

CAFII Questions and Clarification Issues Related to Implementation and Licensing Expectations Arising from FCNB Rule INS-001; and Compliance Obligations Related to the Rule

Discussion Summary of February 24/23 Virtual Meeting Between CAFII and FCNB (David Weir and Catherine Haines)

<u>Section</u>	<u>Issue</u>	<u>Request</u>	<u>Outcome of Discussion with FCNB</u>
Definitions (including “employee of a restricted insurance representative) and Exemptions for Individuals (Sections 3 and 4)		CAFII would like to receive a confirmation from FCNB that, given the provisions set out in Rule INS-001, in both the Definitions and Exemptions for Individuals sections, all FI employees who may be involved in a <i>bancassurance</i> business of offering optional credit protection insurance and travel insurance to New Brunswickers would be covered under a corporate Restricted Insurance Representative licence, and none would have to be individually licenced.	<p>Response/Discussion Summary: FCNB said that the intention is for the corporate license, issued to the organization, would cover individual representatives. There might be some confusion about third party entities (such as outsourced, third party contact centres) and FCNB is trying to align its Restricted Insurance Representative (RIR) regime with other RIA regimes in Canada on those matters.</p> <p>We may need to clarify whether outsourced, third party contact centres need to get their own RIR licence; or whether an FI distributor’s own corporate RIR license would cover such outsourced, business partner entities.</p> <p>Independent, third party contact centre services providers, such as Optima Communications, may need to apply for their own RIR licences.</p>

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33 (1) and Definitions	<p>Section 33 (1) of the Rule seems to indicate that a Restricted Insurance Representative licence is required to sell "mortgage insurance", which is defined as "insurance against loss caused by default on the part of a borrower under a loan secured by a mortgage or charge on, or other security interest in, real property". See definitions ("mortgage insurance" means insurance against loss caused by default on the part of a borrower under a loan secured by a mortgage or charge on, or other security interest in, real property) and 33 1 (j) - mortgage insurance. However, s.33(1) says this: "The Superintendent may issue a [RIR] license for...(j) mortgage insurance". The use of "may" indicates that the Superintendent might not issue this type of license, but has the authority to introduce it.</p>	<p>Is Rule INS-001 intended to require financial institutions to have a Restricted Insurance Representative licence in order to offer federally-mandated mortgage default insurance, i.e. a bank would have to have that licence to permit its staff to offer CMHC, Genworth or Canada Guarantee products when a high ratio mortgage exists?</p> <p>There is a lack of clarity about what "mortgage insurance" means and CAFII would like to receive a clarification from FCNB that mortgage default insurance (federally mandated when a home purchaser's down payment is less than 20% of the purchase price) is not captured by Rule INS-001.</p>	<p>Response/Discussion Summary: FCNB said that this was a non-issue because an RIR-licenced distributor of insurance's parent bank/FI, whose representatives would be offering mortgage default insurance (federally mandated for customers with less than a 20% down payment on residential real estate), would be covered by the same corporate RIR licence (which would be issued under the parent bank/FI's name) and so would be able to offer this insurance under that licence.</p> <p>FCNB is capturing mortgage default insurance in Rule INS-001, but nothing new needs to be done as a single corporate RIR licence covers all units within the same company.</p>
37 (Obligations for restricted insurance representatives)	<p>This is the requirement for a Restricted Insurance Representative licence holder potentially to have to provide FCNB with a list of the names of all individuals who have engaged or are engaging in the</p>	<p>In an information-sharing debrief with CLHIA counterparts, following their recent clarifications meeting with FCNB, CAFII learned that FCNB had indicated that it expects that in 9 out of 10 cases where it might make such a request, providing a</p>	<p>Response/Discussion Summary: FCNB said that it would normally be seeking just a numerical range of the number of employees, as this was how it calculated its fees for RIR corporate licence registrants. If a material change in the numerical range occurs during a licence year, that information should be provided to FCNB; otherwise, the information can be updated at renewal.</p>

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	business of insurance on behalf of the licence holder.	<p>numerical range of the number of employees, rather than a list of the individual names, would suffice.</p> <p>CAFII would like to receive a clarification from FCNB as to how often would this information possibly be requested?; and would it ever be expected to be proactively provided by the Restricted Insurance Representative if material changes in numbers or headcount occur?</p> <p>Will FCNB be communicating that clarification information to the industry via a Clarification Bulletin?</p>	No Clarification Bulletin on this matter is envisioned as this time.
35(1)(d)	<p>Licensing criteria – restricted insurance representative – (d) <i>provides the address of the head office and any branches soliciting, negotiating, selling or arranging insurance in the Province),</i></p>	<p>How often does this have to be provided? e.g. at the time of initial licence application and at licence renewal only? or in real time whenever any changes are made to the head office or branches?</p> <p>This constitutes a very long list for the large bank FIs, even in the province of New Brunswick with a relatively small population.</p>	<p>Response/Discussion Summary: FCNB would want to know if there were significant changes to the list of branches; otherwise, this information can be updated at time of licence renewal.</p> <p>In the FCNB portal, if a branch’s exact date of opening is not known with certainty, an RIR applicant can enter an estimated date and state that this question has been answered in good faith.</p>
39(a); See also Applying for a Restricted Insurance Representative license via the FCNB Portal (1)	<p>A restricted insurance representative shall take reasonable steps to ensure that it: (a) is not engaging an employee of a restricted insurance representative who has had an insurance license refused, revoked or suspended, unless the</p>	<p>There are significant challenges around the vetting/not engaging of new employees (who will be offering CPI) with respect to the obligation around inquiring about previous insurance license declines, revocation, adverse actions. This is not something that is currently done and it will be difficult to implement.</p>	<p>Response/Discussion Summary: Generally, FCNB was understanding of the concern being raised, but also said that it wanted to avoid a situation where rogue agents were offering insurance. It “is not asking for perfection, and will be taking a light touch to enforcement.” Good faith interpretations are what are being requested. FCNB wants industry to operate on a “best efforts” and “reasonable steps” approach.</p>

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	<p>Superintendent gives prior written approval;</p>	<p>From an HR perspective, when onboarding FI employees or engaging third parties, the industry does not ask such questions or go to this level of detail when hiring an employee who may, as just one part of their responsibilities, be offering/distributing CPI.</p> <p>CAFII views a stated FCNB rationale for this section – “We don’t want someone who had their individual insurance agent licensed revoked then walking down the street to work for a Restricted Insurance Representative employer” as being highly implausible. Why would a former insurance agent want to go to work in an FI and sell mortgages, credit cards, and CPI? That just doesn’t make sense.</p> <p>FI branch representatives primarily sell financial services – loans, mortgages, credit cards, safety deposit boxes, and overdraft protection. They only offer CPI when it is appropriate to do so, to support an underlying consumer debt obligation. Offering CPI is a very small part of the job of an FI financial services representative.</p>	<p>FCNB said it would look favourably upon any effort to “do due diligence.”</p> <p>Guidance from CAFII: Based on the feedback from FCNB, we believe that a best efforts, good faith approach will be deemed acceptable. Therefore, as part of the process for obtaining or renewing an RIR licence, the individual completing the company’s application on the FCNB portal could simply ask this question of the corporate HR department: “Are you or your reports aware of any employee who will be offering insurance under this RIR licence who has had an insurance licence refused, revoked, or suspended in any jurisdiction?” If the answer is No, that should satisfy the FCNB’s due diligence requirement.</p>
43 (b) and (d)	<p><i>43. A restricted insurance representative, or an employee of a restricted insurance representative, shall provide the insured in writing, within 20 days</i></p>	<p>CAFII would like to receive a confirmation from FCNB that with respect to credit protection insurance/creditor’s group insurance (CPI), a welcome letter and fulfillment package that confirm the</p>	<p>Response/Discussion Summary: FCNB did not seem to have any concerns with the approach CAFII was proposing. The FCNB officials said that RIR licensees should do for New Brunswick consumers what we do in other RIA regime jurisdictions. FCNB is not trying to do something different.</p>

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	<p><i>of the insurance coverage coming into force, with all of the following:</i></p> <p><i>(a) the disclosure set out in paragraph 42(a) and (b)</i></p> <p><i>(b) the application and documentation describing the insurance;</i></p> <p><i>(c) the policy or, in the case of group insurance, the certificate;</i></p> <p><i>(d) written documentation that evidences the insurance.</i></p>	<p>customer’s enrolment in the group insurance policy, together with the certificate of insurance, would suffice to comply with sub-sections (b) and (d).</p> <p>It would be overly burdensome and not customer-friendly to have to provide a call transcript for phone enrolment in CPI or an IT document for a digital enrolment. A customer’s opting to enrol in CPI coverage doesn’t involve a lengthy application with medical questions etc.; all that the FI distributor obtains is the customer’s consent.</p>	<p>However, FCNB would frown upon “trying to bury or hide information.”</p>
44	Disclosure having to be made in a “prominent manner”	CAFII requests greater clarity on what “prominent manner” means exactly.	Response/Discussion Summary: FCNB said that “prominent manner” simply means not using very small type for required disclosures, and not trying to hide such information.
45(1)	If a restricted insurance representative, or an employee of a restricted insurance representative, receives, or will receive any direct or indirect compensation, inducement or benefit from the insurer that exceeds 30% of the price paid by the consumer for an insurance product, the restricted insurance representative shall, at the time the applicant applies for insurance, inform the applicant of the amount of compensation,	<p>CAFII would appreciate a clarification from FCNB as to how the 30% is to be calculated.</p> <p>Also, what are FCNB’s expectations as to how this disclosure is to be made?; and when is it to be made?</p> <p>Will FCNB be communicating those clarifications to the industry via a Clarification Bulletin?</p>	Response/Discussion Summary: FCNB was quite frank that they were climbing a learning curve on this matter themselves and were not sure how to calculate the 30%. They would appreciate industry’s suggestions as to how it should be calculated; and their intent is to ensure that consumers received important disclosure information about compensation before the sale is finalized. They do not intend to issue a Clarification Bulletin on this matter.

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	<p>inducement or benefit or the basis for calculating the amount of the compensation, inducement or benefit.</p>		
46	<p>This section reads as follows: <i>A restricted insurance representative, or an employee of a restricted insurance representative, shall advise potential clients that he or she is not a licensed insurance agent and that the potential client may wish to seek advice from a licensed insurance agent</i></p>	<p>Given the wording of the concluding Section 123 of Rule INS-001 re “Effective Date,” including its particular reference to “Sections 45 to 53,” CAFII requests a clarification as to whether there are any sections of the Rule, including Section 46, which have yet to be proclaimed into force?; or is the entire Rule already in force?</p> <p>In an information-sharing debrief with CLHIA counterparts, CAFII learned that FCNB indicated that compliance with this clause could be achieved in writing, post- sale, via the fulfillment materials that are sent to the customer (but it must be done/completed within the 20 days free look/review period).</p> <p>CAFII appreciates FCNB’s efforts to identify a more palatable way for our industry sector to comply with what, for our members, is a disappointing section of the Rule which tilts and distorts, in favour of the advice-based channel, what is otherwise a level playing field in the marketplace.</p>	<p>Response/Discussion Summary: CAFII made the point that Canadians are vastly underinsured and uninsured; that anything that stands in the way of a legitimate offer of insurance is undesirable; that the marketplace is very competitive with different products and channels; that the commissioned, advice-based channel is threatened by the direct-to-consumer channel and has made inaccurate comments about it, and would not be a legitimate source of advice about credit protection insurance products; and that this Section was a tilting of the level playing field in favour of the advice-based channel.</p> <p>We asked for the Superintendent to not proclaim/enforce this Clause, which would give FCNB and CAFII time to engage in discussion on a reasonable accommodation solution.</p> <p>David Weir said that FCNB and CAFII would simply have to agree to disagree on this Section. He said that he and FCNB were proud of this Clause, and that it un-tilted the playing field and made it level again, as representatives under a corporate RIR licence can offer insurance without taking the courses, training, etc. that licensed individuals must take.</p> <p>As a result of this discussion, CAFII will be exploring possible other options, given that FCNB appears unwilling to compromise on this issue.</p>

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		<p>While appreciative of FCNB’s solution suggestion, our Association still sees some particular problems with the above-noted proposal, which we would like to discuss with FCNB.</p> <p>CAFII regards Section 46 as the one major stumbling block and impasse issue in Rule INS-001, because it will significantly inhibit our members’ ability to offer simple, accessible/convenient, and affordable insurance coverage and peace-of-mind to New Brunswickers.</p> <p>We implore FCNB to work collaboratively with CAFII and CLHIA – a sister Association which holds the same view as to the negative impact of this Section – to achieve a reasonable accommodation solution, one which addresses our joint objections to Section 46, at the earliest possible point in time.</p>	
<p>Applying for a Restricted Insurance Representative licence via the FCNB Portal (1); <i>See also 39(a)</i></p>	<p>Several CAFII member companies have indicated that they are finding the online licence application process to be very cumbersome and time-consuming, and that it’s set up in such a way that if particular information is not available, they cannot advance to complete any other part of the process, while they wait on others in the</p>	<p>In addition to seeking a solutions- focused dialogue with FCNB as to how the Restricted Insurance Representative online application process can be made more efficient and effective – to address the Issues described in the column to the immediate left -- CAFII recommends to FCNB that it amend the Restricted Insurance Representative online licensing form and flow to adopt a full attestation</p>	<p>Response/Discussion Summary: FCNB seemed open to changing the approach for background checks to a simple attestation. They asked CAFII to solicit feedback from the Association’s members on specific difficulties and problems being encountered on the FCNB portal with respect to applying for an RIR licence (including, where possible, screen shots).</p> <p>FCNB indicated that they would attempt to address such matters quickly after receiving CAFII’s more specific input.</p>

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	<p>organization to gather information that may reside elsewhere, e.g. one section of the application form asks for branch location/address information as well as when each branch was opened.</p> <p>As well, there is an 'attestation' of sorts related to the NB obligation around the vetting of personnel, specific to any of them having previously had an insurance license revoked, refused, etc. As currently constituted, the application requires the Designated Representative to affirm that employees under the requested Restricted Insurance Representative licence <i>have been</i> vetted with respect to not having had an individual license revoked, refused, etc.</p> <p>To have this particular attestation question inserted with just two rather limiting/confining responses is quite challenging. It's not that FIs don't have rigorous employee screening procedures in place, but rather, to insist upon this level of granularity with respect to the FI's</p>	<p>approach to background checks, e.g. rather than having to submit actual documents which establish an individual employee's background, such as a police check, the Designated Representative can provide and sign an attestation that relevant background checks were completed on all employees who will be covered under the restricted licence.</p>	

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	<p>Restricted Insurance Representative licence, for FI employees whose duties include all sorts of activities as representatives of the FI, is very burdensome. This would require an FI to build a process to check whether each employee had ever had their license refused, revoked or suspended; and, if so, to ensure that the FI does not allow them to sell insurance. Additionally, the FI would have to check with all existing employees, rather than just new/incoming employees, which would be quite onerous.</p>		
<p>Applying for a Restricted Insurance Representative licence via the FCNB Portal (2)</p>	<p>The online Restricted Insurance Representative licence application form asks for a very detailed and signed attestation on the part of all Partners, Directors and Officers of the parent bank. To secure that within a large financial institution would be a huge, practically impossible task, and one which is not relevant to the insurance business in question. Meeting that requirement is effectively a non-starter.</p>	<p>Does FCNB have any suggestions or insights as to how the Restricted Insurance Representative online application process can be made more efficient and effective?</p>	<p>Response/Discussion Summary: FCNB is open to reviewing this issue and to looking at an attestation-only approach to satisfying this requirement.</p>

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	Having the Designated Representative complete all required attestations should be sufficient.		
Clarification bulletins		In an information-sharing debrief with CLHIA counterparts, CAFII learned that FCNB had indicated that if the industry felt strongly about a certain issue(s) in Rule INS-001, FCNB would consider issuing a Clarification Bulletin.	Response/Discussion Summary: FCNB will consider issuing Clarification Bulletins -- especially if there is a groundswell of requests for such from multiple industry stakeholders -- but it is not planning on issuing any such Bulletins at this time.