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Briefing Note

CAFII Regulatory Meeting March 17, 2025
Introductory and Informational — *Information about the Attending Members, Organizational Insights, and Summaries of CAFII's Previous Interactions with Both Organizations*

Purpose of this Item – *Summarize*

To introduce the attending members from the FCAC and the Federal Department of Finance, as well as to outline each organization's recent regulatory activities and CAFII's connections to both, including regulatory submissions.

Background Information

On March 17, 2025, CAFII will meet with representatives from the Financial Consumer Agency of Canada (FCAC) and the Federal Department of Finance respectively.

In attendance from CAFII:

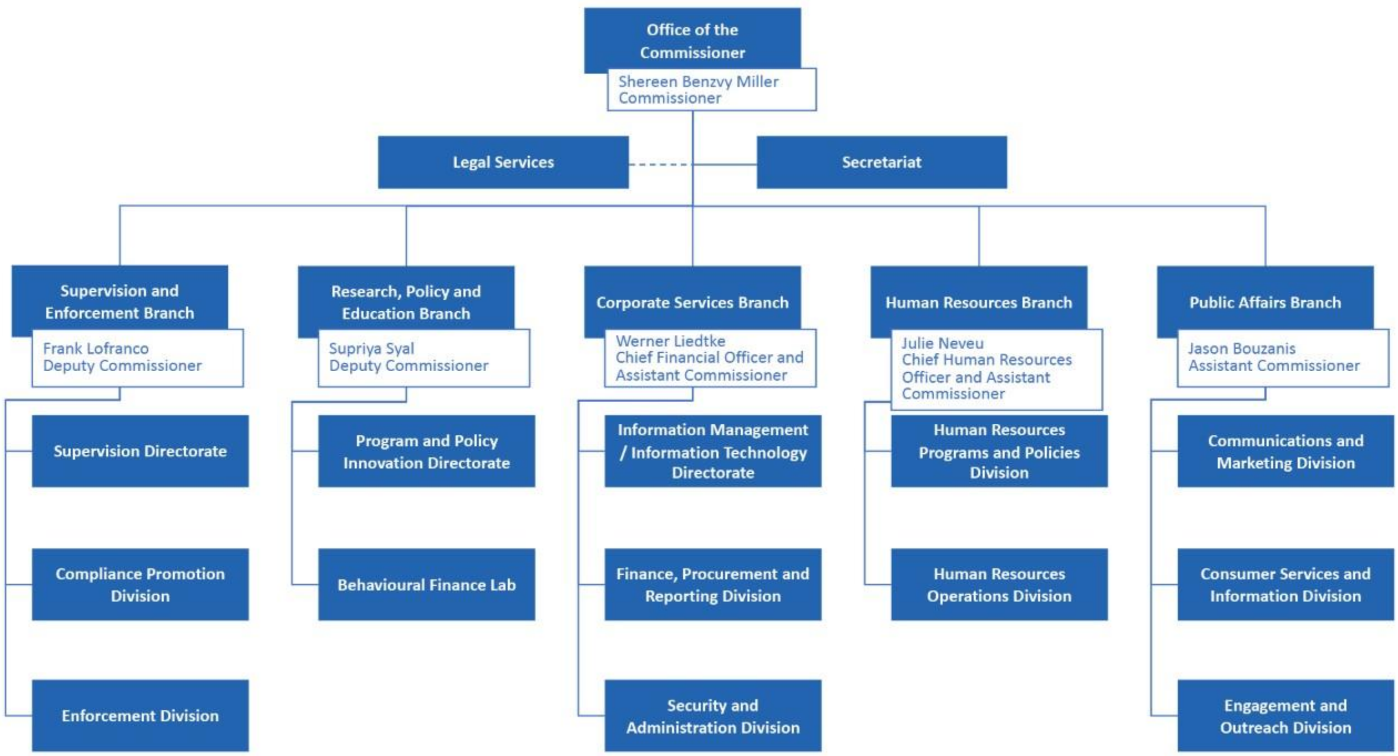
- Karyn Kasperski, EOC Chair
- John Burns, EOC Vice Chair
- Rob Dobbins, past EOC Chair
- Andrea Stuska, Chair, Research & Media Committee
- Michelle Costello, former Vice Chair, Research & Education Committee
- Keith Martin, CAFII Executive Director
- Robyn Jennings, CAFII Research Analyst
-

<u>Schedule for March 17, 2025</u>

1. **Preparatory Meeting:** Go to **Bridgehead at 9:15 a.m. (344 Slater St.).** The entrance is on the other side of the building where the FCAC is located. You can access Bridgehead by walking across the mall from the entrance on Laurier Avenue.
2. **FCAC Meeting:** FCAC offices are located at **427 Laurier Ave W, 5th Floor, Ottawa.** We plan to meet in the lobby at 9:50 a.m., take the elevator to the 5th floor, and ring the doorbell. **The meeting is from 10 to 11.30 a.m.**
3. **Lunch Following FCAC Meeting:** CAFII will host a lunch following the FCAC meeting at Brown's Socialhouse, 160 Elgin Street, #1 (613.695.3030). Reservation is under "Keith Martin."
    a. This is a 14-minute walk from the FCAC building, so depending on the weather, we may take cabs.
4. **Meeting with the Department of Finance:** After lunch, we will walk four minutes to the Department of Finance building, located at **90 Elgin Street, 13th floor**. We will assemble in the lobby, and someone will come fetch us to get us through security. **The meeting is from 2 to 3.30 p.m.**

a. Mark Radley, Director of Consumer Affairs, will attend the meeting, but the members of his delegation have not been confirmed.

FCAC Organizational Structure and Attendees – Bios and Personal Information



Reporting to the Commissioner

- Deputy Commissioner, Supervision and Enforcement Branch (Frank Lofranco)
  - Director General, Supervision Directorate (Rana Abu Naameh)
  - Compliance Promotion Division
  - Enforcement Division
- Deputy Commissioner, Research, Policy and Education Branch (Supriya Syal)
  - Research, Policy and Education Branch
  - Director General, Program and Policy Innovation Directorate (Kyle Burns)
  - Behavioural Finance Lab
- Chief Financial Officer and Assistant Commissioner, Corporate Services Branch (Werner Liedtke)
  - Chief Information Officer, Information Management / Information Technology Directorate (Pirth Singh)
  - Finance, Procurement and Reporting Division

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  - Security and Administration Division
- Chief Human Resources Officer and Assistant Commissioner, Human Resources Branch (Julie Neveu)
  - Human Resources Programs and Policies Division
  - Human Resources Operations Division
- Assistant Commissioner, Public Affairs Branch (Jason Bouzanis)
  - Communications and Marketing Division
  - Consumer Services and Information Division
  - Engagement and Outreach Division

Shereen Miller, FCAC Commissioner

Ms. Shereen Benzvy Miller is a human rights lawyer by training, with more than 20 years of experience in various executive roles with the Government of Canada. Prior to her appointment as Commissioner of the Financial Consumer Agency of Canada, she served as Senior Assistant Deputy Minister of Service Innovation at Shared Services Canada.

From 2019 to 2023, she was Senior Assistant Deputy Minister of Next Generation Human Resources and Pay at Shared Services Canada. From 2017 to 2019, Ms. Benzvy Miller was Immigration and Refugee Board of Canada's Deputy Chair of Refugee Protection. From 2013 to 2017, she was Innovation, Science and Economic Development Canada's Assistant Deputy Minister of Small Business, Tourism and Market Place Services. She led the creation of the Build in Canada Innovation Program and the Innovative Solutions Canada Program. In addition, Ms. Benzvy Miller led the creation and launch of the Canadian Innovation Centre for Mental Health in the Workplace. Her leadership experience includes process and organizational change, digital transformation, executive team management, and strategic partnership building.

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Read more about Sherren Benzvy Miller here.

Frank Lofranco, Deputy Commissioner, Supervision and Enforcement Branch

Before joining FCAC, Frank Lofranco was the Deputy Superintendent, Operations and Corporate Services, at the Office of the Superintendent of Bankruptcy, and prior to that he was Vice President of Scotiabank's Global Anti-Money Laundering Operations. Mr. Lofranco also has held executive positions at the Treasury Board Secretariat, Human Resource and Skills Development Canada, FedDev Ontario, and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC). During his 10 years with FINTRAC, he served in multiple roles including Deputy Chief Compliance Officer.

Mr. Lofranco holds a Master of Public Administration (MPA) from the University of Guelph, and a Bachelor of Public Policy and Administration (PPA) from York University.

Supriya Syal, Deputy Commissioner, Research, Policy and Education Branch

Dr. Supriya Syal is the former Chief Science Advisor to the Treasury Board Secretariat Talent Cloud, and the former Chief Behavioural Scientist of the Privy Council Office Innovation Hub. Prior to joining the

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public sector, Dr. Syal was VP Research and Innovation at BEworks Inc. She is also the founder and former President of Dulcimer Labs, a purpose-driven company that creates social impact through evidence-based decision making. Dr. Syal holds a PhD in psychology from Cornell University, as well as a master's degree in neuroscience and a bachelor's degree in biochemistry.

Rana Abu Naameh, Director, General of Supervision

Rana Abu Naameh has worked for the FCAC since 2021. She was promoted to Director General of Supervision in April 2024. Before working at the FAC, Ms. Naameh worked at Innovation, Science and Economic Development Canada in various roles, including Regional Director. She has worked in government since 2009. Ms. Naameh has a B.A. from Dalhousie University in International Development and Spanish (double major). She then went on to receive an MBA from HEC Montreal. She speaks Arabic, English, and Spanish.

Stephanie Duhaime, Director, Program and Policy Innovation

Stephanie Duhaime has worked for the FCAC since August 2022 as the Director of Program and Policy Innovation. Before this, she spent two years as Director of Policy, Planning, and

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Coordination at the Federal Economic Development Agency of Northern Ontario. Ms. Duhaime has worked in government since 2005, including Global Affairs Canada.

Ms. Duhaime has a Bachelor of Science in Biochemical Engineering and a Bachelor of Arts in Economics from Western University. She speaks English, French, and Arabic.

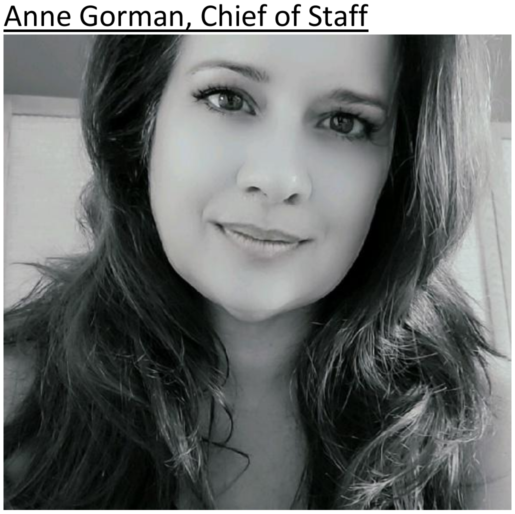
Marilyn Leblanc, Director, Secretariat and Office of the Commissioner

Marilyn Leblanc has worked for the FCAC since 2016, where she was originally hired as a Senior Advisor to the Commissioner. In 2023, she was promoted to Director, Secretariat and Office of the Commissioner. She has an LL.B in Civil and International Law from the Université Laval, and spent two years working as an articling student for Fasken Martineau DuMoulin. Ms. Leblanc worked for Justice Canada as Counsel from 2007 to 2009. Ms. Leblanc speaks English and French.

Eric Dagenais, FCAC title not clear, formerly Senior Assistant Deputy Minister, Innovation, Science and Economic Development Canada

Eric Dagenais has worked at Innovation, Science and Economic Development Canada for over 14 years. For five years, he held the position of Senior Assistant Deputy Minister, Spectrum and Telecommunications Sector. Currently, his LinkedIn states his title as Senior Executive, however, this is unclear. Mr. Dagenais has a BCom in Finance and Public Administration and a BA in Business/Commerce from the University of Ottawa and an MA in Economics from Carleton University. He speaks both English and French.

Anne Gorman, Chief of Staff



Anne Gorman has been the FCAC's Chief of Staff since November 2024. Before this, she was the Chief of Staff to ADM at Shared Services Canada.

There was very little information available on Ms. Gorman.

The Federal Department of Finance Attendees – Bios and Personal Information

Below are the expected attending members from the Federal Department of Finance; the list has not been confirmed by the Department, but all individuals were invited to the meeting.

Judith Hamel, Director General of Financial Services Division

Judith Hamel has worked at Finance Canada for over four years, with two of those years as the Director General of Financial Services Division. Before this, she worked at the Association des économistes québécois, Environment and Climate Change Canada, Environment Canada, and the Privy Council Office. She has a bachelor's degree in Economics and Political Science and an MA in Economics from the Université de Montréal. Ms. Hamel speaks both English and French.

Mark Radley, Director of Consumer Affairs

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Mark Radley has worked for the Federal Department of Finance (Finance Canada) since January 2023 as the Director of Consumer Affairs, Financial Sector Policy. Before this, he worked at the Privy Council Office as a Senior Policy Officer. He spent, in total, nearly eight years working at Environment and Climate Change Canada. Mr. Radley has a BA in Economics and an MA in Economics from Simon Fraser University. He can speak both English and French.

Anne Loosen, Economist

Anne Loosen has worked as an economist for the Department of Finance Canada since 2010. Prior to this, she worked at McGill University as a teaching assistant (2009-2010) and at Indigenous and Northern Affairs Canada as a Junior Analyst (2007-2008). She has a B.Sc. in Mathematics from Dalhousie University and an MA in Economics from McGill University.

Ms. Loosen speaks English and French.

Michael Chan, Senior Advisor

There was no information available online on Nathalie Chevassu. She does not seem to have a LinkedIn account.

Here is a link to Mr. Chan's Government of Canada Personal Information page.

Nathalie Chevassu, Economist

There was no information available online on Nathalie Chevassu. She does not seem to have a LinkedIn account.

Here is a link to Ms. Chevassu's Government Employee Directory page.

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Recommendation / Direction Sought – *Summarize*

No action required.

Attachments Included with this Agenda Item

13 attachments.

The following items have been linked:

- January 6, 2022 - CAFII FCAC Appropriateness Guideline Submission
- December 11, 2021 - CAFII Response to FCAC Consultation on Complaints Procedures FINAL

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Submissions, Responses, and Regulatory Documents

The Financial Consumer Agency of Canada

January 30, 2025—The FCAC Published an Article Covering a Conversation with Its New Commissioner on Industry in 2025.

On January 30, 2025, the Financial Consumer Agency of Canada (FCAC) published an article covering an introductory conversation with Shereen Miller, its new Commissioner. The article has been summarized below.

At the beginning of January 2025, the FCAC announced S. Miller as the regulator's new Commissioner. With over 20 years of experience in various executive roles within the Government of Canada, S. Miller is a human rights lawyer by training. Prior to her appointment, she served as Senior Assistant Deputy Minister of Service Innovation at Shared Services Canada.

Over the course of her career, S. Miller has been dedicated to serving vulnerable communities. For this reason, she found FCAC's mandate of consumer protection and financial education particularly compelling. She emphasizes the importance of user-centric design in financial services, advocating for consumer protection as an essential aspect of building trust in the financial system.

Reflecting on her previous roles, S. Miller highlights three key positions that have shaped her approach:

1. *Human Rights Advocate for Federally Sentenced Offenders at Correctional Service Canada*: This role underscored the importance of listening to the communities served and understanding the challenges within their environments.
2. *Deputy Chair of the Immigration and Refugee Board of Canada:* Leading the largest administrative tribunal in Canada, she gained insights into maintaining independence in decision-making while engaging with Parliament and central agencies.
3. *Leadership in the Next Generation HR-to-Pay Initiative:* Addressing significant trust deficits due to technological failures, she learned to balance human and technological elements, dissecting complex problems into manageable components.

As Commissioner, S. Miller is committed to ensuring that financial service providers prioritize consumers, especially the vulnerable, to enhance trust and effectiveness in Canada's financial systems.

Read the FCAC's full article here.

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November 25, 2024—The FCAC Published Commissioner Shereen Miller's Opening Statement to the Standing Committee on Industry and Technology (INDU).

On November 25, 2024, the FCAC published Commissioner Shereen Miller's opening statement to the Standing Committee on industry and technology (INDU). The speech has been included below.

> *Thank you, Mr. Chair, for the introduction, and to the Committee for inviting us to appear before you today.*
>
> *My name is Shereen Benzvy Miller. I am delighted to have been recently appointed as the Commissioner of the Financial Consumer Agency of Canada, or FCAC. I have been Commissioner for 12 days, and I am honoured to lead an Agency with such an important mandate. I joined during Financial Literacy Month, which takes place every November, and is now wrapping up.*
>
> *The focus of this year's campaign is to encourage Canadians to talk about money and take steps to build their financial knowledge and confidence. FCAC's research shows that money conversations can lead to better financial outcomes. FCAC welcomes this opportunity to contribute to the Committee's study of Canada's e-Transfer ecosystem, and the broader electronic payments industry.*
>
> *Joining me today are 3 members of my executive committee. We have Dr. Supriya Syal, Deputy Commissioner of Research, Policy and Education. We also have Frank Lofranco, Deputy Commissioner of Supervision and Enforcement. And finally, we have Jason Bouzanis, Assistant Commissioner of Public Affairs.*
>
> *Each of these three functions works together to advance the Agency's mandate, and support and protect Canadians. It is my hope that their knowledge and insights will aid the Committee and inform our meeting today.*
>
> *In my opening statement, I will begin by outlining FCAC's mandate. Then I will turn to FCAC's role as it relates to the payment ecosystem. I will also explain the regulatory requirements related to electronic payments that FCAC oversees. Finally, I will address interchange fees and e-Transfers before concluding.*
>
> ***FCAC mandate***
>
> *FCAC is an independent federal agency that protects the rights and interests of consumers of financial products and services. This includes the rights of merchants who process payment cards. The Agency's mandate includes many important elements. First, as a strong and effective regulator, we supervise the compliance of federally regulated financial entities with consumer protection measures set out in legislation, public commitments, and codes of conduct.*
>
> *That short summary of the regulatory side of our mandate carries great significance.*
>
> *Compliance with market conduct obligations leads to consumer protection and, ultimately, more positive financial outcomes for Canadians. Protected consumers leads to trust and consumer confidence in financial institutions. Consumer confidence contributes to the safety and soundness of the financial system.*
>
> *The financial literacy side of our mandate is equally important. Through FCAC's National Financial Literacy Strategy, we work with stakeholders from across the country to build the*

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financial resilience of Canadians. FCAC also conducts research and evidence-based analysis on trends and issues that impact financial consumers. This is particularly important as an avenue through which we inform and support the Department of Finance's role in developing financial sector policy and legislation. As we look forward, FCAC's mandate is expanding to include responsibility for overseeing, administering, and enforcing Canada's Consumer-Driven Banking Framework. As a leader and innovator in financial consumer protection, FCAC is well-placed to take on this responsibility.

FCAC's mandate as it relates to the payment ecosystem

Given that the Committee is furthering its study with a more specific area of focus, I will concentrate my remarks on FCAC's mandate as it relates to the payment ecosystem. As discussed at our previous appearance before this committee, FCAC oversees the market conduct obligations of payment card networks operators—also known as PCNOs—under the Code of Conduct for the Payment Card Industry. Examples of payment card network operators in Canada include VISA Canada, Mastercard Canada, American Express, Discover, Union Pay, and Interac for its debit card product. Payment card network operators must incorporate the Code—in its entirety—into their contracts, business practices, and governing rules. Payment card network operators are responsible for ensuring that the payment processing companies using their network comply with the obligations under the Code. That means that payment processing companies must understand and work proactively to meet the market conduct obligations in the Code.

Revised Code of Conduct for the Payment Card Industry

Recently, the Government announced a revised Code of Conduct for the Payment Card Industry. Most elements came into effect on October 30th, and the remaining – more technical – elements will follow on April 30th, 2025. Merchants in Canada who process payment cards now benefit from protections designed to ensure transparency, flexibility and choice. Disclosure and complaint handling are critical components of protection, whether that be for consumers in retail banking or merchants. And enhanced disclosure and improved complaint-handling are key elements of the new Code. For example, merchants will receive more information on card processing fees at the time of quote, when they sign their agreement with their service provider, and in their monthly statement. Importantly, merchants also now have access to a complaint handling process that is clear, simple, transparent, and that requires that their complaint be handled in a timely manner. In addition, merchants have a longer period to cancel agreements and may do so if certain fee reductions are not passed on in full. FCAC expects payment card network operators to implement the revised Code, and it is our role to supervise their compliance with their market conduct obligations. While FCAC does not comment publicly on its ongoing supervisory activities, the Agency's conclusions on the compliance of federally regulated financial entities are described in our Annual Report.I should also mention that FCAC provides unbiased and authoritative information to help merchants understand their rights under the Code.

Interchange fees

I believe it would also be valuable to take this opportunity to briefly touch on FCAC's oversight of interchange and other core payment card processing fees. Regarding payment card fees, *payment card networks and their participants are expected to meet their commitments related to fees under the Code. The commitments related to interchange fees are:*

- *to disclose fees in language that is clear, simple and not misleading;*
- *to notify merchants of fee changes within a minimum of 90 days of the effective date; and*
- *to respect merchants' right to cancel agreements.*

It is important to note that the market sets interchange fees.

E-Transfers

We also recognize the Committee's interest in e-Transfers, a service provided by the Interac Corporation. Data from Payments Canada continues to suggest that Canadians primarily use online transfer services such as Interac e-transfer for peer-to-peer money transfers, rather than for purchasing good or services. Interac is one of the payment card network operators that has signed on to the Code of Conduct for the Payment Card Industry. FCAC protects both consumers and merchants with regard to services offered by Interac. For consumers, e-transfers are a service provided by banks. Banks must disclose the fees they charge for Interac e-Transfers to their customers. There are very specific and stringent rules around the disclosure of fees charged by banks to their customers. These are one of many obligations overseen by FCAC under the Financial Consumer Protection Framework. For merchants, Interac must ensure that payment processing companies that enable merchants to accept debit cards at the point-of-sale disclose the fees charged for this service. This is one of many requirements under the Code of Conduct for the Payment Card Industry that is overseen by FCAC. In both these cases, for consumers and merchants, disclosure of fee information enables consumers and merchants to make informed decisions about the products and services available to them. Interac fees are commercial decisions.

Conclusion – FCAC role in financial system safety and consumer confidence

To conclude, I briefly outlined FCAC's mandate and how we protect financial consumers and merchants. I have described FCAC's role in the payments ecosystem. And, I have addressed FCAC's oversight as it relates to interchange fees and e-Transfers. FCAC's role is an important one. We safeguard consumers and merchants, and equip them with the knowledge to make informed decisions. FCAC's regulatory, research, and financial education resources all work together, and contribute to supporting a strong, safe and stable financial system for the benefit of Canadians. Through effective consumer protection and a commitment to strengthening financial literacy, FCAC fosters trust. A trust that enables Canadians to navigate their financial journeys with confidence and peace of mind.

Mr. Chair, that concludes my opening remarks. I look forward to the Committee's questions.

Read Ms. Miller's full speech here.

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November 1, 2024 – The FCAC Announced that the Ombudsman For Banking Services and Investments Became the Sole External Complaints Body for Federally Regulated Banks.

On November 1, 2024, the Financial Consumer Agency of Canada (FCAC) announced that Canadians now have a single external complaints body for all federally regulated banks – OBSI, or the Ombudsman for Banking Services and Investments. Read the FCAC's entire announcement below.

> *As part of its mandate, the Financial Consumer Agency of Canada (FCAC) protects consumers of financial products and services by supervising the compliance of federally regulated banks and the ECB with their legal obligations, including the right of consumers to a fair, timely and accessible complaint-handling process.*
>
> *The Honourable Chrystia Freeland, Deputy Prime Minister and Minister of Finance, designated OBSI as Canada's single ECB in October 2023. The Minister made this designation based on the recommendation of FCAC.*
>
> *All federally regulated banks must now be members of OBSI. Previously, Canadian banks could choose between one of two ECBs: the Ombudsman for Banking Services and Investments (OBSI) or the ADR Chambers Banking Ombuds Office (ADRBO). The six Canadian banks that previously used ADRBO (Royal Bank of Canada, TD Bank, Scotiabank, National Bank of Canada, Tangerine Bank, and Digital Commerce Bank) have now transferred to OBSI. ADRBO will complete the investigation and resolution of complaints that it received and that remain open as of November 1. FCAC recognizes the important role played by ADRBO while acting as an ECB for several years.*
>
> *The move to a single ECB addresses findings from FCAC's 2020 report on the Operations of External Complaints Bodies, which concluded that consumers face delays and complications when escalating their banking complaints.*
>
> *Effective complaint handling is a cornerstone of consumer protection. The move to a single ECB is good news for consumers and further strengthens complaint handling in Canada. When combined with the complaint-handling requirements introduced under Canada's Financial Consumer Protection Framework, this change will provide Canadians with a more effective complaint-handling system in banking.*
>
> *OBSI is a national, independent and not-for-profit organization that has been assisting Canadian banking consumers in resolving disputes for over 25 years. As the single ECB, OBSI is responsible for providing a fair and impartial process for consumers whose complaints have not been resolved to their satisfaction or dealt with in a timely manner by banks.*
>
> *One of FCAC's key roles is to supervise the complaints-handling system within banks, as banks have a legislative responsibility to handle consumer complaints. Consumers can report their complaints to FCAC, but the Agency does not resolve individual disputes. FCAC uses information from consumer complaints to inform its supervisory activities and monitor trends and issues that may impact financial consumers.*

Read the FCAC's announcement here.

OBSI's official website was launched on November 1, 2024. It can be accessed here. The following is the official statement as provided on the website's homepage.

> *Starting today, the Ombudsman for Banking Services and Investments (OBSI) will serve as Canada's sole designated External Complaints Body (ECB) for banking. From today, OBSI will be accepting complaints from consumers of all federally regulated banks. This decision, made by the Honourable Chrystia Freeland, Deputy Prime Minister and Minister of Finance, streamlines the complaint resolution process for consumers across the country.*
>
> *The selection of OBSI followed a fair, transparent and competitive application process in 2023. By establishing a single ECB, the government replaces the previous multiple-ECB model, which was considered less efficient, confusing for consumers and inconsistent with international best practices. This change addresses inefficiencies and complexities faced by consumers when escalating banking complaints, as highlighted in the Financial Consumer Agency of Canada (FCAC)'s 2020 Industry Review: Operations of External Complaints Bodies.*
>
> *"We are pleased to welcome National Bank of Canada, Royal Bank of Canada, Scotiabank, Tangerine Bank, and TD Bank as participating firms," said Sarah Bradley, Ombudsman and CEO of OBSI. "This transition will reduce consumer confusion and enhance the effectiveness of complaint handling for transitioning banks and their customers."*
>
> *OBSI has proactively prepared for this transition by collaborating with transitioning banks and the FCAC. Since its designation last year, OBSI has engaged in a comprehensive process of planning and preparation. In advance of the transition, we have undertaken significant internal improvements, including:*
>
> - *Workforce growth*
> - *Operational efficiencies development*
> - *System and process improvements*
>
> *As a result, OBSI is fully and well prepared to meet the needs of all consumers and Canadian banks starting today.*
>
> *With the consolidation of banking complaint handling under OBSI, the organization will be responsible for providing ombuds services to all federally regulated Canadian banks. OBSI currently has more than 1,500 participating firms, including banks, trust companies, and credit unions, as well as virtually all investment firms across Canada.*
>
> *-30-*
>
> *Canada's Ombudsman for Banking Services and Investments (OBSI) is a national, independent, not-for-profit organization that helps resolve and reduce disputes between consumers and*

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> *financial services firms in both official languages. OBSI is responsive to consumer inquiries, conducts fair and accessible investigations of unresolved disputes, and shares its knowledge and expertise with all stakeholders and the public. If a consumer has a complaint against an OBSI-participating bank or investment firm that they are not able to resolve with the bank or firm, OBSI will investigate at no cost to the consumer. Where a complaint has merit, OBSI may recommend compensation up to a maximum of $350,000.*

Read Investment Executive's coverage of OBSI's launch here.

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September 24, 2024 – OSFI-FCAC Risk Report – AI Uses and Risks at Federally Regulated Financial Institutions

On September 24, 2024, the FCAC and the Office of the Superintendent of Financial Institutions (OSFI) published a joint report reviewing federally regulated financial institutions' use of AI, including the associated risks, and the practices that have been put in place to mitigate these risks. The report identifies potential benefits of AI for financial consumers, such as enhanced customer engagement, as well as potential risks, such as fraud, improper use of consumer data and discriminatory bias. While the report has been out since September 2024, a brief summary of the report has been included below to refresh memories regarding its contents.

The joint report, *OSFI-FCAC Risk Report—AI Uses and Risks at Federally Regulated Financial Institutions,* examines the rapid integration of artificial intelligence (AI) within Canada's financial sector, highlighting its potential benefits and associated risks.

Key Findings:

- **Increased AI Adoption:** The report notes a significant rise in AI usage among financial institutions, with approximately 50% implementing AI solutions by 2023, and projections indicating this will reach 70% by 2026.
- **Primary AI Applications:** Financial institutions are leveraging AI for various purposes, including operational efficiency, customer engagement, document creation, and fraud detection.
- **Emerging Risks:** The adoption of AI introduces several challenges, such as data privacy and security concerns, model risks, legal implications, and business-related risks.

Mitigation Strategies:

To address these challenges, the report suggests implementing practices aligned with the EDGE principles—Explainability, Data, Governance, and Ethics. These principles were previously outlined in the 2023 report "A Canadian Perspective on Responsible AI," a collaboration between OSFI and the Global Risk Institute (GRI).

The report emphasizes that while AI offers numerous advantages, it also amplifies existing risks and introduces new vulnerabilities. Financial institutions are encouraged to adopt robust risk management frameworks to navigate the evolving AI landscape responsibly.

Read FCAC and OSFI's report here.

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August 2024 – The FCAC Informed CAFII It Has Deprioritized (Withdrawn) Its Proposed Guidelines on Complaint-Handling Procedures for Trust and Loan Companies and Insurance Companies.

CAFII Executive Director Keith Martin informed the CAFII Board, EOC, and Market Conduct & Licensing Committee members that, after submitting a letter to the FCAC stipulating CAFII's concerns around its proposed guidelines on complaint handling procedures, the FCAC has agreed to deprioritize its work on the guideline. Therefore, the guideline will remain "on hold" for the foreseeable future. K. Martin's email is included below.

> *Hello CAFII Board, EOC, and Market Conduct & Licensing Committee Member,*
>
> *CAFII made a submission earlier this year to the FCAC on its "Guideline on Complaint-Handling Procedures for Trust and Loan Companies and Insurance Companies." The submission, sent to the FCAC in February 2024, suggested that the Guideline was outside of the FCAC's jurisdiction and that existing regulations and guidelines around complaints already achieved what the FCAC was intending.*
>
> *The FCAC has just reached out to CAFII to provide an update on the Guideline. Shanay Smith and I met virtually today with Diana Iaconi, Manager, Regulatory Guidance and Insights, Supervision and Enforcement Branch, and Tammy Maheral, Senior Compliance Officer, FCAC.*
>
> *Ms. Iaconi said that the FCAC has decided to "deprioritize" the work on the Guideline, and as such, the Guideline is "on hold for the foreseeable future," and no final version will be produced at this time. If that decision changes, the industry will be advised, and a new round of consultations will begin.*
>
> *While stated diplomatically by the FCAC, I believe this essentially means that the Guideline has been withdrawn.*
>
> *This will be on the Agenda for the September 17, 2024, EOC meeting for discussion.*
>
> *Thank you,*
>
> *--Keith*
>
> ***Keith Martin***
> *Executive Director / Directeur general*
> *Canadian Association of Financial Institutions in Insurance*
> *L'association canadienne des institutions financières en assurance*
> *keith.martin@cafii.com*
> *T: 647.460.7725*

July 4, 2024 – The FCAC Welcomes Expanded Mandate Giving Oversight Into Open Banking.

In an article published by *Wealth Professional* on July 4, 2024, it was announced that, thanks to the federal budget, the Financial Consumer Agency of Canada (FCAC) has acquired the right to oversee the potential implementation of open banking in Canada. Due to the passing of the Budget Implementation Act 2024, FCAC expanded its mandate to officially assume the responsibility of "overseeing, administering, and enforcing Canada's consumer-driven Banking Framework." Further legislation will be announced in the Fall, addressing issues around liability, consent, and technical standards.

This does not mean Canada will suddenly adopt open banking; many Canadians have expressed hesitation in sharing their financial information with fintechs and businesses.

The new federal budget has allocated $1 million to fund an informational campaign on the new framework for opening banking. The framework will require "robust and secure sharing of data relating to financial products." However, the first legislative step will only "allow partial access to Canadians' financial management with 'read-only' capabilities."

Read the full article on the *Wealth Professional* website.

February 5, 2024 - CAFII Comments on FCAC Consultation on Complaints Handling Processes for Insurance Companies FINAL.

5 February, 2024

Judith Robertson, Commissioner, Financial Consumer Agency of Canada (FCAC)
Financial Consumer Agency of Canada
Supervision and Enforcement Branch
427 Laurier Avenue West, 5th floor
Ottawa, ON K1R 1B9
compliance@fcac.gc.ca

Dear Ms. Robertson,
Re: Public Consultation—FCAC's Proposed Guideline on Complaint-Handling Procedures for Trust and Loan Companies and Insurance Companies

CAFII would like to thank the Financial Consumer Agency of Canada (FCAC) for the opportunity to comment on your ***FCAC's Proposed Guideline on Complaint-Handling Procedures for Trust and Loan Companies and Insurance Companies***, and we would also like to thank the Agency for providing us with an extension to the deadline for comments to 5 February, 2024.

The FCAC proposes to extend the existing *Guideline on Complaint-Handling Procedures for Banks and Authorized Foreign Banks,* which was published on January 27, 2022 and came into force on June 30, 2022, to other financial services entities including federally chartered insurance companies.

It is the view of CAFII that the proposed application of the Guideline to the insurance sector is outside the jurisdiction of the FCAC and might be viewed as unconstitutional, and therefore subject to challenge. As such, we are requesting that if the FCAC is able to demonstrate that the proposed Guideline is within its jurisdiction, a new round of consultations begin at which time we would be prepared to offer more detailed comments.

If the FCAC is able to demonstrate that requiring insurers to comply with this Guideline falls within its jurisdiction, the primary comment we would make is to remind the FCAC that the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO) have a mechanism in place for reporting on complaints, which insurance companies adhere to, the Guidance, Conduct of Insurance Business and Fair Treatment of Customers. If the FCAC has identified deficiencies in the framework from CCIR and CISRO for complaint handling and positive consumer protection outcomes, sharing those with industry in an evidence-based discussion would be productive to advance our shared goals. Furthermore, we would encourage FCAC to engage with CCIR and CISRO to harmonize the approach to complaint reporting, to avoid creating onerous new requirements and as a

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consequence, a non-harmonized and disjointed approach. As insurance is provincially regulated we seek as harmonized an approach as possible, and the introduction of a new more onerous federal requirement moves the industry in the opposite direction.

Federally-regulated insurance companies currently report to the FCAC under the provisions of the *Insurance Companies Act*. The proposed Guideline with new expectations around reporting would significantly increase the regulatory burden on insurance companies. The Guideline would change the definition of complaints to capture any dissatisfaction and creates a requirement around reporting on level 1 complaints. We have concerns about this broadened definition and expanded reporting requirements that could also result in duplicate reporting.

There are unique requirements to the FCAC complaints procedures including around timelines that are different from what our members comply with in respect to CCIR and CISRO complaints-handling expectations. If this Guideline were introduced, it would result in insurance companies needing to make significant investments in processes and technology to allow for this expanded reporting. Additionally, there are pending regulatory changes facing the industry associated with complaint handling and reporting. We would draw attention to the fact that the Autorité des marchés financiers (AMF) is due to release new regulations around the approach to complaints and dispute resolution in Quebec, and CCIR is currently in discussions with industry around a new definition of complaints and additional reporting requirements. Adhering to potentially three different complaint handling and reporting regimes increases operational complexities for industry.

In the absence of evidence-based deficiencies in the current CCIR and CISRO framework and given the potential operational complexities outlined, we would respectfully recommend FCAC consider withdrawing this Guideline.

Should you require further information from CAFII or wish to meet with representatives from our Association on this submission or any other matter at any time, please contact Keith Martin, CAFII Executive Director, at keith.martin@cafii.com or 647-460-7725.

Sincerely,
Rob Dobbins
Board Secretary and Chair, Executive Operations Committee

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<u>The Department of Finance</u>

January 20, 2025 – Email Exchange Between The Department of Finance and CAFII To Set Up a Meeting in 2025

To: Keith Martin
Sent: Mon 2025-01-20 1:51 PM
To:Radley, Mark <Mark.Radley@fin.gc.ca>
Cc: Robyn Jennings; Lara Doig
Subject: CAFII Request to Meet

Hello Mark,

I hope it's not too late to wish you a happy new year!

We have exchanged emails in the past regarding the Department of Finance amendments to the criminal interest rate, and we made a formal written presentation to the Department on this matter.

That specific file is not the reason for my reach out, however. CAFII regularly seeks to exchange information with regulators and policy-makers as part of our efforts to have an open and transparent dialogue on matters of mutual interest.

In that vein, I am organizing a 90-minute meeting with the FCAC in March, 2025 in Ottawa, 45 minutes for me to present some of our key priorities as well as research findings—and the remainder of the time to engage in dialogue, hear about its priorities, and share information on issues of mutual interest. I would be accompanied by volunteers from CAFII's membership, probably 5-6.

Mark, I'd like to ask you if I could have a similar 90-minute meeting with you and your colleagues from the Department of Finance.

The preferred date for the FCAC is March 17, at 10am; so I would like to request to meet you and your colleagues **March 17 from 2-3.30pm.**

If that does not work, other options for us to meet would be March 4 (2-3.30pm); or March 6 (10-11.30am).

I do hope that this is possible, and I would like to thank you in advance for considering this request.

Personal regards,

--Keith

Keith Martin
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From: Radley, MarkMark.Radley@fin.gc.ca
Sent: Mon 2025-01-20 4:38 PM
To: Keith Martin
Cc: Robyn Jennings; Lara Doig

Hi Keith,

No, not yet – happy new year to you too!

Sounds great – we would be happy to meet. Your preferred time of March 17 2-3:30pm would work well.

Mark

From: Keith Martin
Sent: Fri 2025-02-21 10:09 AM
To:Radley, Mark <Mark.Radley@fin.gc.ca>
Cc: Robyn Jennings; Lara Doig
Hello Mark,

I am following up on CAFII's meeting with you and colleagues on March 17, 2025.

Can you give me the exact address/floor we should go to?

A favour to ask of you:

- Is there a restaurant you can recommend near your offices, which my delegation from CAFII would have lunch at prior to our meeting?

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As an update, I will be accompanied by 6 people:

CAFII Attendees, federal Department of Finance Meeting in Ottawa, March 17, 2025
Karyn Kasperski, RBC Insurance and CAFII Executive Operations (EOC) Committee Chair;
John Burns, Securian Canada and EOC Vice Chair;
Rob Dobbins, Assurant, and former EOC Chair;
Andrea Stuska, TD Insurance and Chair of the Research and Media Committee;
Michelle Costello, CUMIS/The Co-Operators and former Vice Chair of the Research & Education Committee;
Keith Martin, CAFII Executive Director;
Robyn Jennings, CAFII Research Analyst.

Thank you!

--Keith

Keith Martin
Executive Director / Directeur général
Canadian Association of Financial Institutions in Insurance
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keith.martin@cafii.com
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From: Radley, MarkMark.Radley@fin.gc.ca
Sent: Mon 2025-02-24 5:31 PM
To: Keith Martin
Cc: Robyn Jennings; Lara Doig

Hi Keith,

Sorry for the slow response.

The exact address is 90 Elgin Street, 13th floor. That said, we will have someone meet your group in the lobby to get you through security.

For restaurants, here are three recommendations so you can make a choice depending on your group's preferences:

Cocotte Bistro (3 minute walk) – an upscale French bistro
Brown's Socialhouse (4 minute walk) – relaxed environment, good selection of food
Thali (7 minute walk) – excellent Indian food

Also – could you provide me some topics that you wish to discuss? I can make sure we have the right people around the table on our side.

Mark

From: Keith Martin
Sent: Thu 2025-02-27 11:14 AM
To: Radley, Mark <Mark.Radley@fin.gc.ca>
Cc: Robyn Jennings; Lara Doig

Hello Mark,

Thank you for this information below.

Regarding topics for our meeting, I will be sharing a 45 minute presentation that touches on independent research we have done at CAFII with research firms (Pollara, LIMRA, Deloitte) on topics like the views of consumers of credit protection insurance (CPI); technological developments and trends around CPI; and research from LIMRA that shows that Canadian homeowners are vastly underinsured and uninsured, with some interesting nuggets around themes around demographics for this group.

I will also share some of our priorities, including around regulation, such as principles-based regulation, harmonization, and the fair treatment of customers (FTC).

My members focus on credit protection insurance, which are optional products (like life, disability, critical illness, and job loss insurance) offered in conjunction with a loan instrument like a mortgage, HELOC, or loan. In general, these are unwritten by insurers and offered by distributors like banks or credit unions.

We also want to hear about your priorities, and engage in a dialogue and relationship-building meeting that is a first step in producing a line of communication between CAFII and the Department of Finance. We are principally regulated by provinces and Territories, but we have had interactions with your Department recently and we thought it was important to develop this line of communication.

While in Ottawa we are also meeting with the FCAC. We will be meeting with:

Shereen Miller, FCAC Commissioner
Frank Lofranco, Deputy Commissioner, Supervision and Enforcement Branch
Supriya Syal, Deputy Commissioner, Research, Policy and Education Branch
Rana Abu Naameth, Director, Regulatory Guidance and Coordination

Stephanie Duhaime, Director, Program and Policy Innovaton
Marilyn Leblanc, Director, Secretariat and Office of the Commissioner
Eric Dagenais, FCAC title not clear, formerly Senior Assistant Deputy Minister, Innovation, Science and Economic Development Canada
Anne Gorman, Chief of Staff

I hope this is helpful, Mark. Please don't hesitate to reach out to me if you have any questions or would like to add anything to the meeting topics.

Thanks,

--Keith

Keith Martin
Executive Director / Directeur général
Canadian Association of Financial Institutions in Insurance
L'association canadienne des institutions financières en assurance
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December 20, 2024 – Email From The Department of Finance To CAFII Regarding FES 2024 and OIC Updates

From: Radley, Mark <Mark.Radley@fin.gc.ca>
Sent: December 20, 2024 9:39 AM
To: Radley, Mark <Mark.Radley@fin.gc.ca>
Cc: Loosen, Anne <Anne.Loosen@fin.gc.ca>; Islam, Tanjana <Tanjana.Islam@fin.gc.ca>; Chevassu, Nathalie <Nathalie.Chevassu@fin.gc.ca>
Subject: FES 2024 and OIC Updates / Mises à jour sur l'Énoncé économique de l'automne de 2024 et le décret

Hello all,

I'm writing today regarding two updates on predatory lending.

First, Budget 2024 announced the Government's intent to prohibit offering credit at a criminal rate of interest. This measure received Royal Assent on June 20, 2024, and an Order in Council was recently made to bring this amendment into force. This Order in Council will be published in the *Canada Gazette Part II* on January 1, 2025 and will come into force on that same date.

Second, as you may already be aware, the 2024 Fall Economic Statement announced:

- the government's intent to amend the payday lending exemption in the *Criminal Code* to prohibit the sale of credit insurance products in connection with a payday loan.
- the government's intent to make amendments to the payday lending exemption within the *Criminal Code* requiring a minimum term on payday loans of 42 days and for lenders to accept payment in installments. The government will provide 12 months for industry to transition to the new conditions.

Please let me know if you have any questions or would like to meet with myself and my team to discuss.

****

Bonjour à tous,

Je vous écris aujourd'hui pour vous faire part de quelques mises à jour sur les prêts à conditions abusives.

D'abord, le budget 2024 a annoncé l'intention du gouvernement d'interdire l'offre de crédit à un taux d'intérêt criminel. Cette mesure a reçu la sanction royale le 20 juin 2024, et un décret a récemment été pris pour faire entrer en vigueur cette modification. Ce décret sera publié dans *la partie II de la Gazette* du Canada le 1er janvier 2025 et entrera en vigueur à cette même date.

Deuxième, comme vous pourriez déjà le savoir, l'Énoncé économique de l'automne de 2024 a annoncé :

- l'intention du gouvernement de modifier l'exemption du *Code criminel* relative aux prêts sur salaire de façon à interdire la vente de produits d'assurance-crédit en lien avec un prêt sur salaire;
- l'intention du gouvernement d'apporter des modifications à l'exemption du *Code criminel* relative aux prêts sur salaire de façon à exiger un terme minimal de 42 jours sur les prêts sur salaire et que les prêteurs acceptent les paiements échelonnés. Le gouvernement accordera 12 mois à l'industrie pour faire la transition vers les nouvelles conditions.

Faites-le moi savoir si vous avez des questions ou souhaiteriez me rencontrer, moi et mon équipe, pour discuter.

Merci,

Mark Radley, CFA
Director | Directeur
Consumer Affairs | Consommation en matière financière
Financial Services Division | Division des services financiers
Financial Sector Policy Branch | Direction de la politique du secteur financier
Department of Finance Canada | Ministère des Finances Canada
90 Elgin Street, Ottawa, ON K1A 0G5 | 90, rue Elgin, Ottawa, ON K1A 0G5
Government of Canada | Gouvernement du Canada
mark.radley@fin.gc.ca |613-447-8103
Department of Finance Canada Ministère des Finances Canada Canada

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December 16, 2024 – The Department of Finance Released Its Fall Economic Statement, which Made Explicit Mention of Insurance

On December 16, 2024, CAFII's Executive Director, Keith Martin, emailed the EOC Committee a copy of the Department of Finance Canada's Fall Economic Statement. He specifically highlighted the 48 references to insurance within the document, including three mentions of credit protection insurance. K. Martin's email has been included below.

> ***From:*** *Keith Martin (CAFII) keith.martin@cafii.com*
> ***Sent:*** *December 16, 2024 5:20 PM*
> ***Subject:*** *CAFII: Federal Government Fall Economic Statement Does Not Mention Including Insurance in the Calculation of Interest*
>
> *Hello, CAFII and EOC members,*
>
> *I have attached the federal government's Fall Economic Statement.*
>
> *There are 48 references to insurance, including flood insurance and mortgage insurance, and three are on credit protection insurance. All indicate the government seeks to prohibit the sale of credit insurance for payday loans; there is no reference I could find to including insurance in the calculation of interest. A search of the document also finds no reference to "calculation of interest."*
>
> *The three references to credit protection insurance are as follows:*
>
> ***Pages 63-64***
> *The government furthered its crack down on predatory lending in Budget 2024 by enhancing enforcement of the criminal rate of interest through amendments to the Criminal Code. Budget 2024 also announced the launch of the federal government's work with provinces and territories to harmonize and enhance consumer protections across Canada. 64 Chapter 1 Credit insurance, when offered in connection with a payday loan, can add to the already high costs of the loan, often with little benefit to the consumer. Some provinces already prohibit the sale of credit insurance in connection with a payday loan and have identified this as a best practice. In August 2024, the government held consultations on several proposed amendments to the Criminal Code, including on prohibiting the sale of credit insurance in connection with a payday loan, and on requiring a minimum repayment term on payday loans of 42 days and for lenders to accept payment in installments. To protect vulnerable Canadians, the 2024 Fall Economic Statement announces the government's intent to amend the payday lending exemption in the Criminal Code to prohibit the sale of credit insurance products in connection with a payday loan. To make repayment schedules more manageable and lower default risks, the 2024 Fall Economic Statement also announces the government's intent to make amendments to the payday lending exemption within the Criminal Code requiring a minimum term on payday loans of 42 days and for lenders to accept payment in installments. The government will provide 12 months for industry to transition to the new conditions.*

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Cracking Down on Predatory Lending In FES 2024, the government proposes to amend the Criminal Code's payday lending exemption (section 347.1) under the criminal interest rate provision to i) require a minimum term of 42 days and repayment in installments, and ii) prohibit credit insurance charges, on payday loans.

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The government is also Cracking Down on Predatory Lending by prohibiting the sale of insurance on payday loans, adding a minimum term to payday loans of 42 days, and requiring that repayment of these loans be done in installments. This will help vulnerable Canadians, as payday loans are disproportionately taken up by people who experience financial insecurity. According to a 2022 survey on high-cost loan borrowers during the pandemic, around 26 percent of respondents stated that their annual individual income was less than $15,000, 42 percent of the respondents reported their income between $15,001 to $25,000, and 24 percent of respondents indicated their income range was between $25,001 to $40,000. The reliance on predatory lending during the pandemic is concerning as lower-income Canadians faced disproportionately higher costs. These products are often aggressively marketed, costly, and provide little benefit to consumers, and the government is ensuring such debt traps don't become routine again.

Read the Department of Finance Canada's Fall Economic Statement here.

October 11, 2024 – CAFII's Executive Director Provided an Email Update on the Ongoing Interactions with the Department of Finance Regarding the Proposed Amendments to the Calculation of Interest Rates.

On October 11, 2024, CAFII's Executive Director, Keith Martin, contacted the EOC and Board to update them on the ongoing conversation he is having with the Department of Finance regarding its proposed amendments to the criminal code to include insurance in the calculation of interest rates. K. Martin's email has been included below.

> ***Update re: Department of Finance Calculation of Interest Rates***
>
> *Hello Board, EOC, and Market Conduct & Licensing Committee Member,*
>
> *This is an update on the interactions with the Department of Finance on its proposed amendments to the Criminal Code to include insurance in the calculation of the criminal interest rate.*
>
> *CLHIA had a follow up meeting with the Department of Finance on Wednesday, October 9. I have had a discussion with Luke O'Conner to get further details. The finance department officials acknowledged that the consultation period was short, and that said that they received more feedback than they expected. They also said that they were considering a second consultation.*
>
> *They asked CLHIA for information on how many customers request creditor insurance after a loan or credit is issued (days or weeks after, as opposed to at time of sale). Luke O'Connor tells me that they are in no rush for this and said that receiving it in December was fine.*
>
> *I shared with Luke my concern around why the Department was asking for this information. Insurance is sold not bought, and the moment to share information about this optional product is at the time of sale. I am concerned that the Department may be thinking about a deferred sales model. Australian regulators introduced a deferred sales model there some years ago, and it decimated the industry. A deferred sales model would result in underinsured and uninsured Canadians who would otherwise obtain the insurance not gaining coverage. I believe we may need to share some of these points with the Department.*
>
> *We asked for a meeting with the Department in our written submission on September 11, and if they do not respond in a week or so I will follow up.*
>
> *Thank you,*
>
> *--Keith*
>
> ***Keith Martin***
> *Executive Director / Directeur général*
> *Canadian Association of Financial Institutions in Insurance*
> *L'association canadienne des institutions financières en assurance*

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September 11, 2024 - CAFII Submission to the Department of Finance on Proposed Amendments to the Criminal Code FINAL.

September 11, 2024

Mr. Mark Radley
Director, Consumer Affairs, Financial Sector Policy
Department of Finance
14th Floor, 90 Elgin Street
Ottawa, Ontario K1A 0G5

Copy to:
Ms. Anne Loosen, Economist, Department of Finance
Ms. Tanjana Islam, Analyst, Department of Finance
Mr. Connor Ward, Economist, Department of Finance

Dear Mr. Radley,

Re: Department of Finance Draft Amendments to the Criminal Code

The Canadian Association of Financial Institutions in Insurance (**CAFII**) would first like to thank you for the opportunity to provide feedback to proposed amendments to the Criminal Code, specifically with respect to provisions to include all insurance costs in the calculation of interest.

Amendments do not Align with Policy Intent

CAFII understands that the amendments to the Criminal Code intend to better regulate predatory lending and payday loans; however, the department's proposed approach has the unintentional potential to make insurance less accessible to Canadians. The proposed amendments take a broad approach to including all insurance premiums in the calculation of interest. As a result, the amendments risk capturing products like optional credit protection insurance (**CPI**) and optional balance protection insurance (**BPI**)[1] offered by Federally Regulated Financial Institutions (FRFIs). These insurance protections, as discussed in more detail later in this letter, offer critically important insurance protections to Canadians, a majority of which are underinsured or uninsured.

The proposed amendments could capture optional CPI and optional BPI because they are "related to" the lending product in the sense that if the insured borrower incurs a life or health related event and makes a claim under the policy, a claims payout will be applied against their lending obligation.

[1] Credit Protection Insurance and Balance Protection Insurance are included in the class of insurance named Creditor's Group Insurance within provincial insurance acts.

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Although our comments focus on CPI and BPI, CAFII notes that the current definition of "insurance charge" in the amendments could be interpreted to include many forms of insurance beyond CPI and BPI, such as mortgage default insurance, property insurance, and auto insurance distributed by either the lender or other third parties to the borrower where a lender is named as loss payee.

CAFII does not believe that CPI or BPI offered by FRFIs, or the other aforementioned insurance products were the products or lenders that the Department of Finance intended to target in this effort. These FRFIs are already well-regulated, tied-selling is prohibited, and they have robust consumer protections in place. As drafted, the proposed amendments could have a number of unintended consequences on consumers, lenders, and insurers.

For group policies such as CPI, insurance policy pricing is also not based on interest calculations or credit risk but instead is based on actuarial modeling tied to such factors as longevity and morbidity risks. These proposed amendments could make accessing insurance more difficult for Canadians who may need it the most. For example, less healthy, older clients who require credit will face greater challenges getting insurance if these amendments are passed since their insurance premiums may be higher given their insurance health risks being covered, which could bring the cumulative "interest" into the criminal range.

The core issue here is that the definition appears to include any optional insurance product offered in conjunction with (but separate from) a credit instrument like a mortgage, loan, Home Equity Line of Credit (HELOC), or credit card from any insurance provider. There seems to be no consideration that optional insurance fills an important consumer need to provide life, health, or job loss protection that is unrelated to the extension of credit. In summary, the scope of this definition seems much broader than necessary to adequately address predatory lending and payday loans.

Further, if CPI/BPI insurance is no longer available to certain consumers, they will have lost access to the benefit of insurance payments that could have kept their credit obligation in good standing during difficult times, which could, in turn, negatively impact their credit rating and ultimately push them towards the predatory lending market. This would actually be contrary to the policy objective of protecting consumers from predatory lending.

Therefore, any adjustment to the definition of "credit charge" or "interest" needs to be narrowed to ensure that it does not capture more than intended to avoid any negative consequences for consumers.

It is also unclear whether the amendments are intended to capture personal products only or include business credit cards, loans, operating lines of credit, or mortgages as well.

<u>CPI and BPI Premiums Should Not be Included in the Determination of Interest Rate Levels</u>

CPI and BPI is a category of optional group insurance products that provides coverage if a consumer passes away, becomes critically ill or disabled, or in some instances, loses their job. Enrolling in creditor insurance does not impact the credit decision or the extension of credit or borrowing rate from the lender, and it is completely optional. The choice to enrol for CPI or BPI is based on whether the consumer believes it is appropriate based on their financial circumstances. It is often chosen by consumers for peace of mind and its ease of execution since no medical assessment is required. The premium charged can fluctuate on a monthly basis based on outstanding balance of the debt and the consumer's age along with other actuarially determined health risk factors. This product can be cancelled at any time by the consumer with a refund of pro-rated premiums.

At a policy level and as a matter of principle, CAFII is of the view that insurance premiums charged by FRFIs in association with loan instruments offered by them do not constitute interest either conceptually or practically, and that it is inaccurate to include those premiums in the calculation of interest rate. These products are not tied to the extension of credit, nor do they protect against credit risk, but rather they provide optional insurance risk protection against a borrower's life, health, and employment-related risks. These insurance coverages stand separate from the credit instrument and are transacted under separate contracts for customers who choose to purchase this protection.

The calculation of the cost of borrowing in the *Financial Consumer Protection Framework Regulations* aligns with this approach by excluding charges for optional insurance (and costs for other types of insurance) from the cost of borrowing calculation. On the other hand, including interest charges in the calculation of criminal rates of interest does not align with the cost of borrowing calculations currently disclosed to customers under federal law.

More specifically, the Financial Consumer Agency of Canada (FCAC) has specified which charges are and are not associated with the cost of borrowing:

> *Section 48 (2) Charges not included in the cost of borrowing:*
> *The cost of borrowing for a loan does not include any of the following fees or charges:*
> *a) Charges for insurance on the loan if*
> *i) The insurance is optional*
> *ii) The borrower is its beneficiary, and the amount insured reflects the value of an asset that is security for the loan*

Similarly, s.70 of the Quebec CPA also specifically excludes optional insurance when defining "credit charges":

> *Section 70. …Despite any provision to the contrary, the following do not constitute credit charge components: (a) the premium for insurance of persons if the merchant does not subject the entering into of the credit contract to subscribing to or participating in the insurance…*

Optional CPI and BPI fill an important need of providing Canadian consumers with life, health, disability and job loss protection based on consumer personal circumstances. The amendments could limit access to insurance for consumers who might not be able to afford or qualify for more traditional individual insurance products. Some customers might not receive an offer of CPI or BPI from the lender based on where the interest rate calculation falls for their credit product following calculation with insurance included, to avoid the risk of breaching the criminal rate of interest provisions. This could result in

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unintended negative consequences for consumers, leading to increased complaints associated with unfair treatment and limited access to insurance that they desire, and could result in underserved or unserved consumers not having access to these protections and coverages.

For example, one use case which may result in undue consumer harm would be a client in their mid-50s who is seeking an unsecured debt consolidation loan. These loans are often used to combine multiple repayment obligations, which helps improve cash flow and credit history for consumers. Clients seeking debt consolidation help may not have access to traditional insurance coverage. As a result of these proposed changes, these same clients may no longer be in a position to benefit from the protection offered by CPI. This could leave consumers unreasonably exposed should job loss, critical illness, or death occur.

The calculation of interest would be very difficult to administer on a month-to-month basis as a calculation would need to consider the fluctuation of insurance charges based on outstanding debt amount and changes in the customer's age to ensure that the interest charge does not exceed the criminal interest rate threshold. Furthermore, it is possible that a customer could obtain optional CPI and BPI through a channel other than a lender, and thus, the lender may not know about the existence or cost of the coverage, leading to the risk of inadvertent non-compliance. The possibility also exists that a one-month fluctuation would result in the threshold being met, and then unmet in a subsequent month. Is the FRFI required to reinstate the insurance in those months where the threshold is not met?

The lending institution's lack of visibility regarding insurance premiums requires emphasizing. Lending institutions do not determine the premiums, rates, or conditions for insurance offered in conjunction with a loan instrument. More specifically, lending institutions are not "charging" the premium; they are treating it as a bill payment. The money does not go to the lending institution; it goes to the insurance company.

In some situations, it is not possible to monitor charges from third-party insurers so they can be added to other charges. Lending institutions do not directly control what insurers will charge for optional insurance and sometimes have no visibility in terms of the premiums being charged to customers obtaining insurance against their loan. For example, if a mortgage is sold through a broker to be held by a bank who then arranges for the credit to be optionally insured by an insurance company not affiliated with that bank, it would not be able to monitor the 35% threshold as the lending institution would have no visibility on the existence of optional Insurance being in place and even less information about the specific rate.

For these reasons, the proposed amendments would only increase the costs of providing loans, which may, in turn, restrict access to credit.

We also note that insurers can amend premiums on notice to customers from time to time. In addition, if the legislation is broad enough to capture other insurance where the lender is named as a loss payee

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(like property insurance or auto insurance), then compliance with the legislation becomes even more challenging. Lenders would not know the premiums consumers pay for such insurance.

Lenders should not face the risk of criminal sanctions because of changes to the cost of insurance determined by the actions of the consumer or the insurer.

If interest does exceed the threshold as a result of premiums for CPI or BPI, it is unclear what the consequences would be. If the Department of Finance believes insurance should be cancelled, we note that CPI and BPI are normally set up as a group insurance policy with individual insurance certificates issued to customers. The lender or insurer normally cannot unilaterally cancel the coverage unless the group policy is terminated, which would impact all customers who have enrolled in the insurance product.

It is an important principle of insurance that, once obtained, the provider cannot cancel the coverage unless premiums have not been paid or some other termination event specified in the terms of the insurance has occurred. Forcing the cancellation of CPI or BPI would be harmful to consumers as they would lose the insurance coverage they believed they needed. If the expectation is that the insurance should stay in place, then would the Department of Finance expect lenders to reduce interest rates on the underlying credit product, all while the insurer providing CPI or BPI retains the full premium?
It should also be noted that financial reporting and taxation requirements have different definitions of interest than what is being proposed. With an expanded definition of interest, multiple calculations of interest would be required to demonstrate compliance with these amendments, which could potentially impact financial statements or tax return filings.

Life, Health, and Job Loss Products Provide Critical Protection for Underinsured and Uninsured Canadians

By incorporating the costs of CPI and BPI into the criminal insurance rates, the Department of Finance risks both deterring and preventing Canadians' optional purchase of insurance even though these products serve an important role in the marketplace. The credit instruments that CPI and BPI are associated with are not at all similar to payday loans and any implication that they should be viewed similarly is misleading and inaccurate.

CAFII believes that restricting access to these optional insurance products for these loan instruments will have an undesirable and harmful impact on Canadian consumers. We believe it could result in consumers who would otherwise benefit from these coverages not having the opportunity to obtain these protections, which could very well compound an existing underinsurance problem.

A March 2024 survey of Canadians commissioned by CAFII and conducted by independent research organization LIMRA found that Canadians are underinsured and uninsured against their lives and

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health.[2] The study found a concerning trend among Canadian homeowners: a significant 80% lack sufficient insurance coverage, being either uninsured or underinsured with CPI or traditional life insurance[3]. This shortfall in coverage leaves many families inadequately protected against unforeseen life events. Low-income homeowners are significantly more likely to be uninsured compared to those in higher income brackets. Of those who are insured, 75% of low-income homeowners are underinsured, meaning they lack sufficient coverage to protect their financial well-being.

Despite the alarming rate of underinsurance, only 55% of all homeowners with credit own some form of CPI. This discrepancy is even more pronounced among low-income homeowners, who have notably less CPI coverage compared to their high-income counterparts. This suggests a gap in understanding of and access to CPI, highlighting the need for increased awareness and education about this form of insurance and its benefits.

While 80% of Canadian homeowners are underinsured or uninsured, among low-income homeowners with credit, 24% have no life or health insurance and another 10% rely solely on CPI for their insurance needs. This is significantly more than other income groups and highlights the importance of this form of protection for financially vulnerable households.

Finally, a significant portion of Canadian homeowners, 38%, fall into the category of "at risk." These are homeowners with credit, who are uninsured or underinsured, and have survivors such as partners or dependents. This group is particularly vulnerable to financial hardship in the event of unexpected life events. Taken together, these findings demonstrate the importance of not impeding access to these insurance protections, and not unfairly tarnishing the reputation of this industry or the access to these products by underinsured and uninsured Canadians.

These products offered by banks and credit unions provide critical protections in the marketplace and treat consumers fairly. The insurance is optional; full disclosure of premiums, exclusions, and limitations are made; and the industry has a strong record around claims payout. For example, separate research commissioned by CAFII and conducted by polling company Pollara Insights found that 95% of mortgage life insurance claims were paid out.

<u>Life and Health Insurance Is Regulated by Provinces and Territories, and Bank Distributors are Regulated by the Bank Act and the FCAC</u>

Credit protection insurance and balance protection insurance are a class of life, health, and job loss insurance products that are regulated across the country under the jurisdiction of provincial and territorial regulators and policy-makers. While we recognize the authority of the federal government

[2] The full study can be found on the CAFII website here: https://www.cafii.com/cafii-limra-insurance-among-canadian-homeowners/

[3] Underinsured is defined as Canadians with insurance coverage of less than 7-10 times their income, which is the definition used by the Financial Consumer Agency of Canada (FCAC).

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with respect to the Criminal Code, the outcome of these amendments will have an impact on the perception and possible availability of products that are squarely within the jurisdiction of provinces and territories.

CAFII understands that the Department of Finance may be intending to address practices by parties not regulated by the Bank Act, federal regulation, and provincial and territorial regulators. If that is the case, we believe that the approach to take is to explicitly exempt those regulated parties and associated optional CPI and BPI products that do meet the Department's regulatory expectations and to make clear in your definitions of key terms what the legislation is intending to achieve and what parties are subject to it. The definitions should make clear that your focus is on issues related to the extension of credit by non-regulated lenders.

For greater clarity, Charter I and Charter II banks are subject to all the applicable federal regulatory requirements, including the Bank Act and oversight by the FCAC, and all CAFII members offering CPI and BPI are subject to provincial regulations and oversight. Tied-selling is prohibited, and CAFII members are committed to fair disclosure, rigorous oversight of products offered, and the fair treatment of customers.

Consultation Period is Short

While in principle, we are very concerned if optional credit protection insurance and balance protection insurance are intended to be captured by the proposed amendments, in practice, we are also concerned about such a short consultation period for a change of this magnitude. CAFII has fifteen members that represent large, complex financial institutions and there are many other industry stakeholders who would be impacted by this change. We believe that better regulatory outcomes and protections occur when there is dialogue and detailed consultation with industry; the compressed timeline for this consultation has compromised the ability to achieve this important outcome. As a result, we feel that the amendments should not be moved forward until there has been an opportunity for a fulsome engagement between the Department of Finance and industry.

Final Comments and Recommendations

If the policy intent of the proposed amendments is to address concerns around optional insurance offered in conjunction with predatory lending and payday loans, we are concerned that many other legitimate loan instruments offered by FRFIs have associated optional insurance like CPI and BPI that are being inadvertently captured by these amendments, which could lead to negative consequences for consumers. CAFII respectfully suggests that criminal provisions are not the appropriate mechanism to address concerns that the government might have relating to the cost of insurance or sales practices by non-regulated lenders. This unfairly casts a shadow of criminality over what are legitimate forms of insurance that benefit consumers. It can also have the consequence of limiting access to insurance to consumers who may benefit from it, particularly those who may be underinsured. We strongly believe that insurance premiums should continue to be excluded from the calculation of interest, as was the

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approach prior to the introduction of these draft amendments and as is the current approach for calculating the cost of borrowing.

To the extent the Department of Finance is not open to removing insurance charges from the calculation of interest, the amendments should explicitly define the specific products offered that are targeted by this change as opposed to a broad, all-encompassing definition of insurance. The definition should make it clear that optional CPI and BPI insurance offered by regulated entities is not intended to be captured by the amendments and should consider an exemption for parties offering this optional insurance that are not the intended subjects of these amendments. As it stands, the broad definition could produce unintended consequences on consumers and is a disservice to many Canadian consumers who need these products and whose access to them should not be limited. At a practical level, it would be extremely difficult for industry to operationalize these proposed changes.

We encourage the Department of Finance, if it has not already done so, to engage in consultations with the provinces' and territories' insurance regulators on the amendments as insurance regulation falls under the jurisdiction of provinces and territories.

Thank you again for the opportunity to provide input and feedback on the Department of Finance's consultation on amendments to the Criminal Code. Should you require further information from CAFII or wish to meet with representatives from our Association at any time, please contact Keith Martin, CAFII Executive Director, at keith.martin@cafii.com or 647.460.7725.

Sincerely,

Karyn Kasperski

Karyn Kasperski
Board Secretary and EOC Chair

About CAFII

CAFII is a not-for-profit industry Association dedicated to the development of an open and flexible insurance marketplace. Our Association was established in 1997 to create a voice for financial institutions involved in selling insurance through a variety of distribution channels. Our members provide insurance through client contact centres, agents and brokers, travel agents, direct mail, branches of financial institutions, and the internet.

CAFII believes consumers are best served when they have meaningful choice in the purchase of insurance products and services. Our members offer credit protection, travel, life, health, and property and casualty insurance across Canada. In particular, credit protection insurance and travel insurance are the product lines of primary focus for CAFII as our members' common ground.

CAFII's 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/territorial) to develop a legislative and regulatory framework for the insurance sector which helps ensure that Canadian consumers have access to insurance products that suit their needs. Our aim is to ensure that appropriate standards are in place for the distribution and marketing of all insurance products and services.

CAFII's 15 members include the insurance arms of Canada's major financial institutions--BMO Insurance, CIBC Insurance, Desjardins Insurance, National Bank Insurance, RBC Insurance, Scotia Insurance, and TD Insurance, along with major industry players Assurant Canada, The Canada Life Assurance Company, Canadian Tire Bank, Canadian Western Bank, Chubb Life Insurance Company of Canada, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and Securian Canada.

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August 27, 2024 – Email Exchange Between CAFII and the Department of Finance About a Request From CAFII Regarding the Criminal Code.

From: Keith Martin
Sent: Tue 2024-08-27 12:03 PM
To: Mark.radley@fin.gc.ca;Anne.Loosen@fin.gc.ca
Cc: 'valerie.gillis@td.com';'paul.cosgrove@assurant.com';'Karyn Kasperski' <karyn.kasperski@rbc.com>;+4 others
Subject: Request from the Canadian Association of Financial Institutions in Insurance (CAFII)

Hello Mr. Radley and Ms. Loosen,

My name is Keith Martin and I am the Executive Director of the Canadian Association of Financial Institutions in Insurance (CAFII), whose members include Canadian banks, credit unions, and insurers. CAFII focuses on optional insurance products including life insurance offered with loan instruments like mortgages, HELOCS, and loans, as well as credit card balance protection insurance.

I am writing you about the consultation the Department of Finance is engaged in around the draft legislative amendments to the *Criminal Code,* which includes provisions to include insurance costs in the calculation of interest. We are very concerned about whether this provision intends to capture optional credit protection and balance protection insurance. These optional products provide critical protection to Canadians, and as worded it is not clear to us what the provisions you are consulting on apply to, and specifically whether optional credit protection and balance protection insurance is captured by these provisions. It should be noted that these products are not tied to the extension of credit nor do they protect against credit risk, but rather provide optional insurance risk protection against a borrowers' life and health related risks as well as in some instances, job loss, and are transacted under separate contracts for customers who wish to purchase this protection.

There are many important implications to these provisions for our members depending on their scope, and these insurance products are also under the jurisdiction of provincial and territorial regulators and policy-makers.

While in principle we are very concerned if optional credit protection insurance and balance protection insurance is intended to be captured by the proposed amendment, in practice it is also extremely problematic to announce a draft change that is intended to be implemented in four months or less (January 1, 2025). We typically request that any change that requires system changes and policy modifications have an implementation window of at minimum 12-18 months.

The consultation period is also extremely short. CAFII has fifteen members that represent large, complex financial institutions. We need time to internally formulate our feedback on any new regulatory or legislative approach, and to prepare our response.

We would be pleased to share our thoughts with you in a detailed written submission, and would like to request an extension beyond the September 11, 2024 deadline for responding to your consultation, if possible by a month. In the meantime, any clarification you can provide about the scope of the provisions with respect to the inclusion of insurance products in the calculation of interest rates would be helpful as we formulate our response.

Thank you in advance for considering this request.

--Keith Martin, CAFII Executive Director

About CAFII: The Canadian Association of Financial Institutions in Insurance is a not-for-profit industry association dedicated to the development of an open and flexible insurance marketplace. CAFII believes that consumers are best served when they have meaningful choice in the purchase of insurance products and services. CAFII's 15 members include the insurance arms of Canada's major financial institutions--BMO Insurance, CIBC Insurance, Desjardins Insurance, National Bank Insurance, RBC Insurance, Scotia Insurance, and TD Insurance, along with major industry players Assurant Canada, The Canada Life Assurance Company, Canadian Tire Bank, Canadian Western Bank, Chubb Life Insurance Company of Canada, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and Securian Canada.

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From: Radley, MarkMark.radley@fin.gc.ca
Sent: Fri 2024-08-30 4:54 PM
To: Keith Martin
Cc: valerie.gillis@td.com;paul.cosgrove@assurant.com;karyn.kasperski@rbc.com; John.Burns@securiancanada.ca; +6 others.

Hi Keith,

Sorry for the delay in responding. Thank you for your email regarding your concerns around the consultation on potential *Criminal Code* amendments. I would note that the draft legislation is for consultative purposes only. As such, on timelines, we have not determined or finalized any dates for next steps with regards to this draft legislation. We are awaiting all stakeholder comments to help inform next steps, including potential final legislation, and we appreciate your comments written below and look forward to receiving a formal submission on the issue.

We have noted your request for an extension on the submission deadline, which we will return to you on. If you have any interest in meeting with us so we may answer any questions you may have or to discuss your initial thoughts, please let us know and we can set something up for next week, if you are amenable.

Thank you,
Mark

From: Keith Martin
Sent: Wed 2024-09-04 5:11 PM
To: Radley, Mark <Mark.radley@fin.gc.ca>
Cc:valerie.gillis@td.com;paul.cosgrove@assurant.com;karyn.kasperski@rbc.com;
John.Burns@securiancanada.ca;+6 others

Hello Mark,

I first of all would sincerely like to thank you for your response below, which was much appreciated.

I also want to thank you for the offer of a meeting. It will be difficult to us to get this organized prior to the current deadline of September 11, 2024, but if an extension is offered I will definitely follow up with you and would welcome a meeting after that date for us to engage in a dialogue.

CAFII will be making a preliminary submission to the Department of Finance by your current deadline of September 11, but if an extension is offered we could expand on that submission with more detailed comments and as noted above, we would welcome the opportunity to participate in a meeting with you and your colleagues after that date. With additional time, I believe we can better prepare and make the meeting more robust and beneficial for you and your colleagues.

Please do not hesitate to reach out to me on this or any related matters, and thank you again for your consideration.

Regards,

--Keith

Keith Martin
Executive Director / Directeur général
Canadian Association of Financial Institutions in Insurance

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July 2024 – The Federal Department of Finance Indicated Its Intention to Include Insurance Premiums in the Determination of Interest.

The Federal Department of Finance has indicated that it intends to include insurance premiums in the determination of interest, and has provided a very short period for industry to provide written feedback. CAFII has requested an extension of the deadline, but will also be making a written submission to the Department by the October 11, 2024 deadline. CAFII has also been coordinating its approach closely with CBA and CLHIA.

Following is the correspondence between CAFII and the Department of Finance.

From: *Keith Martin*
Sent: *September 4, 2024 5:12 PM*
To: *Radley, Mark <Mark.Radley@fin.gc.ca>*
Cc: *valerie.gillis@td.com; paul.cosgrove@assurant.com; karyn.kasperski@rbc.com; John.Burns@securiancanada.ca; bradley.kuiper@scotiabank.com; fay.coleman@td.com; Robyn Jennings <Robyn.Jennings@cafii.com>; Loosen, Anne <Anne.Loosen@fin.gc.ca>; Islam, Tanjana <Tanjana.Islam@fin.gc.ca>; Ward, Connor <Connor.Ward@fin.gc.ca>*
Subject: *RE: Request from the Canadian Association of Financial Institutions in Insurance (CAFII)*

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--Keith

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From: *Radley, Mark <Mark.Radley@fin.gc.ca>*
Sent: *August 30, 2024 4:54 PM*
To: *Keith Martin <Keith.Martin@cafii.com>*
Cc: *valerie.gillis@td.com; paul.cosgrove@assurant.com; karyn.kasperski@rbc.com; John.Burns@securiancanada.ca; bradley.kuiper@scotiabank.com; fay.coleman@td.com; Robyn Jennings <Robyn.Jennings@cafii.com>; Loosen, Anne <Anne.Loosen@fin.gc.ca>; Islam, Tanjana <Tanjana.Islam@fin.gc.ca>; Ward, Connor <Connor.Ward@fin.gc.ca>*
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Thank you,

Mark

From: *Keith Martin <Keith.Martin@cafii.com>*
Sent: *Tuesday, August 27, 2024 12:03 PM*
To: *Radley, Mark <Mark.Radley@fin.gc.ca>; Loosen, Anne <Anne.Loosen@fin.gc.ca>*
Cc: *'valerie.gillis@td.com' <valerie.gillis@td.com>; 'paul.cosgrove@assurant.com' <paul.cosgrove@assurant.com>; 'Karyn Kasperski' <karyn.kasperski@rbc.com>; Burns, John*

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<John.Burns@securiancanada.ca>; Bradley Kuiper <bradley.kuiper@scotiabank.com>; 'Coleman, Fay' <fay.coleman@td.com>; Robyn Jennings <Robyn.Jennings@cafii.com>
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--Keith Martin, CAFII Executive Director

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