

Agenda Item 4.8
June 4/19 Board Meeting

Insights From May 17/19 CAFII Dialogue With Harry James, BC FICOM, Re Industry Funding Of New BC Financial Services Authority (FSA)

Move To New FSA Is About Recruitment, Retention, And Resourcing Needs

On May 17/19, a delegation of CAFII representatives met with Harry James, Senior Regulatory Advisor at BC FICOM, to receive an update on plans for industry “self-funding” of BC’s new Financial Services Authority (FSA) – and independent, arms-length, Crown Corporation which will replace the BC Financial Institutions Commission sometime in 2019.

Mr. James advised that the original intention was that a consultation paper outlining the proposed FSA funding model would have been available by that point in time; however, the paper was not quite yet ready for release. It was agreed, however, that meeting at this time, when Harry was in Toronto, still provided an opportunity for a high-level, initial update on the key issues at play.

Mr. James asserted that the move to a new FSA was less about changing the regulatory model, and more about creating a solution for recruitment, retention, and resourcing issues which had plagued FICOM. Part of the rationale for moving to a new independent, Crown Corporation regulator “self-funded” by the industry is that doing so would free the regulator from restrictions that severely constrain what FICOM can do as a government entity.

The new FSA model, Mr. James indicated, will provide the opportunity to offer better salaries, and address the recruitment and retention issues that have plagued FICOM, which operates which currently operates with a very high employee vacancy rate. He noted that the complexity of the regulatory responsibilities of FICOM, and soon the FSA, require strong talent, especially as an integrated regulator that oversees mortgage brokers, credit unions, insurance, and pension plans.

He explained that FICOM has a CEO (Tara Richards) as well as a government-appointed Commission (Board) that has statutory responsibilities. As such, many of the powers with which the FSA will be imbued are already in existence. The existing FICOM Commission will transfer over to the FSA, if Commissioners wish to retain their positions; and there is existing insurance expertise on the Commission, including Commission Chair Michael Grist (formerly a FICOM staff member) and Commission member Gerry Matier (former Executive Director, Insurance Council of British Columbia).

As a Crown Corporation, Mr. James continued, FSA will have a self-funding model, and this will require a change to the funding formula. In particular, the intention is to move from the current fee structure based on assets to one based on direct written premiums.

Mr. James said that this was a more equitable and sensible approach, because asset size did not represent the extent of business done in B.C., nor the level of market conduct activity or regulatory oversight required.

Mr. James particularly noted that credit unions have likely been overpaying relative to insurers in the current model, and the new model would correct that and result in a fairer approach. He also noted that the Crown Corporation model meant that services that were offered to FICOM by the government, including HR and IT support, would now either have to be paid for or brought in-house, which would create new costs for the FSA.

Currently FICOM's high staff vacancy rate has resulted in end-of-year financial surpluses, which are returned to general government revenue, leading the industry sectors which pay FICOM fees to feel frustrated that they are charged more than needed and not refunded for the surplus.

The intention is to avoid this situation in FSA by having higher staff complements. Currently, the full staff complement for FICOM is 170 employees, and it is expected that will increase modestly (10-20 additional staff) under the FSA. In particular, it is expected that staff resources for thematic regulatory examinations/audits will be increased to 10 to 15 people.

In addition, FICOM's fees have not changed since 1988 and that also needs to be addressed as part of the move to the new FSA.

Mr. James advised that the FSA's self-funded fee model will be a baseline fee charged to all players, along with a "premium escalator" which will be an additional fee based on the premiums collected by business entity from its BC-based business. It is expected that the premium escalator will increase modestly from year-to-year for the first few years of FSA's existence.

Mr. James acknowledged that the FSA's new fee structure will have a "significant impact" on many industry players, especially relative to what they are currently in BC FICOM annual assessments.

With respect to a comparison between Ontario's new Financial Services Regulatory Authority (FSRA) and the new FSA in BC, Mr. James did not feel that FSRA's desire to develop a new culture and replace senior leadership with new people would be replicated in BC. The new FSA would seek to retain most of FICOM's leadership and staff, he said, to avoid loss of knowledge and experience.

A consultation paper on the proposed fee structure for the new FSA should be out soon, with likely a 45-day consultation period, Mr. James advised; coupled with an aggressive timeline for the new FSA to be up and running by September or October 2019.

New Financial Services Authority (FSA) To Replace BC FICOM

The following is an April 5/19 BC media report which provides background and analysis into the BC Ministry of Finance's April 4/19 announcement that legislation had been developed to create a new BC Financial Services Authority (FSA) – and independent, arms-length, self-funded by industry Crown Corporation – to replace the BC Financial Institutions Commission (FICOM):

British Columbia is set to get a new Crown agency that will oversee financial services and regulate the likes of credit unions, mortgage brokers, pension fund managers and trust companies.

Legislation tabled by Minister of Finance Carole James will establish the B.C. Financial Services Authority (FSA), which will replace the Financial Institutions Commission (FICOM).

The change is a result of deficiencies in FICOM found by the Office of the Auditor General of B.C. in 2014, as well as an independent recommendation in 2017.

As a Crown agency, the new FSA will be able to regulate financial services in a more transparent and independent fashion, according to the government.

FSA will be at arm's length to the Ministry of Finance, which will still appoint FSA's Board of directors. As well, the Ministry will provide an annual mandate letter to FSA. The Board will be responsible for appointing a CEO. FICOM's current CEO is Tara Richards, and it's understood a new appointment process will be in place for FSA.

The FSA will be responsible for its own annual reports and may be given rule-making powers.

FICOM's existing mandate is to ensure credit unions and pension plans remain solvent; credit union deposits and non-equity shares are insured; market conduct requirements are respected; and "unsuitable individuals" do not participate in the financial services sector.

Previously, FICOM fell under the direct auspices of the Ministry of Finance. One glaring problem found by the Auditor General was significant vacancy in staff positions because salaries were capped under government rules. The auditor general found 35% of positions were vacant. The commission now reports only 15% of positions are vacant.

As well, the Ministry directly oversees FICOM's budget, funded by industry fees, and any excess funds were returned to the ministry at year end. Now, FSA will be able to set its own parameters and keep excess funds to apply to regulation costs.

The Auditor General also found existing legislation failed to keep up with international industry standards.

Government will also still have the power to alter the two key pieces of legislation that FSA will abide by: the Financial Institutions Act and the Credit Union Incorporation Act. These two Acts have been undergoing a review since 2015 and could provide for rule-making powers under the umbrella of legislation. Those reviews should take place every 10 years. The last reviews were conducted in 2004.