Regulatory Update – CAFII Executive Operations Committee, February 14, 2017

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Federal/National

Financial Consumer Agency of Canada (FCAC)

FCAC Appoints New Members To National Financial Literacy Steering Committee

On February 14/17, Lucie Tedesco, FCAC Commissioner, announced that 15 leaders representing all sectors of the financial services industry had been named to the National Steering Committee on Financial Literacy, chaired by Jane Rooney, Canada's Financial Literacy Leader. The steering committee supports the Financial Literacy Leader in implementing the National Strategy for Financial Literacy—Count Me In, Canada. The first meeting of the new committee was held in Ottawa on February 14.

The new members will build on the work of the first committee, the two-year mandate of which expired last year. They will be leading initiatives and concrete actions that will result in incremental change in the financial literacy of Canadians. The committee will advise the Financial Literacy Leader on emerging trends, issues and gaps in programs and policies, explore solutions to address the needs of Canadians, and share best practices. They will also be required to report on the progress of their sector in moving the strategy forward.

The members of the new steering committee are:

- Camille Beaudoin, Autorité des marchés financiers
- Harold Calla, First Nations Financial Management Board
- Jeff Cates, Intuit Canada
- Terry Campbell, Canadian Bankers Association
- Martha Durdin, Canadian Credit Union Association
- Terry Goodtrack, AFOA Canada (formerly Aboriginal Financial Officers Association of Canada)
- Greg Pollock, Advocis
- Darren Hill, Junior Achievement of Saskatchewan
- Michel Leduc, Canada Pension Plan Investment Board
- Elizabeth Mulholland, Prosper Canada
- Andrew Nicholson, Financial and Consumer Services Commission of New Brunswick
- Kelly Stone, Canadian Association of Family Resources Programs
- Frank Swedlove, Canadian Life and Health Insurance Association
- Joy Thomas, Chartered Professional Accountants of Canada
- Patricia White, Credit Counselling Canada

Canadian Council of Insurance Regulators (CCIR)

CCIR To Pre-Review Travel Insurance Position Paper Recommendations With CAFII

In a January 26/17 call with K. Martin, E. Cloutier and B. Wycks to update CAFII on developments emerging from CCIR's Winter Teleconference Meeting held January 19/17, CCIR Policy Manager S. Jacobs advised that the CCIR Travel Insurance Working Group (TIWG) would like to meet with CAFII and other travel health insurance stakeholders in late February.

Subsequently, on February 7/17, S. Jacobs called B. Wycks to schedule CAFII's stakeholder meeting with the TIWG for February 22/17 from 10 a.m. to 12 Noon.

On February 13/17, S. Manson, Chair of CAFII's Travel Medical Experts Working Group; K. Martin; E. Cloutier; and B. Wycks had an update discussion with S. Jacobs with respect to the upcoming February 22 stakeholder meeting. S. Jacobs advised that

- the agenda focus for CAFII's stakeholder meeting (and for separate stakeholder meetings with CLHIA and THiA) is to go over the draft Recommendations which the TIWG intends to include in its Position Paper on Travel Health Insurance Products (to be released this Spring following review and approval by the full CCIR at its April 6-7 meeting in Toronto) and to get the Association's initial/high level reaction to those recommendations;
- the stakeholder meeting will also include discussion of a co-ordinated/collaborative approach (on the part of CCIR/regulators and industry Associations) to any media interest which may result from the public release of the TIWG's Position Paper, likely to occur in May (it seems likely that CCIR will issue a Media Release and actively seek coverage around the public release of its Position Paper); and
- CCIR will circulate an agenda for the February 22 stakeholder meeting -- along with a high level summary of the draft recommendations to be included in the Position Paper – a day or two before the meeting.

In that connection, any CAFII member who will be attending the February 22 stakeholder meeting with the CCIR TIWG, whether in-person or by phone; or who is a member of a CAFII committee which will be discussing the CCIR TIWG's Position Paper recommendations prior to their public release, is required to sign and submit a Confidentiality Agreement.

<u>CCIR Provides Documents For Launch Of Annual Statement On Market Conduct</u>
On February 8/17, CCIR Policy Manager M. Boyle provided CAFII with the following documents related to the imminent launch of the Annual Statement on Market Conduct:

- final, implementation-ready, PDF copies of the English and French versions of both the Life and Health and P&C versions of the Annual Statement. (Completion of the Annual Statement by insurers required to do so in this 2017 launch year will be done via an Excel version of the document); and
- a background/context-providing Introduction to the Annual Statement on Market Conduct, in both English and French.

<u>CCIR To Offer CAFII Member-Exclusive Information Session on Annual Statement</u>
On February 8/17, CCIR Policy Manager M. Boyle confirmed that CCIR will offer a CAFII member-exclusive information session on the Annual Statement (Life and Health) via webinar/videoconference on March 1/17 from 1:00 to 3:00 p.m. Eastern. The information session will focus on regulators' expectations with respect to the Annual Statement, how they will use the data filed, etc.

A bulletin about the information session was included as part of Annual Statement launch materials which CCIR distributed on February 8/17.

<u>CCIR Provides Updates On Annual Statement From Its Winter Meeting</u>
In a January 26/17 call with K. Martin, E. Cloutier and B. Wycks to update CAFII on developments emerging from CCIR's Winter Teleconference Meeting held January 19/17, CCIR Policy Manager M. Boyle advised that

- in addition to a written/electronic communication in early February which will provide background context and clarifications around the Annual Statement, a further written/electronic communication will be sent to the industry before March 27/17, with more detailed instructions on how to file a completed Annual Statement via the online portal being developed by the AMF, i.e. more technical data about the filing process;
- by no later than March 27/17, the industry will have access to the online portal for filing an Annual Statement return and will be able to familiarize themselves with it prior to the May 1/17 deadline for filing;
- as a separate but related initiative to the Annual Statement, CCIR is working on a new project under the umbrella of the Insurance Core Principles Implementation Committee (ICPIC). This initiative is to develop a "Risk-Based Framework/Model for Insurers' Market Conduct" which will help all jurisdictions across the country in using a comprehensive and consistent model for examining insurers. The linkage between the Annual Statement and this in-development Framework/Model is that if the data from the Annual Statement identifies a risk or a red flag, the new Framework/Model will assist regulators in assessing the insurer appropriately; and
- an automated National Complaint Reporting System notice with respect to filing by the usual January 31 deadline was sent out in error; and then a correction notice was sent out. In actual fact, insurers will not have to file by the former NCRS deadline of January 30, but rather complaints data for the second half of 2016 would be filed through the Annual Statement, which has a deadline of May 1, 2017.

M. Boyle also reiterated the phased-in approach that CCIR has adopted for the first year (2017) of the Annual Statement on Market Conduct, as follows:

In terms of implementation, the CCIR has decided that there will be a limited number of insurers required to file the annual statement for the first year. These insurers are broken down in the following three categories/tiers:

> *1. Insurers comprising the top 80% of market share in premiums for both the life and health and P&C industries*
> *2. Insurers currently filing returns in the Complaint Report System (CRS). These insurers will only be required to complete the sections on governance and complaint reporting.*
> *3. Provincially licensed/registered/authorized insurers requested to complete by the regulatory authority in the province or territory in which they are licensed/registered. This list is currently being developed.*

The CCIR understands that not all insurers are currently collecting all of the information that is sought in the Annual Statement. In instances where an insurer is unable to provide the data that is requested, they are expected to use the space provided under "Comments" to identify the data that is unavailable and provide details as when that data will become available for reporting (i.e., explain the time required to transition/adapt their systems to satisfy the data request).

<u>CCIR Expects To Publish New Strategic Plan After Spring 2017 Meeting</u>
On January 23/17, following CAFII's submission of input for CCIR's 2017-2020 Strategic Plan on January 20/17, B. Wycks received the following acknowledgment from CCIR Policy Manager M. Boyle:

Thank you for providing us with the written submission. These comments from CAFII will be incorporated into the CCIR strategic planning process and will assist us in identifying our priorities and initiatives for the next three years.

Subsequently, in an update call with CAFII on January 26/17, M. Boyle advised that

- only a small number of stakeholders, fewer than expected, provided written input for the new CCIR Strategic Plan, in follow-up to verbal input provided during the Council's December 12-13/16 meetings with stakeholders; and
- CCIR expects to be in a position to publish its new Strategic Plan in the Spring, following its Spring Meeting to be held April 6-7/17 in Toronto.

Canadian Association of Direct Response Insurers (CADRI)

<u>CADRI Input For CCIR Strat Plan Calls For Nimbler, Timely Regulatory Responses</u>
In its submission for CCIR's 2017-2020 Strategic Plan, CADRI recommends that the national co-ordinating body of insurance regulators focus on the same three strategic priorities as the Association itself is pursuing -- modernization, harmonization, and engagement – as these priorities can equally apply to CCIR's framework.

With respect to modernization, CADRI says that it seeks to work with the CCIR and its members to adapt quickly to changes in consumer behaviour so the industry and regulators can keep pace with demands. The Association notes that Canadians are increasingly comfortable doing a myriad of transactions online and on their smart phones. Customers are now expecting to do more and more in the wireless, mobile environment. They are demanding this kind of evolution from service providers such as insurance companies. If faced with an impediment to fast, efficient, customer-friendly service, consumers take advantage of new options – whether or not industry regulations have caught up.

CADRI indicates that it would like to explore, with the CCIR, the advantages of enabling more authority at the regulatory level to provide for nimbler, timely regulatory responses to consumer behaviour.

CADRI also recommends industry-regulatory collaboration by using new business ‘sandboxes’ to test innovative and pilot projects, and it suggests that the Joint Forum of Financial Market Regulators might be used as a vehicle for testing concepts that might be new to insurance but have been adopted by others in the financial sector.

CADRI asserts that by innovating in a collaborative manner, business and regulators can better meet consumers’ expectations for service while protecting the public interest. At the same time, by reducing the gap between what consumers expect and what the industry delivers, the risk of disruptive forces entering the market without appropriate regulatory oversight would be diminished.

With respect to harmonization, which CADRI recommends be carried over as a priority from CCIR’s previous 2014-17 Strategic Plan, the Association says that as a starting point for insurance, harmonization could be pursued on a regional basis. It notes that the Atlantic Council of Premiers has recently enabled adjusters to move more freely between provinces to speed up the claims processes in Atlantic Canada.

Another harmonization initiative which CADRI advocates is for regulators to license the parent corporation or entity, rather than each and every employee for the territory it serves.

With respect to engagement, CADRI recommends that the CCIR carry over the following initiative from its 2014-17 Strategic Plan: “Financial Literacy: consider messages and delivery methods to help consumers make informed decisions.”

In its submission, CADRI informs the CCIR that the Association has recently adopted the following new Vision Statement: *That Canadians can choose from a variety of insurance products and services offered directly to them through modes of distribution that suit their preferences. Those products and services are designed based on modern data collection and risk modelling and enabled by nimble, flexible government supervision from coast to coast to coast.*

CADRI indicates that its new vision was developed based on a recognition that its members, along with CCIR and its provincial/territorial members, operate in an environment characterized by the following: rife with technological change; shaped by high consumer expectations; a continuing trend of mergers and acquisitions; creation of new, unforeseen business models; and challenges to business and regulators alike to be forward-thinking.

Insurance Brokers Association of Canada (IBAC)

<u>IBAC Appoints Former Member Of Parliament Peter Braid As New CEO</u>
On February 10/17, the Insurance Brokers Association of Canada (IBAC) announced the appointment of its new CEO, Peter Braid, effective February 27. Braid is a former Member of Parliament with an “extensive track record of policy-making, consensus-building and work in the insurance sector,” IBAC reported.

Most recently, Braid served in a global leadership capacity with a high tech firm in Waterloo, Ontario. Previously, he served for seven years as a federal Conservative MP for the riding of Kitchener-Waterloo.

During his time in public service, Braid was appointed by then Prime Minister Stephen Harper as the Parliamentary Secretary for Infrastructure & Communities.

IBAC noted in its release that Braid was also the founding chair of the Insurance Caucus on Parliament Hill, which provided “important stakeholders in the insurance sector with the opportunity to speak directly with legislators to help shape public policy.” He also represented Canada abroad, travelling with the Governor General and the Prime Minister on state visits to enhance Canada’s image and on trade missions to strengthen business ties and trade opportunities. In the insurance sector, Braid worked for six years at the director level with Sun Life Financial.

“Braid has a deep understanding of the Association and non-profit sector, having forged strong partnerships with the corporate, academic and not-for-profit sectors to advocate for their interests,” the IBAC release said. “As well, he has past experience serving as Vice-Chair of an international parliamentary Association.”

“Peter Braid brings to IBAC and the broker community not only the professional expertise and background in key policy areas important to brokers, but more importantly, he is very well-known and very well-regarded as a consensus-builder and team leader.”

Saskatchewan

FCAA Still Determining Implementation Date For New Act And Regulations
In a January 20/17 reply to a follow-up query from B. Wycks with respect to CAFII’s concern that the Financial Consumer Affairs Authority’s plan to have the new Saskatchewan Insurance Act and its Regulations proclaimed into force in April 2017 is not realistic or achievable because it does not allow sufficient lead time for insurers and distributors to adapt to mandated changes, especially those which will have systems implications, J. Seibel, FCAA Legal Counsel, advised that “we are still looking at the issue of the implementation date for the new Act and considering the comments that we have received about the proposed date and alternate dates. I will let you know when I have further information to share on that issue.”

Ontario

Rule-Making Authority Critically Important For FSRA: George Cooke
Equipping Ontario’s new Financial Services Regulatory Authority (FSRA) with rule-making authority is critically important to ensuring its effectiveness as an independent, flexible and consumer-focused regulator of financial services and pensions, says George Cooke, chair of the Board of Directors of OMERS Administration Corporation and part of the three-member Expert Panel which last year recommended the creation of FSRA as a replacement for the Financial Services Commission of Ontario (FSCO).

“If rule-making authority is not part of the new FSRA, then it won’t succeed,” Cooke said on January 19/17 during the FSCO to FSRA: Panel Discussion, a concurrent seminar and webinar hosted by the Insurance Institute of Canada.

Creation of FSRA – a body that should be operationally separate from government, skills-based, self-funded and governed by an expert Board of Directors – was one of the Expert Panel's 37 recommendations.

"We recommended a brand new organization," Cooke told seminar attendees. "Don't fix what you've got; start over. Leave what you've got alone, build new," he said.

"Rule-making authority is absolutely critical and it is one of the major recommendations that allows this entity to be able to adapt to changing circumstances over time" on a timely and relevant basis, he told attendees.

That does not mean FSRA can simply decide on a rule and implement it, he explained, pointing out that the Minister of Finance would have a fixed period of time to veto a rule.

"So we're not creating some sense of anarchy here by any stretch of the imagination. We have an entity that would have a very broad, specific mandate. The rules would have to be consistent with both the legislation that drives that mandate and that mandate," Cooke said.

FSRA's mandate would need to specifically note protection of the consumer interest, Cooke said, "but also specifically balances that with the need to have a vibrant, healthy, competitive environment."

As part of its consultations with the industry and the public prior to putting forward recommendations in a final report, Cooke reported that the Expert Panel "noticed some trends that were going on in the industry."

That being the case, "what we were trying to do was make a series of recommendations to government that were not only appropriate for today, but would be appropriate for tomorrow, or for that matter, 20 years from now. We wanted to see a structure that would be put in place that actually could evolve."

"We have a very dynamic world that we're going to have to regulate. We have to give the regulator the opportunity to also evolve and be equally fleet of foot, if you will, or I suggest to you that we'll get an outcome that absolutely nobody wants," he noted.

<u>Ministry Of Finance Recruiting For Financial Services Modernization Secretariat</u>

The Ontario Ministry of Finance was recently recruiting – via online job postings, with a February 3/17 deadline for applications – for two Senior Policy Advisors for its Financial Services Modernization Secretariat, which is the new name of what Ministry staff had previously been calling the FSRA Implementation Secretariat.

The two positions, which are of temporary duration up to 24 months (with possibility of extension), are described as follows:

We are looking for enthusiastic, driven and diligent individuals to join the Financial Services Regulation Modernization Secretariat.

The Secretariat is supporting government in the multi-phased transition process required to establish the Financial Services Regulatory Authority of Ontario (FSRA), a new financial services and pensions regulator. The individuals in these positions will lead the research, policy development and implementation initiatives required to establish and operationalize FSRA. In this role, you will:

- *provide strategic advice to a broad range of audiences on the multi-phased transition to FSRA and other ongoing and emerging issues related to the regulation of financial services and pensions;*
- *lead project teams in developing policy options and recommendations, providing strategic negotiations advice and developing central agency submissions;*
- *conduct research and analysis related to best practices in the regulation of financial services and pensions in other jurisdictions; and*
- *build and maintain effective relationships a broad range of internal and external stakeholders.*

The Ministry's website indicates that approximately 47 individuals had applied for these opportunities as at February 14/17.

Red Tape Challenge Receives Minimal Comments On Insurance Regulations

Of the 52 categories in the Insurance section of the Ontario government's recent *Red Tape Challenge*, only 11 received any comments that were published on the site for public perusal. None of the comments posted are of particular relevance to CAFII.

The posted *Red Tape Challenge: Financial Services Summary* indicates that this initiative received 169 public comments and 63 private messages (including CAFII's submission), which commented on 49 different pieces of legislation.

The most commented-on pieces of legislation were the Taxation Act (17 comments); the Employment Standards Act (16 comments); and FSCO – fee assessment (14 comments).

The most commented-on categories were Employment and labour regulations (47 comments); Financial services regulations (46 comments); and Taxation and financial reporting regulations (28 comments).

Insurance Innovation Lab Opens In Toronto

Toronto's new insurance innovation lab, Cookhouse Lab, officially launched on February 1/17, creating a space where insurance industry stakeholders can collaborate on the development of insurance technology.

Chris Murumets, Co-Founder and Co-CEO of Toronto-based insurance consulting organization LOGiQ3 Group, and Sven Roehl, Head of Insurance Innovation at Ismaning, Germany-based MSG Systems AG and Executive Vice-President at MSG Global Solutions Canada Inc. in Toronto, launched the lab.

The goal of Cookhouse Lab is to help the entire insurance industry address the challenges and opportunities it's facing, Murumets said. For example, the lab could develop solutions to help the industry better cater to the needs of the uninsured middle market and to help the industry identify ways of implementing and benefiting from blockchain technology.

Projects that the lab adopts will have a 90-day timeframe, which will force participants to tackle issues and identify solutions quickly, Murumets said.

The projects will incorporate an element of "crowdsourcing," as Cookhouse Lab will build a network of thousands of people with insurance industry expertise who can weigh in on various ideas developed within the lab.

The lab's first project aims to explore the concept of loyalty rewards and "gamification," and how that could be applied to insurance.

The lab has five member companies so far. Its goal is to have 20-25 member companies by the end of 2017.

Cookhouse Lab hosted a daylong event to mark its launch on February 1, including an "InsurTech" startup challenge in which six entrepreneurs presented their startup ideas to a room of more than 100 representatives from insurers and reinsurers.

Quebec

FinTech Developments Give Rise To Regulatory Concerns For AMF

Speaking at the FinTech Forum in Montreal last Fall, Jean Lorrain, the AMF's Senior Director, International Relations and Strategic Monitoring, said that rapidly emerging fintech developments are creating challenges for the Quebec regulator. He added that the AMF is obliged to adapt so that it can "better understand in order to make better changes."

"Several years ago, the industry and the AMF adapted to the digitization of financial markets. The difference today is that the avenues of change are very diverse," he said. "We see innovation not just from market participants, but also from other players, especially start-ups, from outside of the financial markets."

Lorrain said he is in favour of graduated regulations. In his opinion, a leading financial institution and a start-up cannot be treated in the same way.

When asked to update or clarify the position previously stated by his colleague Eric Stevenson – the AMF Superintendent who told The Insurance and Investment Journal that the provincial regulator would not allow advice to be provided by robots (i.e. robo-advisor technology) – Lorrain admitted that the AMF has no choice but to reconsider that position and to "make the necessary adjustments."

In that connection, the AMF recently decided to establish a working group on fintech with a primary mandate to analyze technological innovations in the financial sector and anticipate regulatory and consumer protection issues.

“With the creation of our fintech working group, the AMF confirms its willingness to be a first-class partner and a reference to all industry stakeholders who are interested in technological innovations in the financial sector,” commented the AMF’s CEO Louis Morisset in June 2016. “Many issues and questions emerge with fintech and we want to improve our understanding of them to ensure that, over time, Quebec’s regulatory environment responds appropriately.”

The AMF’s working group on fintech intends to “analyze and make appropriate recommendations regarding the ability of the regulatory framework to accommodate changing business practices, business models, and technology in the financial sector while ensuring a balance between adequate consumer protection and market efficiency.”

In addition, the AMF has also announced the establishment of a Technological Innovation Advisory Committee (TIAC) whose work will be linked closely with the mandate of the fintech working group.

International

International Association of Insurance Supervisors (IAIS)

<u>International Association of Insurance Supervisors Names New Secretary General</u>
On February 13/17, the International Association of Insurance Supervisors (IAIS) announced that Jonathan Dixon will become its new Secretary General in November of this year, succeeding Yoshihiro Kawai who has been in that role since 2003.

Since 2008, Dixon has served as Deputy Executive Officer of the Financial Services Board of South Africa, with oversight responsibility for insurance regulation and supervision. He is credited with transforming insurance regulation and supervision in South Africa into a more proactive, risk-based and outcomes-focused approach. Dixon will join the Secretariat staff on September 1/17 and work with Kawai for a two-month transition period before taking over as Secretary General at the conclusion of the IAIS Annual Conference on November 3/17.

<u>European Supervisory Authorities Won’t Take Action On Robo-Advisors</u>
European regulators say they will continue to monitor the growth of robo-advisors but have decided not to take any action at this stage.

The Joint Committee of the three European Supervisory Authorities (ESAs) – European Banking Authority, European Insurance and Occupational Pensions Authority, and European Securities and Markets Authority – recently published a report presenting the conclusions of its assessment on automation in financial advice.

Automated advice "is still at an early stage," the report concludes, and is primarily concentrated in the investment sector. "The ESAs also note that financial advice in general is already addressed in various ways through a number of EU directives," the Joint Committee says in a statement.

The regulators launched a consultation on robo- advice in December 2015 to determine "whether any action was required to ensure risks are mitigated while at the same time allowing market participants to harness the potential benefits of automated advice."

Following that consultation, the regulators have decided to continue observing the development of robo-advice, but not to intervene in the market.

The ESAs acknowledge "the potential for growth of automation in financial advice," and say they will continue to "monitor the evolution of the market," to examine compliance with existing laws and regulations, and to assess the consequences of the phenomenon and its cross-border implications in their respective sectors.

Australian Regulator Introduces First Fintech Licensing Exemption

The Australian Securities and Investments Commission (ASIC) is introducing the first-ever registration exemption for financial technology (fintech) firms that will allow eligible, fledgling fintech businesses to test their services with a limited number of retail investors without holding a licence.

"ASIC's ‘fintech licensing exemption' is unique," said ASIC commissioner John Price. "No other major jurisdiction has implemented a class waiver that allows eligible businesses to notify the regulator and then commence testing without an individual application process."

The new exemption will allow eligible businesses to test specified services for up to 12 months with up to 100 retail clients, provided they also meet certain consumer protection conditions and notify ASIC before they launch the business.

"ASIC's fintech licensing exemption reflects our commitment to facilitating innovation in financial services," Price added. "However, we are equally committed to ensuring that innovative products and services are regulated appropriately and promote good consumer outcomes."

Firms that don't qualify for ASIC's fintech licensing exemption can instead seek an individual exemption.

"Individual applications are an important part of Australia's regulatory sandbox framework," Price said. "For instance, this option is open to existing licensees who wish to test an innovative product or service and comply with a modified version of the law."

Last month, ASIC signed a deal with the Ontario Securities Commission (OSC) that aims to support cross-border innovation. This followed the introduction of the OSC's new LaunchPad unit that is intended to help fintech firms navigate the regulatory framework.