
DRAFT ONLY

July 28, 2017

Ms. Sandy Roberts,
Director, FSRA Implementation Secretariat
Ontario Ministry of Finance
Frost Building North, Room 424
95 Grosvenor Street, 4th Floor
Toronto, ON M7A 1Z1

Dear Sandy:

The Canadian Association of Financial Institutions in Insurance (CAFII), as a key stakeholder in the province's life and health insurance sector, thanks you for the June 29, 2017 liaison meeting which our Association had with Stuart Wilkinson, Senior Manager, FSRA Implementation Secretariat, and Paul Braithwaite from the Ministry of Finance.

We're sorry that you were not able to attend yourself, due to unforeseen circumstances which arose that afternoon; and we look forward to another opportunity to meet with you in-person and make your acquaintance, in the not-too-distant future.

As suggested and agreed-upon in the meeting, we are now pleased to follow-up in writing by providing an *About CAFII* overview; and our *Recommendations/Comments Re FSRA's Regulation Of Ontario's Life and Health Insurance Sector* in writing.

About CAFII

CAFII is a not-for-profit industry Association dedicated to the development of an open and flexible insurance marketplace. CAFII was established in 1997 to create a voice for financial institutions involved in selling insurance through a variety of distribution channels, i.e. client contact centres, agents and brokers, travel agents, direct mail, branches of financial institutions, and the internet. CAFII members offer travel, life, health, property and casualty, and creditor's group insurance across Canada.

CAFII believes that consumers are best served when they have meaningful choice in the purchase of insurance products and services. Our aim is to ensure that appropriate standards are in place for the distribution and marketing of all insurance products and services.

There are two key areas of focus for CAFII, as the things that bring our members together in common cause within this industry Association. Those focal issues are creditor's group insurance (CGI); and alternate, direct distribution of CGI and other forms of life and health insurance without the necessary involvement of an advisor.

CAFII's full members are the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Financial Security; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players American Express, Assurant Solutions, Canadian Premier Life Insurance Company, and The CUMIS Group Ltd.

All CAFII members are also members of the Canadian Life and Health Insurance Association (CLHIA). But it is our precise focus on CGI and alternate distribution which differentiates CAFII from CLHIA. The parallel Association to CAFII on the property & casualty side of the insurance industry is the Canadian Association of Direct Relationship Insurers (CADRI).

Our 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) to develop a legislative and regulatory framework for the insurance sector that helps ensure Canadian consumers get the insurance products that suit their needs.

CAFII Recommendations Re FSRA's Regulation Of Life and Health Insurance Sector

(a) FSRA's mission and mandate must strike that "right balance."

CAFII fully supports the Expert Panel's recommendations that the new FSRA should

- have a mandate that strikes a balance between strong and effective consumer protection, on the one hand, and fostering a strong, vibrant and competitive financial services sector, on the other hand. And that mandate should also be one which includes a commitment to encourage innovation and transparency within the regulated sectors; and
- the new FSRA should also be a nimble, flexible and innovative regulator which ensures that consumers have a consistently high level of service and protection, without burdening market participants with undue regulatory costs or complexity.

(b) FSCO's regulation of the life and health insurance sector has generally been sound, efficient, and effective.

There is nothing in FSCO's regulation of the life and health insurance sector of the industry that is fundamentally flawed; and nothing in our sector which now must be "blown up" or undergo a radical fix under the new FSRA.

The shortcomings identified by the Auditor General of Ontario in her 2014 Report were rooted in insufficient resources and/or insufficient allocation of existing resources to supervising life agents, rather than to any gaps in FSCO's regulatory expertise or competency. A similar determination was reached by the IMF in its 2013 Financial Sector Assessment Program (FSAP) Report on FSCO, which was generally positive about its performance.

(c) CAFII believes that FSRA should be a principles- and risk-based regulator with appropriate representation from the life and health insurance sector on its Board.

CAFII strongly supports the Expert Panel's recommendation that the new FSRA should be required by statute to take a risk-based and outcomes-based approach to regulation. By that, we mean a regulatory system which steers clear of placing unnecessary impediments in the way of product, distribution, and service innovation.

The risk-based system adopted by all provincial/territorial members of the Canadian Council of Insurance Regulators (CCIR), including FSCO, several years ago is commendable and produces desired results; it should not be varied from lightly. It allows regulators to allocate resources to the issues or industry players which pose the greatest risk, thereby making best use of their finite resources and their regulation more efficient.

Principles and risk-based regulation is also at the heart of the CCIR's new Framework for Co-operative Market Conduct Supervision in Canada and the related Harmonized Annual Statement on Market Conduct.

In that connection, we believe that in its regulation of the insurance industry, FSRA should continue FSCO's embrace of the International Association of Insurance Supervisors' (IAIS) Insurance Core Principles, in addition to the OECD's G20 High-Level Principles on Financial Consumer Protection which the Expert Panel referenced.

- (d) CAFII strongly agrees with the Expert Panel's recommendation that if FSRA is granted rule-making authority, rules should be drafted with significant stakeholder/public input and dialogue; and be subject to a rule-making process set out in the statute and to timely review by the Minister of Finance

Where a substantive rule change is being contemplated in any jurisdiction, CAFII always likes to see the proposed rule published for public consultation before adoption, following which the relevant Minister can either consent to or reject the proposed rule.

- (e) Where insurance distribution channels differ (e.g. the advisor channel versus the alternate/direct distribution channels in the life and health insurance sector), FSRA's objective should be similarity of outcomes for the consumer and not similarity of rules

One of the questions posed in the Life and Health Insurance Sector Roundtable hosted by the Expert Panel in July 2015 was this: there are many differences related to the licensing, regulation, enforcement practices, and errors & omissions insurance requirements for the various insurance distribution channels. How might a regulator effectively reconcile these differences to ensure that consumers are adequately protected?

On this key matter, CAFII supports the CLHIA's view that trying to reconcile or harmonize away differences in regulatory approaches that are warranted due to differences in distribution channel is not the way to go, and will do nothing to enhance consumer protection. Rather, where distribution channels differ, the objective should be similarity of outcomes for the consumer and not similarity of rules.

- (f) Any self-regulatory body created by FSRA should be channel-neutral

If the FSRA is given authority over, and responsibility for, the oversight of self-regulatory bodies (Expert Panel's Recommendation #9), CAFII strongly recommends that should any such bodies be created by the FSRA (e.g. an Insurance Council akin to those that exist in the four Western Canada provinces), they should be "channel neutral".

That is, any such SRO or Council should be designed such that the interests of all distribution channels are well-served and the representatives of any particular channel are not in a position to make decisions which could negatively affect or disadvantage competing channels.

It would be inappropriate for any SRO to be delegated authority for regulating another distribution channel(s) that competes with its members (e.g. Advocis' proposal to become the Delegated Administrative Authority (DAA) for all life insurance agents in Ontario).

Similarly, if a decision is made to create an Insurance Council(s) with responsibility for regulating and disciplining licensed agents, CAFII sees it as fundamental that the design of the Council(s) be such that interests of all distribution channels are well-served and the representatives of a particular channel are not in a position to make decisions which could disadvantage competing channels.

(g) With respect to federally regulated Authorized Insurance Products, the current approach to regulation is working well

With respect to banks' distribution of federally regulated Authorized Insurance Products, CAFII believes that the current approach to regulation of these products is working well. Consumers are well-protected through CAFII members' compliance with the Canadian Bankers Association (CBA) Code of Conduct for Authorized Insurance Activities.

This Code – part of the CBA's suite of Voluntary Commitments and Codes of Conduct – applies to all authorized insurance products promoted in Canada. The CBA's Voluntary Commitments and Codes of Conduct are non-legislated commitments that banks have made to their customers in a number of areas. The banks' federal consumer regulator, the Financial Consumer Agency of Canada, oversees the banks' compliance with them.

All CAFII members also follow relevant CLHIA Guidelines, including Guideline G7 Creditor's Group Insurance, G9 Direct Marketing, and G7 Travel Insurance.

(h) CAFII agrees with the Expert Panel's recommendation that FSRA's role in national regulatory co-ordinating bodies should be incorporated within its mandate, with a requirement that the work done by these groups be reported back to its governing body

CAFII strongly recommends that FSRA should continue FSCO's leadership participation in national co-ordinating bodies such as the Canadian Council of Insurance Regulators (CCIR) and the Council of Insurance Services Regulatory Organizations (CISRO). CAFII works closely with both organizations and has found them to be very effective in sharing knowledge and best practices, and encouraging harmonization of regulations across the country. This results in strong consumer protection and makes it more efficient for our members to conduct business and that ultimately provides consumers with better access to the valuable products our members provide.

As a leader within CCIR and CISRO, FSCO co-ordinates collegially and seeks out harmonized approaches. It consults proactively with life and health sector stakeholders as well as with consumer groups and other stakeholders. All of that contributes to a strong, sound and competitive life and health insurance sector that protects Ontarians.

Conclusion

CAFII appreciates the opportunity to provide our recommendations and comments to the FSRA Implementation Secretariat in writing; and we look forward to further consultation opportunities to provide input as your team continues its work. Should you require further information from CAFII or wish to meet with representatives of our Association at any time, please contact Brendan Wycks, CAFII Co-Executive Director, at brendan.wycks@cafii.com or 647-218-8243.

Sincerely,

Peter Thorn
Board Secretary and Chair, Executive Operations Committee