

**Regulatory Update – CAFII Board of Directors and Executive Operations Committee, October 20, 2017**

Prepared By Brendan Wycks, CAFII Co-Executive Director

**Table of Contents**

**Federal/National:**

- **Financial Consumer Agency of Canada (FCAC)**
  - FCAC Delays Report On Banks' Sales Practices To Q1 2018 **(page 2)**
- **Government of Canada**
  - Broker Predicts Banks Will Soon Renew Call To Sell P&C Insurance In Branches **(page 2)**
- **Canadian Council of Insurance Regulators (CCIR):**
  - CCIR Recommends Changes To Seg Fund Disclosure **(page 3)**
  - Insurers Need To Better Educate Consumers On Home Insurance Policies: CCIR **(page 3)**
- **Canadian Life and Health Insurance Association (CLHIA):**
  - CLHIA Trying To Stay In Front Of Rapidly Changing Regulatory Environment **(page 4)**
- **Canadian Bankers Association (CBA):**
  - CBA Leading Push For Liberalizations To Help Banks Make Digital Transformation **(page 5)**
- **Canadian Securities Administrators (CSA):**
  - Securities Regulators Concerned About Complaint Handling **(page 6)**
- **Association of Canadian Travel Agencies (ACTA):**
  - ACTA Monitoring For Insurer Responses To CCIR Position Paper **(page 7)**
- **Canadian Foundation for Advancement of Investor Rights (FAIR):**
  - Former Assistant Deputy Minister Becomes FAIR Executive Director **(page 7)**

**Provincial/Territorial:**

- **British Columbia:**
  - FICOM Clarifies CGI Information Bulletin In CMT Article **(page 8)**
  - Insurance Council Cancels Life Agents' Licences For Exam Cheating **(page 8)**
- **Manitoba:**
  - ICM's ISI Committee To Reach Out To RIA Licensees In 2018 **(page 9)**
- **Ontario:**
  - Ontario Appoints New Chair Of Financial Services Tribunal (FST) **(page 9)**
  - FSCO Ramping Up Compliance Scrutiny Of High Risk Advisors In 2018 **(page 10)**
- **Quebec:**
  - Brokers Call For Cigarettes-Style Warning About Online Insurance Purchases **(page 10)**
  - AMF Appoints New Superintendent, Client Services And Distribution Oversight **(page 11)**
  - AMF Appoints First Fintech Director **(page 11)**
  - AMF Becomes A Member Of IVADO **(page 12)**
  - AMF To Collect Data On Firms' Practices And Business Relationships **(page 12)**

**International:**

- **Australia**
  - Australia To Investigate Alleged Financial Industry Misconduct **(page 13)**
  - Australian Banks To Overhaul Credit Insurance Sales Processes **(page 13)**

## **Federal/National**

### **Financial Consumer Agency of Canada (FCAC)**

#### FCAC Delays Report On Banks' Sales Practices To Q1 2018

In late December 2017, the Financial Consumer Agency of Canada (FCAC) announced that it would not be releasing the results of its review of business practices among Canada's major banks by the end of the year, as originally intended.

FCAC Commissioner Lucie Tedesco had indicated to a parliamentary committee in June that an interim report on its review would be issued by the end of 2017; and a full report would follow in 2018. But FCAC spokeswoman Lynne Santerre s announced in December that the Commission had since determined that the better approach would be to issue one report in the first quarter of 2018.

### **Government of Canada**

#### Broker Predicts Banks Will Soon Renew Call To Sell P&C Insurance In Branches

With the federal Bank Act up for review in 2019, a Montreal-based broker is warning that some banks will try to have the government change a law restricting the way banks can sell property and casualty insurance.

"I am sure that the banks are going to try to have the current restrictions lifted," Ted Harman, president at Accent Insurance Solutions, told Canadian Underwriter in a phone interview.

It is "up to individual banks what their views would be" on banks selling insurance, Aaron Boles, the CBA's vice president of communications, told Canadian Underwriter.

Federal law allows banks to sell home and auto insurance through subsidiaries but not in their branches. They may sell "authorized" lines of insurance, such as creditors' disability. Banks are also not allowed to provide access, from their web pages, to other web pages through which insurance other than "authorized" types are sold.

The Bank Act has a five-year sunset clause, which was extended in 2016 to March 29, 2019.

"Credit and insurance are two things that ought not be joined at the hip," said Harman, commenting in his capacity as a brokerage owner. He added the bank representative should not be able to say to a consumer, "We are going to give you your mortgage and, oh, by the way, here is an insurance policy to cover you."

Harman said there is no shortage of examples in which people have purchased mortgage insurance at the point of sale and received credit, only to find out later that for some reason the insurance isn't going to get paid out.

Whether or not individual banks push for easing the restrictions, a backbench Liberal MP recently told Toronto area brokers he does not "foresee a lot of changes" with banks and insurance.

"I think we need to ensure that we have a healthy competitive marketplace for insurance at the point of origination of insurance," Francesco Sorbara, MP for Vaughan-Woodbridge, said during the Insurance Brokers of Toronto Region breakfast in November 2017.

If banks are allowed to start selling personal lines insurance within the retail branch, "it potentially opens up the door for them to consider selling small property packages to small businesses and then expanding that to medium enterprises," Rael Levy, vice president of the Toronto Insurance Conference, told Canadian Underwriter earlier.

"Brokers feel like there is a presumptive element of undue influence over the consumer when they are applying for credit, a business loan or mortgage and they might feel intimidated or out of options and then insurance is foisted upon them at the last minute to consider as well," Levy said.

### **Canadian Council of Insurance Regulators (CCIR)**

#### CCIR Recommends Changes To Seg Fund Disclosure

The regulatory requirements facing segregated funds and the financial advisors who sell such products should more closely mirror the rules pertaining to mutual funds, the Canadian Council of Insurance Regulators recommends in a position paper released in December 2017.

The CCIR position paper on seg fund regulation highlights the results of a consultation in which the regulatory body examined the gaps between the regulation of seg funds and mutual funds. Seg funds are often compared to mutual funds as they both involve the pooling and professional management of assets; however, the products differ in that seg funds are structured as life insurance contracts that guarantee 75% to 100% of the contract holder's contributions.

The consultation was prompted, in part, by the second phase of the client relationship model (CRM2), which introduced new disclosure requirements related to the costs and performance of mutual funds. Given the similarities between seg funds and mutual funds, the introduction of stringent new rules for one product, but not the other, raised concerns about the potential for regulatory arbitrage.

"CRM2 has created a gap in the level and type of disclosure given for mutual funds and for segregated funds," the position paper states. As a result, the CCIR recommends changes to seg fund disclosure to bring that information more closely into alignment with the information clients receive about their mutual fund investments. The CCIR paper specifies that the information should be conveyed in plain language and should allow for ease of comparison between mutual funds and seg funds.

#### Insurers Need To Better Educate Consumers On Home Insurance Policies: CCIR

In its *Findings Report & Position Paper: Natural Catastrophes and Personal Property Insurance* released in August 2017, CCIR calls upon insurers to better educate consumers so that they can understand the terms – including limitations, exclusions and deductibles – of their property insurance contracts; while also calling upon p&c industry stakeholders to share aggregated property risk data in order to help update building codes.

There is “value and need for direct and clear communications with consumers and intermediaries regarding coverages,” the report says.

CCIR also said it “encourages stakeholders to better collaborate so that aggregated risk data is made more readily available to support the conditions necessary to enhance preparedness, as well as the affordability and availability of natural catastrophe insurance.”

### **Canadian Life and Health Insurance Association (CLHIA)**

#### CLHIA Trying To Stay In Front Of Rapidly Changing Regulatory Environment

Looking at the current regulatory environment and the swift pace of change, Stephen Frank, who became president and CEO of the Canadian Life and Health Insurance Association in July 2017, describes it as “almost without precedent.”

“We’ve got a new capital regime coming into place next year, which is a fundamental change from decades prior. At the same time we’re struggling and working through how to implement a new accounting regime. Either of those on their own would be significant change for the industry, but both are coming at the same time,” said Frank in an interview with *The Insurance and Investment Journal*.

“We’ve got dialogue and questions around our distribution model in Canada. How should we be incenting agents and advisors? How should we be overseeing them? What’s the right amount of disclosure? What form should that take? Those things go right to the heart of how we distribute – and support our clients.”

Then there are discussions about the appropriate use of various kinds of information in the underwriting process, tax changes, and more. “When you look at the regulatory environment, there’s just an awful lot coming at us at the same time and when you think through where that could land us in five years, it’s pretty clear we’ll be in a different environment, a different industry than we are today.”

Beyond the regulatory change, the insurance industry is also dealing with a changing market with the emergence of fintech, changing expectations of how consumers want to interact with insurers, and the persistent low interest rate environment in Canada and globally. “So there’s market things happening, there’s regulatory things happening – we’re in the middle of that, saying how do we help our members not just react, but how do we help shape that? How do we be proactive?”

The CLHIA, which represents Canada’s life insurance companies, has been taking a hard look at these issues in recent months and establishing its priorities in terms of where it wants to focus its resources over the next couple of years. Asked what is of greatest concern, Frank said, “It jumps out immediately that we need to be on top of the whole question of how we distribute our product,” such as the need for increased oversight over distribution channels. He adds that this priority also includes agent/broker compensation issues, in particular incentives and disclosure.

The industry, he says, needs to challenge itself on these issues. “We need to look at our own operations and say, ‘where can we do a little bit better and are we really confident we’re doing everything we need to do?’” Some of the CLHIA’s proposed new guidelines and approaches are the industry’s way of stepping up with some solutions to these issues, Frank says.

“It’s part of that effort to try to shape the debate, be part of the solution and be proactive and not simply wait for regulators to identify problems. We don’t want to have that kind of relationship with the regulators in Canada where we’re just sitting back and saying everything’s fine and reacting as things come. So we’re trying to be a partner in this and making sure we’re treating customers fairly.”

What the CLHIA has put forward is to create a licensing regime for MGAs under which an advisor would have a lead or primary MGA, but would still be able to work with multiple MGAs. However, the lead MGA would have the power to collect information on that advisor’s business activities from other MGAs. This solution would avoid forcing a one-to-one relationship between advisors and MGAs, yet still provide a central location to get a complete view of an advisor’s business, explains Frank. Then, insurers who work with the advisor could have access to the totality of this information.

The CLHIA has started having discussions on this issue with the MGA community and the MGA association CAILBA, says Frank. He adds that the CLHIA is open to other ideas on how to do better in this regard. “We’d love to have this discussion. I think we’re at the very, very early stages on that.”

He adds that this issue is an example of one where it would be better for the industry to try to address the oversight gap rather than to wait for a regulatory response. A response that comes from the industry, he says, might include a better understanding of the reality of the market and be better for everyone.

### **Canadian Bankers Association (CBA)**

#### CBA Leading Push For Liberalizations To Help Banks Make Digital Transformation

Neil Parmenter, the new CEO of the CBA whose background is firmly rooted in the delivery of crisp, clear messages, recognizes that his member banks, known for their stability and caution, are grappling with fundamental change. Among other challenges, customers are being tempted away by new and nimble digital competitors with low overhead and sometimes lighter regulatory burdens.

As a result, banks are scrambling to adopt new technologies and ways of doing business to avoid the fate of slow-footed incumbents in other, already disrupted industries. At the same time, Canada's banks remain accountable to regulators to prove they're fulfilling their obligations as the backbone of the country's widely admired financial services system.

Perhaps the CBA's biggest immediate challenge, Parmenter says, will be managing the digital transformation.

In September, the CBA issued its submission in response to the Department of Finance Canada's second consultation paper reviewing the financial services sector. The CBA's submission to Finance Canada asks the government to modernize legislation that significantly limits banks from working with fintech firms.

Rules currently prevent banks from investing in companies that engage in commercial, non-financial services activities. For example, if a fintech firm's main business is providing a payments service, but the firm also has a secondary, non-banking business, such as food delivery, a bank would not be able to invest in that fintech firm without obtaining government approval.

However, banks can be given greater latitude to partner with fintech firms safely, Parmenter says. If such updates are not made, the domestic banking industry runs the risk of falling behind its global peers.

"The last thing we want, as a country," he says, "is to stifle innovation; to stifle investment in the digital space; to allow other jurisdictions to capture that investment, to grow the base and then to dictate what the new global standards are going to be."

To get the word out about the priorities of the CBA's 64 member firms - the Big Five, other domestic banks and foreign banks' subsidiaries - to customers, employees, shareholders and the government, Parmenter has had a packed speaking schedule throughout the latter half of 2017.

"What we're trying to do here is share our stories where we can," he says. "I think the industry does a lot of good. But, at the same time, we need to be available to take tough questions."

Safeguarding customers' trust will remain paramount as banks adopt new technologies and offer digital services. Customers demand new, convenient digital ways to deposit, borrow, save, conduct transactions and invest, and they expect accountability when things go wrong. Balancing digital innovation while providing security and customer recourse will be the key to navigating this move to digital business platforms, Parmenter says.

Parmenter says he relishes the chance to lead the CBA through this period of change: "I just view it as an exciting time to have a front-row seat and to influence where the industry goes next."

## **Canadian Securities Administrators (CSA)**

### Securities Regulators Concerned About Complaint Handling

The Canadian Securities Administrators (CSA), Investment Industry Regulatory Organization of Canada (IIROC, and Mutual Fund Dealers Association of Canada (MFDA) released a joint notice on December 7/17 that highlights concerns about some registered firms' complaint handling systems and their participation in Ombudsman for Banking Services and Investment's (OBSI) dispute resolution process.

The joint notice sets out potential regulatory responses and outlines staff's concerns regarding the use of an internal "ombudsman" as part of complaint handling systems.

The notice also points out that while OBSI's compensation recommendations are not decisions that are binding on firms or clients, the regulators are of the view that "refusals to compensate clients consistent with OBSI recommendations, or repeatedly settling for lower amounts than recommended by OBSI can sometimes be a risk-based indication of problems with a firm's complaint handling practices."

The regulators add that as part of their risk-based reviews, they “will particularly take note of patterns involving these activities. Such activities could suggest the possibility that the firm may not have: participated in the OBSI process in good faith, complied with the applicable standard of care, or implemented and maintained effective complaint handling procedures.”

"We expect firms to participate in OBSI's dispute resolution process in a manner consistent with their obligation to deal fairly, honestly and in good faith with their clients and to respond to each customer complaint in a manner that a reasonable investor would consider fair and effective," said Louis Morisset, CSA Chair and CEO of Québec's Autorité des marchés financiers.

The regulators say they are continuing to consider options for strengthening OBSI's ability to secure redress for investors, a key recommendation made by an independent evaluator in its 2016 report.

### **Association of Canadian Travel Agencies (ACTA)**

#### ACTA Monitoring For Insurer Responses To CCIR Travel Position Paper

In a Fall 2017 advisory to members, the Association of Canadian Travel Agencies (ACTA) indicated that from its perspective, the recommendations made by CCIR in its Travel Health Insurance Products Position Paper, released May 31/17, do not immediately impact the retail travel industry community since they are directed at insurers to implement.

“However, as the insurers begin to make changes, travel agencies will hear from their respective insurers to advise of any changes in their policies or processes. Training and education within the distribution channel of an insurer is ultimately where retail travel agencies may see some changes. ACTA will continue to work closely with CCIR and our Travel Health Insurance Partners to keep members updated on the status of these industry recommendations,” the Association said.

### **Canadian Foundation For Advancement of Investor Rights (FAIR)**

#### Former Assistant Deputy Minister Becomes FAIR Executive Director

In August 2017, Ermanno Pascutto, Chair of FAIR, announced that Frank Allen, a seasoned securities lawyer and former Ontario Assistant Deputy Minister of Finance, who was the inaugural head of its Financial Services Policy Division, would become the Foundation's new Executive Director.

“Frank Allen has over 35 years of experience in the private sector as well as with government and securities regulators. He will add to our expertise on shareholder rights and consumer retail investor issues,” said Pascutto.

At the Ontario Ministry of Finance, Allen provided policy advice to the Minister and Deputy Minister and was actively involved in the creation and launch of the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives and the negotiation and early implementation of the Cooperative Capital Markets Regulatory System. He also acted as the General Counsel at the Ontario Securities Commission.

During his time with the Ontario Ministry of Finance, Mr. Allen was an attendee at CAFII Reception events.

## **Provincial/Territorial**

### **British Columbia**

#### **Financial Institutions Commission of BC (FICOM)**

##### FICOM Clarifies CGI Information Bulletin In CMT Article

In the April 24/17 issue of Canadian Mortgage Trends (CMT), a column on BC FICOM's "CGI Information Bulletin" of September 2015 provides the following direct quote from Chris Carter, FICOM's Deputy Superintendent of Supervision:

*FICOM has undertaken a number of investigations of creditor group insurance (CGI) that stemmed from consumer complaints. Common concerns include aggressive sales practices, inadequate oversight by insurers over CGI distribution, inadequate training of CGI sellers, and lack of creditor involvement in the initiation of a CGI product. The Information Bulletin was issued to address these consumer protection concerns.*

*When CGI is sold through an exempt channel, including through mortgage brokers, consumers do not have the benefit of advice from a licensed insurance professional to help determine whether the insurance is suitable to their needs. In this environment, FICOM believes that strong oversight and controls by insurers, and creditor involvement in the development of the CGI product, are essential to protect the interests of consumers.*

#### **Insurance Council of BC**

##### Insurance Council Cancels Life Agents' Licences For Exam Cheating

In late November 2017, the Insurance Council of British Columbia announced that it had cancelled the licenses of two life agents and suspended the licences of two others after finding that they likely cheated on their licensing exams.

The Insurance Council's written decision states that a "collusion detection analysis" that was carried out on life license qualification program (LLQP) exam results nationwide in early 2017 identified a number of examinees who wrote in British Columbia with similar answer sequences."

A subsequent investigation found that all of the agents with similar answer sequences on two of the four LLQP exam components (involving segregated funds and accident and sickness insurance) were linked to the same branch of an agency in B.C.

"Any attempt to collude or cheat on a pre-licensing exam brings into question an individual's competency, trustworthiness, and their ability to act in good faith," the Council stated in cancelling one agent's license.

"By cheating on the LLQP exam, the licensee has brought into question her suitability to hold an insurance licence. Council determined that the licensee's life agent licence should be cancelled."



## **Manitoba**

### **Insurance Council of Manitoba (ICM)**

#### ICM's ISI Committee To Reach Out To RIA Licensees In 2018

In her Executive Director's Report in ICM's recently published 2017 Annual Report, Barbara Palace Churchill advises that the number of RIA licences issued by the Council in 2016-17, the second year of Manitoba's new RIA regime, climbed to 588 from 447 in the first year. "The increase arose in the automobile and equipment dealership category, as during this fiscal year the Government made amendments to Regulation 389/87, which governs the sale of insurance and RIA licences. A new allowable class of insurance was added to the Regulation – guaranteed asset protection insurance, also known as GAP insurance."

Ms. Palace Churchill further indicated that the Insurance Council's RIA licensee-related "ISI Committee" continues to gather information pertaining to this new area of regulation in Manitoba, and "will be working on outreach to a variety of stakeholder groups in the coming year. The role of the ISI committee is to be an advisory body in ISI-related matters, and to provide information to the industry Councils. Because of the nature of how ISI products are sold, there are situations where compliance investigations involve both a life-based and a property-based product. In these situations, both the Life and General Councils may have jurisdiction in the investigation. The Councils have worked cooperatively in developing a protocol for how these cross-Council matters will be heard effectively."

## **Ontario**

### **Ontario Ministry of Finance**

#### Ontario Appoints New Chair Of Financial Services Tribunal (FST)

In September 2017, Ontario's Ministry of Finance announced that it had appointed Ian McSweeney as the new Chair of the Financial Services Tribunal (FST), an adjudicative body that holds hearings on decisions of the Superintendent of Financial Services for Ontario.

As Chair of the FST, Mr. McSweeney will also serve as the Chair of the Financial Services Commission of Ontario (FSCO)—the regulator of insurance, pension plans, credit unions and caisses populaires, mortgage brokering, loan and trust companies, and co-operative corporations which is soon to be replaced by the Financial Services Regulatory Authority (FSRA), a new, independent and modernized regulator of financial services and pensions in the province.

Mr. McSweeney was previously Acting Vice-Chair of FSCO and the FST. A retired partner of Osler, Hoskin & Harcourt LLP, he chaired the firm's Pension and Employee Benefits Department for many years. He is also a founding member of the executive of the Canadian Bar Association (Ontario) Pension and Benefits Section and former chair and founding member of the International Pension & Employee Benefits Lawyers Association.

In a *Quick Facts* addendum to the announcement of Mr. McSweeney's appointment, the Ministry of Finance indicated that the government expected to introduce, by the end of 2017, legislative amendments regarding FSRA's mandate and governance structure as well as the new structure and powers of the FST. However, as at January 12/18, those legislative amendments had not yet been introduced.

## **Financial Services Commission of Ontario (FSCO)**

### FSCO Ramping Up Compliance Scrutiny of High Risk Advisors In 2018

FSCO is ramping up some of its compliance measures this year, focusing on high-risk insurance advisors.

Heather Driver, FSCO's director, licensing, told the fall summit of the Independent Financial Brokers of Canada (IFB) on November 8/17 that FSCO is adding a new layer of supervision through desk reviews prior to the on-site examinations which FSCO has already been conducting for a couple of years.

The examinations, prompted by the provincial auditor, will target advisors considered high-risk, rather than going out and talking to advisors at random, said Driver.

The first step in the desk review will see a questionnaire go out to several hundred life agents. Those who receive the questionnaire will need to respond within 15 business days or be escalated to regulatory and disciplinary officers.

FSCO will be looking at a number of key issues, including unlicensed activity, false information on application forms, continuing education credits, having E&O insurance, as well as a new section on failure to disclose a conflict of interest or potential conflict of interest, said Driver.

## **Quebec**

### **Quebec Ministry of Finance**

#### Brokers Call For Cigarettes-Style Warning About Online Insurance Purchases

Adopted as is, Quebec's Bill 141 will lead to an increase in the number of simplified products sold via the Internet without advice, believes the Association professionnelle des conseillers en services financiers (APCSF), Quebec's financial advisor organization.

The Association is highly concerned about this prospect and is recommending that the Quebec government require distributors to place a prominent warning on distributors' websites about the risks of acquiring an insurance product without the advice of a registered professional.

With respect to Bill 141, the APCSF made its position known in a submission to the Quebec government on January 8/17. In this submission, the APCSF explained that it wants direct sales of financial products to carry an explicit warning – that they are only for informed consumers.

The submission proposes a warning – similar to those posted on cigarette packages – that the online purchase of insurance products, without the advice of a registered professional who would carry out a complete analysis of the client's personal financial situation, involves risks "that could have a significant impact on an individual and his family's financial security. If you are not an informed insurance consumer, the [Quebec regulator] Autorité des marchés financiers recommends that you consult a duly accredited professional..."

"Unrepresented Internet sales pose an incredible threat to consumers," said Flavio Vani, president and spokesperson for the APCSF, in an interview with The Insurance and Investment Journal. "Insurance products are not only complex in terms of legibility of contracts and guarantees, but also because of the regulatory environment, including taxation."

## **Autorité Des Marchés Financiers (AMF)**

### AMF Appoints New Superintendent, Client Services And Distribution Oversight

In late December 2017, Louis Morisset, CEO of the AMF, announced that Frédéric Pérodeau had been appointed Superintendent, Client Services and Distribution Oversight, succeeding Eric Stevenson in that role. Mr. Pérodeau will take up his new position on January 22/18.

The AMF's client services and distribution oversight division supervises the activities of representatives and firms in the insurance and financial planning sectors. The division administers the rules governing eligibility for and pursuit of distribution activities while issuing certificates to individuals and registering firms. It is also responsible for helping financial services consumers as well as for the AMF Information Centre, in addition to supervising the activities of the Chambre de l'assurance de dommages and the Chambre de la sécurité financière and administering the Fonds d'indemnisation des services financiers.

Pérodeau joined the AMF in 2012. Previously, he was senior director, investigations, at the regulator. He also chaired the enforcement committee at the umbrella group of regulators, the Canadian Securities Administrators, and chaired the Canadian Corporate Counsel Association. Before joining the AMF, he was legal counsel at SNC-Lavalin and a partner at McCarthy Tétrault.

"I am confident that, given his wealth of experience, strategic vision, leadership and considerable communication skills, Frédéric will quickly engage with and be attentive to the sector's various stakeholders," says Louis Morisset, president and CEO of the AMF, in a statement.

### AMF Appoints First Fintech Director

The AMF, the regulatory and oversight body for Québec's financial sector, recently appointed Moad Fahmi to the new position of Director of Fintech and Innovation.

"This new function will foster the collaboration that is essential to developing Québec's fintech ecosystem," said Louis Morisset, AMF CEO. "It is good news for our Fintech Working Group, the industry and the academic research milieu."

Fahmi will co-ordinate the work of the Fintech Working Group, which includes six major projects:

- blockchain technology;
- mobile payment solutions and virtual currencies;
- fundraising platforms;
- automated insurance and investment tools;
- regtech; and
- big data and connected devices.

He will also be responsible for chairing the Technological Innovation Advisory Committee, ensuring effective guidance for emerging businesses, and supporting innovation at the AMF.

#### AMF Becomes A Member Of IVADO

In early November 2017, the AMF announced that it was proud to join the members of the Montréal-based Institute for Data Valorisation (IVADO), an organization that aims to bring together industry professionals and academic researchers to develop cutting-edge expertise in data science.

"Joining the IVADO is very much in keeping with the orientations and objectives of our 2017-2020 Strategic Plan to deepen our understanding of technological innovations applied to the world of finance and strengthen our role as a local regulator in the fintech ecosystem," said Louis Morisset, AMF CEO. "Given the critical role that data science and artificial intelligence play in the evolution of the financial sector, we are delighted that the IVADO will be contributing to the work we are doing in our Fintech Lab."

Last spring, the AMF created its Fintech Lab to explore the current and potential applications of new technologies in the industry and in connection with its regulatory activities. Fintech Lab projects are carried out by interns who are university students in engineering and technology. As a member of the IVADO, the AMF will have access to training and leading-edge expertise to optimally define, structure and execute lab projects.

#### AMF To Collect Data On Firms' Practices And Business Relationships

In November 2017, the AMF announced that in 2018 it will start collecting additional data on registrants' practices and relationships with different industry stakeholders in an effort to improve industry compliance.

Specifically, the AMF will ask for further information about firms' and individuals' business relationships as part of the ongoing registration process. This includes information on referral arrangements and commission-sharing agreements, along with information on complaints and disciplinary actions.

The goal is to "better support the industry," the AMF says in its announcement. "Better support involves a greater understanding of the reality and needs of firms, independent partnerships, and independent representatives," the regulator added.

Additionally, the AMF intends to publish a governance and compliance guide for firms in early 2018 that explains "the regulatory framework" for firms and sets out recommended best practices.

## **International**

### **Government of Australia**

#### Australia To Investigate Alleged Financial Industry Misconduct

In late November 2017, the Government of Australia announced the launch of a Royal Commission to investigate the financial industry and its regulation, amid growing concerns about alleged misconduct by the country's banks and other financial services firms.

Industry customers "have the right to be treated honestly and fairly in their dealings with financial firms," the government said in a statement. "The highest standards of conduct are critical to the good governance and corporate culture of those providers."

The inquiry will examine the conduct of the country's financial firms, and it will consider how well equipped regulators are to identify and address misconduct.

"This will be a sensible, efficient and focused inquiry into misconduct and practices falling below community standards and expectations," the government says. "Trust in a well-functioning banking and financial services industry promotes financial system stability, growth, efficiency and innovation over the long term."

The inquiry is expected to report within 12 months, with a preliminary report anticipated by September 2018.

"Momentum for an inquiry has increased following a number of conduct issues across wealth management, life insurance, and banking that have been identified in recent years," says a report from Fitch Ratings.

### **Australian Securities and Investments Commission (ASIC)**

#### Australian Banks To Overhaul Credit Insurance Sales Processes

In early August 2017, ASIC announced that it had brought together representatives from the banking industry and consumer advocates to improve outcomes for consumer credit insurance, with the establishment of a Consumer Credit Insurance (CCI) Working Group.

The CCI Working Group will progress a range of reforms, including a deferred-sales model for CCI sold with credit cards over the phone and in branches.

CCI is a type of add-on insurance sold with credit cards, personal loans, home loans and car loans. It is promoted to borrowers to help them meet their repayments if they lose their job, become sick or injured, or die. However, CCI has long been associated with poor consumer outcomes in Australia and overseas, including consumers being unaware that they have purchased CCI and consumers being ineligible to make a claim on their CCI policy. Compared with other common insurance products (such as car and home insurance), consumers can receive very little back in claims compared to what they pay in CCI premiums.

The establishment of the CCI Working Group comes off the back of extensive work by ASIC in relation to CCI, including audits of eight Australian banks following systemic illegal conduct in the United States by Wells Fargo Bank, N.A.; and work in relation to add-on insurance products (including CCI) sold through car dealerships.

Following discussions with ASIC, the banks have now committed to a range of measures to improve consumer outcomes in relation to CCI. Significantly, this includes a deferred-sales model for CCI sold with credit cards over the phone and in branches. This will mean that consumers cannot be sold a CCI policy for their credit card until at least four days after they have applied for their credit card over the phone or in a branch. This reduces the risk that a consumer will feel pressured to purchase the CCI product, or purchases a CCI product that does not meet their needs.

In addition, the CCI Working Group will identify improvements that will be made to banks' sales practices for CCI on credit cards sold online, and with other loan products in all sales channels. For example, the banks have committed to strengthening their processes for obtaining express consent from customers who purchase CCI and to provide improved disclosure about the cost and duration of the policy.

The Australian Bankers' Association (ABA) will incorporate these measures into the revised Code of Banking Practice and will accelerate their introduction so that they commence in the first half of 2018 and well before the new code is fully in place.

CCI sold with credit cards accounts for the majority of CCI sales by banks. While the forthcoming deferred-sales model will not apply to CCI sold on-line, or with home loans and personal loans, other measures will be introduced to promote good consumer outcomes in these areas. Importantly, the success of these measures will be monitored by ASIC to determine if further reforms are required.

In 2016, ASIC released three reports covering its review of the sale of add-on insurance through car dealerships, which found that the insurance is expensive, of poor value and provides consumers very little or no benefit. ASIC will shortly release a consultation paper to consult on proposals in relation to add-on insurance products sold through car dealerships, including a deferred-sales model for this channel.

In October 2011, ASIC issued Report 256 Consumer credit insurance: A review of sales practices by authorized deposit taking institutions which included a number of recommendations by ASIC, after the review found a number of deficiencies in the areas of sales practices, disclosure, training programs and monitoring.