development.

Mr. Monid noted that the International Monetary Fund had made some comments in 2013 on shortcomings in the regulatory environment in Ontario; and that was something that FSCO had to be prepared for the next time the IMF makes a re-assessment visit to Canada, on behalf of the International Association of Insurance Supervisors.

Louise Gauthier, Directrice principale des politiques d'encadrement de la distribution, Autorité des marchés financiers

(Note: Ms. Gauthier was a last-minute replacement for Frederic Pérodeau, Superintendent, Client Services and Distribution Oversight, AMF, who had to bow out of attending due to a urgent matter at the AMF.) Louise Gauthier said that the AMF is juggling multiple priorities right now. She said that the AMF had posted just last week its Annual Statement of Priorities. The AMF was focused on IT and Risk Management, as well as cyber-risk. Fintech was also an area of interest. Ms. Gauthier said that if Bill 141 and Bill 150 are adopted, there will be *several years* of work ahead in drafting regulatory rules to support the legislation. She spoke about the need to have the proper framework to protect vulnerable people, and mentioned the increasingly important issue in our aging society of dealing with cognitive deterioration of clients, or abuse of clients who are vulnerable. One of the issues the AMF is looking at is a "safe harbour" provision to allow an advisor to refuse to enact a directive of a client if they are concerned that they are not of sound mind, or not acting in their own interests.

Ms. Gauthier said that the AMF's Sound Commercial Practices Guideline (the AMF version of the FCT Guideline) has not been updated since 2013, and so the time had arrived for a revision, which will occur later this year. There will be a 4 to 5 week window for consultation with industry and stakeholders. She said that governance would be critical to the AMF's approach, and they were looking for tools to deal with concerns, some of which she said included remuneration based on sales volume alone, or product design based on profitability alone and not taking into account customer needs. Insufficient point of sale information for customers was another area of concern. The AMF's findings from its Fall 2017 consultation on Managing Conflicts of Interest With Respect To Incentives would be shared with the CCIR.

Turning to the CCIR Annual Statement on Market Conduct, Ms. Gauthier said that compliance (completion of the survey as mandated) had dropped somewhat, from 90% in 2017 to 87.5% in 2018. To date, 40 companies have not filed, but some of these may have had technical filing issues and so the compliance number may improve.

On the issue of innovation, Ms. Gauthier said the objective has to be a balance between fostering innovation without compromising on customer protection. Quebec's Bill 141 is trying to address some of these very issues. She said a key for the AMF is to acquire the internal skills and knowledge so that they can better understand some of these emerging developments and effectively respond to them. For example, the AMF has a Fintech Working Group with 60 people who can advise the AMF on a variety of issues, including funding platforms, mobile platforms, blockchain, regulatory technology etc. There is also a new AMF Fintech lab that helps the AMF enhance its understanding of some of these issues. She said that some companies are proactively sharing their innovation projects with the AMF, and that is extremely helpful to them.

Turning specifically to Bill 141, Ms. Gauthier said that it was currently under debate in the Legislative Assembly, and that would continue until June 15, 2018, after which Bill 150 would be reviewed. She emphasized that Bill 141 completely authorizes the online sale of insurance, so long as the customer is given access to an advisor if he/she requests one. She said that there was some strong opposition to the ability to sell insurance online, and that amendments had been proposed to Bill 141 to ensure that the level of consumer protection remains the same. She said that "insurers will have to register as a firm if they want to sell insurance online" (*NB—this is not the legal interpretation that CAFII has received and this statement will require further study*). She added that if Bill 141 is adopted, the next step will be consultations on the development of regulations to implement it.

On Bill 150, Ms. Gauthier noted that it was a Budget Bill which focuses partially on limiting the ability to traffic in life insurance products—something she said was already allowed, with the Bill intending to develop rules and a regulatory framework around this activity. She said these provisions may be subject to amendments, and there will be greater clarity about that after the National Assembly begins its legislative review of the Bill after June 15, 2018.

David Sorensen, Deputy Superintendent of Insurance Regulation and Market Conduct, Treasury Board and Finance, Government of Alberta

David Sorensen noted that there are \$6.5 billion in annual life and health premiums in Alberta. He stated that there were concerns in Alberta with "harmful marketing practices" in the creditor's group insurance space. A Restricted Insurance Agent (RIA) might sell these products, and they needed to understand what they were selling.

He then specifically mentioned the case of a short term loan with an insurance protection component that was weaved into the premium. He cited cases where the client determined that they were paying more in premium than the value of the loan, and tried to cancel the insurance, but had difficulty doing so. Mr. Sorensen then referenced BC FICOM cease and desist order for a related creditor group insurance practice by payday lenders, and also cited the AMF's recent fines imposed upon Canada Life and Manulife for credit card practices. Mr. Sorensen also cited concerns around whole and universal life insurance policies where the original advisor was no longer working, and when the policy-owner, perhaps at a time when the policy had come to maturation, tried to get information from the insurance company directly but encountered challenges in doing so. Insurance companies need to do a better job at assisting clients in those situations, he said. Mr. Sorensen also touched on the issue of trafficking in insurance contracts and the restrictions on this practice in Alberta.

Mr. Sorensen said that the FTC exercise was about producing desirable outcomes in the industry, consistent with the expectations of the regulatory authorities. The industry should develop and market products that take into account the needs of consumers.

Mr. Sorensen said that one area that concerned him was that some companies, in responding to the Annual Statement on Market Conduct, self-reported a very low number of complaints, when they are the source of multiple complaints escalated to the regulator—how, he asked, could that be? Mr. Sorensen also said that insurtech will be a challenge for regulators—what is insurance, and how do the regulators properly respond to the new challenges from new technologies?

Mr. Sorensen also touched on the current effort to explore implementing a single financial services regulator in Alberta. He emphasized that this effort was in its early stages, nothing had been decided, and the industry would be consulted.

Workshop on Travel and Travel Complaints—Joan Weir, Director, Health and Disability Policy, CLHIA

Joan Weir spoke about the variety of travel insurance issues that CLHIA had been reviewing, most specifically efforts to address CCIR Travel Insurance Working Group (TIWG) concerns. These included efforts to improve policy wording and to simplify language. Ms. Weir noted that CLHIA had recently conducted a series of focus groups and the results were useful in the work being conducted. There was a particularly high level of concern around definitions and language, with consumers feeling that policy definitions were not clear and that the language was meant to protect the insurer at the expense of the consumer. Ms. Weir touched upon CAFII's Travel Medical and Health Insurance consumer survey from 2015, and noted that CAFII and THiA were participants with CLHIA on some of the industry efforts to address regulatory concerns. Finally, Ms. Weir touched on the issue of problems reported in the media, and which had raised concerns bureaucratically and politically in Ontario, around the repatriation of Ontario patients from out-of-Canada locations, and highlighted some of the short term and long term strategies to deal with this issue.

3 May 2018

Quebec Update

Pierre-Alexandre Archer, Legal Counsel, Industrial Alliance Insurance and Financial Services Inc.
Lyne Duhaime, President Quebec Affairs and Senior Vice-President Distribution

Panel participants provided an overview of Bills 141 and 150. The overall tone can be characterized as an environment filled uncertainty and fluidity; both participants said that there was no certainty that the Bills would pass; and, in particular, Bill 150 was going to undergo review by the Legislative Assembly in a very short time-frame, and that would produce risks around its passing. There was also a fair amount of complexity around the Bills, for example some of the provisions of Bill 141 will be amended by other provisions of Bill 150, if Bill 150 is passed. Bill 141 must be adopted by the Legislative Assembly of Quebec by 15 June, 2018, which is itself a very tight timeline. A major element of Bill 141 is to provide a regulatory framework for oversight of electronic commerce in insurance, which the AMF has had on its radar screen since 2012, and about which it issued a report in 2015 (*l'Offre d'assurance par internet au Québec, AMF, 2 avril, 2015*). Bill 141 completely authorizes the sale of insurance on the Internet. Insurers who want to sell via the internet have to register as a firm, although not everyone agrees with that interpretation of the Bill.

Some provisions of the Bill allow for “temporary insurance” until a final contract is signed, and if a consumer purchases insurance without a licensed advisor, they can cancel it within 10 days of purchase. The industry, including the CLHIA, has pushed back on this provision, so far unsuccessfully. For example, this provision, as currently worded, would have unintended consequences for travel insurance—a consumer could purchase travel insurance, go on their trip for one week, then if they did not use the insurance, could then cancel it for a full refund.

The Distribution Guide will be replaced by a general information obligation. The AMF will create a legal framework for this obligation. So the next step in this process, if the Bills pass, will be the development of the detailed Regulations by the AMF required to enforce the Bills.

Workshop on Current Issues in Alternate Distribution—Denis Martel, Vice-President Compliance, American Health and Life Insurance Company; Erin Vong, Director, Compliance, Client Solutions, Sun Life Financial Inc.; Moira Gill, TD Insurance

There was an interesting and engaging discussion of creditors group insurance, with discussion on the size of this sector of the industry (see Table One), the way this insurance works, and the regulatory environment including the provisions in the provinces with a Restricted Insurance Agent (RIA) regime. A recurring theme that was emphasized was the critical importance to the industry of regulatory harmonization to the greatest extent possible in the different provincial and territorial jurisdictions that regulate the industry.

Table One

Alternate Distribution 101

Industry Overview

	Premiums				
	\$ millions	% of Total	Growth Year/Year %	Estimated Growth 5-Yr Total %	Estimated Growth 5-Yr CAGR %
Group Creditor	\$ 5,638	72.9%	-0.1%	15.9%	3.0%
Group Non-traditional	782	10.1%	-2.2%	4.8%	0.9%
Individual	1,316	17.0%	8.0%	15.7%	3.0%
Total Alternate Distribution	\$ 7,736	100.0%			
Alternate Distribution	\$ 7,736	12.8%	1.0%	14.7%	2.8%
Industry Total (excl. AD & Annuities)	\$ 45,517	75.4%	7.2%	26.2%	4.8%
Industry Total – All Channels	\$ 60,399	100.0%	6.6%	23.9%	4.4%

At the end of the presentation, Anatol Monid from FSCO stood up, said he was glad to hear that everything was so positive in the industry, and said that he wanted to give industry a “heads up” that later in 2018 FSCO would be conducting a review of creditors group insurance to confirm that there was full compliance with expectations.

4 May 2018

Saskatchewan Legislative Update—Ron Fullan, Executive Director, Insurance Councils of Saskatchewan

Ron Fullan provided an entertaining review of the Saskatchewan Insurance Act revision process. He noted that the Act had not been reviewed in a very long time, and it was ripe for an update. He said that the ICS was an active stakeholder, but it was acting in an advisory role alone, with all final decisions up to the Government of Saskatchewan. The Act is focused on intermediaries in insurance and the expectations of them. The goal is to have completed the bylaws needed to support the legislation by the end of Q3 2018, with the Act slated to be proclaimed into force on January 1, 2019. Among the provisions of the Act is an expanded definition of an insurance agent, as well as new license types (insurer’s representative; MGA; Third Party Administrator). The ICS will now have the ability to audit, and the fees it can impose will be increased.

Provincial Insurance Councils Panel

Joanne Abram, Chief Executive Officer, Alberta Insurance Counsel

Joanne Abram noted that the AIC is looking at overhauling its processes around audits for E&O insurance for licensees, and at audits around confirming that continuing education expectations are met by licensees. For the past few years, the AIC has worked with insurance companies to confirm the information provided. In 2017, 4,000 audits were conducted, with only 14 suspensions. Renewals of licenses are now all done online. The challenge is that the AIC does not have the resources to confirm the accuracy of every submission—in 2017, the AIC issued 57,000 certificates. The regulatory regime has not kept pace with evolutions in the distribution model in the industry. Salespeople have to be knowledgeable about the products they are selling. The Life Insurance Council feels that it is important that there be common definitions that everyone uses. The Government of Alberta is continuing to explore the concept of a single financial regulator. If this does come to fruition, the Alberta Insurance Council would be integrated into the single regulatory body. The timeline for achieving this is aggressive, with a short consultation period before an early 2019 implementation.

Ron Fullan, Executive Director, Insurance Councils of Saskatchewan

The ICS has developed a new strategic plan which includes responding to the new Saskatchewan Insurance Act; an audit strategy which will start with the P&C side of the industry in late 2019; better collaboration with CISRO and with industry; and enhanced consumer awareness. The ICS is also going to start working on succession planning for Ron Fullan, likely over the next two to three years. Mr. Fullan mentioned that the ICS is working with the CLHIA and CAFII on an RIA Advisory Committee, with the intention of having this in place by January 2019. Mr. Fullan also mentioned that the CCIR / CISRO draft Guideline on the Fair Treatment of Customers was just released the day before, with a consultation period now underway until June 18, 2018.

Barbara Palace Churchill, Executive Director, Insurance Council of Manitoba

E&O insurance is an issue and has caused some agents to see their licenses revoked. Some agents incorrectly believe that if they are not actively selling insurance, they don't need to have E&O insurance. There are 15,000 license holders in Manitoba. The ICM is currently looking at providing a new online system for new applicants to receive their license. Some of the areas that are challenges are regulating certain components of the industry which do offer insurance, yet don't think of themselves as insurance providers—for example, car dealerships, funeral directors, and travel agents. Another challenge is distinguishing between insurance and warranties.

Janet Sinclair, Executive Director, Insurance Council of British Columbia

Janet Sinclair reported that she has now been in her role for six months. A Task Force has been struck to look at the approach to confirming that continuing education expectations are being met. The Insurance Council of BC now accepts credit card payments online, and will be publishing a new, easier-to-navigate website in June 2018.

The Council's objective is to always try to resolve issues well before the disciplinary stage is reached.

The BC Ministry of Finance is seriously contemplating a Restricted Insurance Agent (RIA) licensing regime for more than just travel agents. The Government will make that decision and if it does come to pass, the Insurance Council will focus on ensuring the highest degree of harmonization with the regimes in place in other Western Canada provinces. Ms. Sinclair mentioned the B.C. Recommendations Paper reference to "post-claims underwriting" (Recommendation #47) —one of the issues we raised with her in our private meeting—and she said that this may be about properly communicating about products to consumers so that they understand what they are buying, and are not surprised at the time of claim.