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Regulatory Update – CAFII Board of Directors, November 27, 2014

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Federal/National

Canadian Council of Insurance Regulators (CCIR)

Stakeholder Meetings Rescheduled For January 28-29/15

On November 15/14, CAFII received notification from Carol Shevlin, CCIR Policy Manager, that the Council had rescheduled its stakeholder meetings, recently postponed from November 5-6/14, for Wednesday, January 28 and Thursday, January 29, 2015 at St. James Cathedral Centre in Toronto.

CAFII's stakeholder meeting slot has now been confirmed for Wednesday, January 28 from 10:15 to 11:00 a.m. CAFII Board members Rino D'Onofrio, Darrell Bruce, Chris Knight, and Peter McCarthy have confirmed their attendance, along with EOC Chair Greg Grant and Executive Director Brendan Wycks.

The Travel Insurance Pan-Industry Project Group (TIPIP), on which CAFII is one of three participating Associations, will also be meeting with CCIR on January 28. It will be doing so to discuss regulatory concerns about travel insurance and TIPIP's recently submitted Briefing Document on the Canadian travel health insurance industry.

Speaking Notes For Chair's Remarks At CAFII Reception Published On CCIR Web Site

CCIR has published on the home page of its web site the speaking notes used by Chair Carolyn Rogers for her remarks to CAFII's Reception event on October 7/14.

National Complaint Reporting System (CRS)

Highlights of November 13/14 Presentation To CAFII And CLHIA

On November 13/14, CAFII and CLHIA representatives attended an AMF/FSCO presentation on a 2014 joint review of the national Complaint Reporting System (CRS) that those two regulators own and operate.

The key outcomes highlights of the presentation are

- participating regulators (all jurisdictions except BC, NWT, and Nunavut) are using the data on an ad hoc basis, almost exclusively for "own jurisdiction" analysis only;
- individual company analysis is usually done only when there is a scheduled examination/inspection upcoming;
- while the system has national aggregation and analysis capabilities, that's not currently being done as the participating regulators haven't yet come together to decide how to do this;
- in order to achieve more strategic use of nation-wide data that would benefit all participants, a more collaborative and co-ordinated approach is needed. Operationally, the AMF and FSCO, owners and operators of the CRS, will support such an approach through more ongoing communication and training of participating regulators in order to facilitate the sharing of best practices;
- in keeping with its new Strategic Plan, the CCIR is developing a Market Conduct Supervisory Framework (a "Supervisory College"); and more effective, nationally co-ordinated use of the CRS can support that framework.

Following the presentation, Isabel Scovino and Letitia Miculescu of FSCO, the primary presenters, expressed receptivity to the following proposal from industry representatives in attendance:

- a joint regulator/industry working group should be formed, similar to the group that did the formative work, over several years, that led to the launch of the CRS in 2005;
- that working group, which should include complaints/compliance practitioners from the industry, should initially meet intensively to address the current shortcomings of the CRS; and then once or twice per year after those problems are fixed;
- the working group should look at

-what is the end goal of the CRS;

-what are the “data points” that are being collected? Are they the relevant ones?

-how are the data and trends being reported and shared with the industry? (more than just an annual reporting at FSCO’s Life & Health Insurance Symposium is needed).

It was noted that such a joint regulator/industry working group could be used to help the AMF and FSCO to prioritize possible improvements and enhancements to the CRS without adding significant new costs, as the regulators noted that limited financial resources was a constraint.

Financial Consumer Agency of Canada

FCAC Removes Quarterly Reporting Requirement For Insurance Companies

Currently, FCAC requires all insurance companies to submit self-reportable complaints and reportable compliance issues on a quarterly basis. The review of these reportable complaints assists the Commissioner in assessing whether the federally regulated insurance companies are in compliance with the consumer provisions that apply to them. However, the FCAC has found there are very few consumer provision complaints reported to insurance companies and that the process of filing Nil reports is an administrative burden on both financial institutions and the agency, with minimal benefit to either party.

Therefore, effective January 1, 2015, FCAC will no longer require insurance companies to file quarterly reports. However, FCAC’s Compliance and Enforcement Branch (CEB) will maintain the rest of the reporting requirements, including the reporting of compliance issues should they arise. In addition, CEB will add an attestation for insurance companies in the yearly examination questionnaire requesting confirmation that all complaint-related requirements have been met for the year.

CAFII Completes Stakeholder Survey On Satisfaction With FCAC

In late October, CAFII completed an online survey related to invited stakeholders’ perceptions of and satisfaction with the FCAC.

Conducted by Harris-Decima and focused mainly on the financial literacy and consumer education component of FCAC’s mandate, the survey had four main purposes:

- understand stakeholder knowledge and perceptions of FCAC;
- obtain feedback from stakeholders about various aspects of the organization’s activities in order to improve various elements of its programs and activities;
- obtain feedback to help improve its dealings with stakeholders; and

- gauge key stakeholders' perceptions about potential actions that they believe would be important for FCAC to consider during its business planning cycle.

Government Unveils New Financial Literacy Resources At FCAC Conference

Representatives from grass-roots groups, government and non-profit organization leaders, private-sector stakeholders and academics attended the FCAC's National Financial Literacy Conference in Vancouver on November 6-7 which had "strengthening financial literacy through collaboration" as its theme.

During the conference, the Government of Canada unveiled the following tools which are now available on the FCAC's web site:

- a new Canadian Financial Literacy Database which provides Canadians with comprehensive information on the financial literacy resources, events and tools available from various financial education providers, including the public, private and non-profit sectors across the country; and
- a self-assessment quiz which allows Canadians to assess their financial literacy skills and knowledge and see how they compare to other Canadians on five domains of financial capability.

In roundtable discussions, participants voiced their ideas about how best to reach and engage Canadians. This input will be used by Jane Rooney, Financial Literacy Leader, in shaping the development of a national strategy for financial literacy, which will be announced in 2015.

Canadian Life and Health Insurance Association

CLHIA Releases Compliance Guide For MGAs

CLHIA recently published a reference document titled "MGA Compliance: A Risk-based Approach for Compliance Programs in the MGA Channel."

Based on the premise that insurance advisors will be the focus of more compliance audits and a higher level of oversight of their day-to-day sales activities by their managing general agencies (MGAs) as the industry adopts a set of standardized compliance practices for the MGA distribution channel, the document is intended to serve as a guide for MGAs in developing compliance policies regarding advisor screening and monitoring, as well as other compliance responsibilities.

OmbudService For Life and Health Insurance

Highlights Of Recently Published 2013-14 Annual Report

OLHI's recently published 2013-14 Annual Report features the following highlights relevant to CAFII members:

- OLHI received 2,480 complaints over the course of the year, up 5.5% over the prior year and up by 24.7% from 2009-10. OLHI believes that this growth is indicative of an increase in consumer awareness as Canadians become better apprised of their options for third party review of life and health insurance complaints;

- the top three product complaint categories remain Disability; Life; and Extended Health Care & Dental. Together, these three categories account for 81.5% of all complaints. For the third consecutive year, disability insurance-related complaints (36%) were below historic levels but they continue to represent the highest proportion of complaints. Life-related complaints (28%) and EHC & Dental complaints (17.5%) remained at levels comparable to the prior year.
- the distribution of complaints among the Group, Individual, and Creditor categories remained unchanged from the prior year. Each of Group and Individual account for approximately 45% of all complaints received, while Creditor complaints make up the remaining 10%.

In a presentation at CLHIA's Consumer Complaints Officers Section Seminar on November 20/14, OLHI Executive Director Holly Nicholson reported that only 8% of the escalated complaints that reach OLHI relate to travel insurance, but those particular complaints tend to be major "headline grabbers."

British Columbia

Financial Institutions Commission (FICOM)

CAFII Participates In Pre-Consultation Roundtable Discussion On 10-Year Review of Financial Institutions Act
On October 24/14, Executive Director Brendan Wycks received an invitation letter from Michael De Jong, BC Minister of Finance, inviting him to represent CAFII in a roundtable discussion about that province's financial institutions legislation on Friday, November 21 in Vancouver.

The timing of the roundtable discussion conflicted with Brendan's prior commitment to participate on a panel at FSCO's Life & Health Insurance Symposium in Toronto on Nov 21, 2014. Therefore, he arranged with Minister de Jong's office (which was looking for industry Association CEO or Board-level participants) for CAFII's invitation to be transferred to Greg Grant, as Chair of CAFII's Executive Operations Committee and Secretary to the Association's Board of Directors.

The invitation letter recognizes CAFII as a leading stakeholder in the insurance industry, as follows:

"... I am requesting your assistance, as a recognized leader in the insurance sector who will contribute a broad range of perspectives and views, in further developing proposed objectives and identifying key issues that should be considered as part of the upcoming government review of key legislation that applies to the financial services sector.

... To ensure that the regulatory framework for financial institutions and intermediaries continues to be modern and both efficient and effective, the FIA contains a requirement that it be reviewed every 10 years. As it is now time for the required review to be initiated, I would like to invite you to participate in a roundtable discussion about British Columbia's financial institutions legislation. The roundtable discussion is intended, in particular, to help inform the development of an initial consultation paper that will be shared with all stakeholders in the financial services sector for their feedback and input."

Insurance Council of British Columbia

Insurance Council Likely To Develop Mandatory Courses For Life Insurance Agents

In remarks at CLHIA's Consumer Complaints Officers Section Seminar on November 20/14, Gerry Matier, Executive Director of the Insurance Council of BC, advised that the Council is giving serious consideration to developing four mandatory courses for life agents on "responsibilities and practice issues." When implemented, these courses would be mandatory continuing education for life agents with it being required that they take one of the courses in each of their first four years of practice.

Gerry's statement augments the following which is published on the Council's web site: "... Council plans to review its CE program to determine if it can be better tailored to assist new licensees in the early years of their insurance careers. Council is satisfied the entry-level education requirements are adequate but is concerned that the education available to new licensees may be inadequate. Council will consider modifying the CE program to ensure the education new licensees obtain early in their careers is appropriate. One possible solution is to develop courses or programs licensees would be required to complete within specific time frames during the first three to four years of their career."

Saskatchewan

Financial Consumer Affairs Authority (FCAA)

Saskatchewan To Release Draft Bill For Consultation On Modernizing Insurance Act

Saskatchewan Superintendent of Insurance David Wild is expected to release imminently (and definitely before the end of 2014) a draft Bill which will set out the province's proposed amendments to its Insurance Act. The draft legislation will be used as the vehicle for consultation with the industry. This information was shared with Brendan Wycks by Craig Anderson, Associate Counsel at CLHIA.

While the industry was aware that Saskatchewan had begun a preliminary review of its Insurance Act in 2014 and indicated on its web site that the review would be completed in 2015, the fact that the FCAA has leapt ahead to the draft legislation stage is surprising. The FCAA was expected to take the more typical approach of releasing a consultation document on the Insurance Act review. Moving immediately to draft legislation makes it appear that the FCAA is trying to expedite and accelerate the legislative review process.

Ontario

Financial Services Commission of Ontario (FSCO)

FSCO To Undergo Mandate Review In Early 2015

FSCO and the Deposit Insurance Corporation of Ontario (DICO) will undergo an "Agency Review" of their mandates during the first half of 2015. An Ontario government initiative, this mandate review is conducted periodically (typically once every 10 years) and will be led by an independent reviewer.

This information was shared by Brian Mills, recently appointed Interim CEO and Superintendent, in a get-acquainted conversation with CAFII representatives Brendan Wycks and Moira Gill at FSCO's Market Conduct Symposium for the Life and Health Insurance Sector on November 21/14.

FSCO Announces “Next Steps” Emerging From Life Insurance Product Suitability Review

At FSCO’s Market Conduct Symposium for the Life and Health Insurance Sector on November 21/14, Anatol Monid, Interim Executive Director of FSCO’s Licensing and Market Conduct Division, announced that the Commission would be taking the following next steps stemming from its recently completed Life Insurance Product Suitability Review:

- providing bulletins and other educational initiatives for life insurance agents;
- conducting more in-depth compliance audits of life insurance agents. On-site visits to corroborate the results of the Product Suitability Review survey will begin shortly;
- conducting on-site examinations of life insurance companies, particularly with respect to their oversight and monitoring responsibilities; and
- communicating to industry stakeholders that FSCO expects that they will self-assess against the aggregate results of the Review and identify areas for improvement

Anatol noted that 60 of the approximately 1,000 life agents who were randomly selected to complete the Product Suitability Review’s online survey did not do so, and an administrative monetary penalty has been imposed on them. For those who have appealed this fine for non-compliance, hearings will begin in January 2015 and Anatol will be “giving evidence.”

He also advised that the International Monetary Fund’s summer 2013 Financial System Stability Assessment (FSSA) of FSCO’s practices, which included reviewing the Commission’s performance against the International Association of Insurance Supervisors’ (IAIS) Core Principles, indicated that FSCO should be doing more in terms of setting market conduct expectations and communicating them to the industry. He stressed that FSCO will be implementing that recommendation for improvement, and the industry will be seeing more evidence of that soon.

Anatol Monid Appointed Interim Executive Director Of Licensing and Market Conduct Division

On October 28/14, FSCO announced that Anatol Monid had been appointed Interim Executive Director of the Licensing and Market Conduct Division. He assumes that role from Grant Swanson who retired on October 23/14 after a distinguished career in the Ontario public service.

In 2004, Anatol joined FSCO as Director of the Market Regulation Branch, within the Licensing and Market Conduct Division. In this role, he was responsible for oversight of prudential and market conduct examinations, and consumer complaint handling across FSCO’s regulated sectors.

Anatol brings to his new position experience in both the private and public sectors. He was with the supervision group of the Office of the Superintendent of Financial Institutions and worked for a number of general and multi-line insurers in various capacities. He also served with the Canadian Armed Forces.

Anatol occasionally serves as a program leader supporting the work of the Toronto Leadership Centre which is working to build the capacity of financial sector regulators and supervisors in emerging markets and low income countries. He is also a member of Sheridan College Faculty of Continuing & Professional Study and teaches insurance courses.

Isabel Scovino Appointed Director, Market Regulation Branch In Licensing and Market Conduct Division

On November 13/14, CAFII learned that Isabel Scovino had recently been appointed Director of the Market Regulation Branch in FSCO’s Licensing and Market Conduct Division, succeeding Anatol Monid in that role.

Isabel previously worked in the Licensing and Market Conduct Division for many years – recently having liaison with CAFII around FSCO’s “Modernizing Disciplinary Hearings For Insurance Agents and Adjusters” consultation in early 2013 – but her most recent role was Senior Manager of the Motor Vehicle Accident Claims Fund in the Auto Insurance Division.

Quebec

AMF

AMF To Announce New Round Of Consultation On E-Commerce In Insurance Sector

CAFII has learned that the AMF plans to launch the next phase in its own consultation on electronic commerce in the insurance sector imminently, either before the end of 2014 or in early 2015.

Eric Stevenson, the AMF’s Superintendent, Client Services and Distribution Oversight, has advised Brendan Wycks that his team is currently in the process of finalizing its report on the e-commerce consultation the AMF conducted a few years ago.

He noted that as the CCIR usually does (and did for the Electronic Commerce Report), the idea was to publish a report for consultation before the final version is published. In the upcoming consultation report, the AMF will suggest some guidance and principles on electronic commerce. The previous Position Paper was asking questions and did not propose any such guidance or principles.

Based on a conversation with Eric at the AMF’s annual Rendez-vous conference in Montreal on November 10/14, Claude Di Stasio, CLHIA’s Vice-President, Quebec Affairs, indicated that the rationale for the imminent timing for a further round of AMF consultation on e-commerce in insurance is (i) products and technology in the marketplace have changed so much in recent years that it may no longer hold true that the e-commerce distribution channel should operate under the exact same regulations as any other distribution channel; and (ii) the AMF’s data is showing that consumer purchases of insurance via e-commerce are growing significantly.

CAFII To Meet With AMF On E-Commerce Consultation And Distribution Guide Initiative In January 2015

In response to a request from Brendan Wycks, Eric Stevenson, the AMF’s Superintendent, Client Services and Distribution Oversight, has offered to meet with CAFII in Toronto on the afternoon of January 27 or the morning of January 30, while he is in town for the CCIR stakeholder meetings that week.

The AMF’s further round of consultation on e-commerce in insurance and the Distribution Guide (DG) template initiative will be two key items on the meeting agenda.

AMF Response To Industry On Distribution Guide Consultation Submissions Could Be Delayed

At the AMF’s recent Rendez-vous event, Claude Di Stasio of CLHIA picked up the following insights from Eric Stevenson with respect to the industry’s recent submissions on the AMF’s DG template:

- the AMF has reviewed all of the submissions from industry stakeholders. It understands the feedback received, and acknowledges the merits of many of the points made about shortcomings in the DG template; and

- the AMF recognizes that some of the shortcomings with the DG are rooted in the fact that it was designed with a face-to-face sales situation in mind, which creates problems for its applicability to alternate distribution channels; and

In light of AMF plans to launch a further round of consultation on e-commerce in insurance, the outcomes of which will likely have implications for the DG, CLHIA believes that the AMF will probably decide that it does not make sense to pursue the DG initiative further until the new e-commerce consultation is completed.

However, Eric Stevenson has advised Brendan Wycks that, in his view, the upcoming e-commerce consultation will not have any direct impact on the timeframe for completing the DG template initiative.

Nova Scotia

Consultation On Regulations Supporting Direct Sellers' Regulation Act (DSRA), Bill 43

Nova Scotia's Bill 43, once proclaimed, will remove from the province's Direct Sellers' Regulation Act (DSRA) an exemption for goods and services whose sale is regulated by another federal or provincial statute.

After learning of Bill 43 in July 2014 and flagging it as of regulatory concern, CAFII subsequently found out that Nova Scotia planned to continue to have some exclusions from the Act, but that they would be more focused and set out in regulations.

On August 5/14, CLHIA sent a letter to Service Nova Scotia asking the government to reaffirm that life and health insurance products and services regulated under the province's insurance legislation will continue to be excluded from application of the DSRA; and that the province would include provisions in its new DSRA regulations to exclude both contracts for and the selling of life and health insurance which are already regulated under the province's Insurance Act. .

On November 24, Brendan Wycks learned from Craig Anderson, CLHIA's Associate Counsel, that

- Service Nova Scotia had recently released a broad consultation document "to all known interested parties" on the proposed exemptions via Regulation from the new Act; and the stated deadline for submissions was November 24;
- the consultation document proposes nine exemption clauses, with only the first one being applicable to the direct selling of insurance; and
- CLHIA has made a brief submission and proposed some wording tweaks to the first exemption clause to make it more precise and inclusive of what should be captured in the exemption's net.

Brendan Wycks subsequently contacted Service Nova Scotia and obtained the consultation document. CAFII's Licensing Efficiency Issues Committee is currently reviewing the proposed exemption clause related to direct selling of insurance, to determine if our Association has any specific wording changes to recommend. Service Nova Scotia was pleased to hear from CAFII and has invited us to pass along any feedback or comments by December 3.