

*Agenda Item 5(c)
April 27/21 EOC Meeting*

Board-Approved Next Step #3 Arising From AMF's March 30/21 Response Letter to CAFII's July 7/20 Creative Solutions Submission on Credit Card-Embedded Insurance Benefits: CAFII Outreach to Norton Rose Around Furtherance of Legal Arguments/Opinion Opposed to AMF's Interpretation on RADM's Applicability and Resulting Regulatory Expectations

From: Keith Martin <Keith.Martin@cafii.com>
Sent: April-14-21 11:22 AM
To: Brendan Wycks <brendan.wycks@cafii.com>
Subject: Follow Up From CAFII on Credit Card-Embedded insurance Coverages

Bonjour Marc,

BACKGROUND

It has been a long time since we have spoken, I trust all is well with your and your family, and the same with Dominic.

More than eight long months ago, CAFII wrote the AMF (7 July 2020) about our views that credit card-embedded insurance coverages were not subject to the RADM; if they were, we tried to propose ways that we could comply as best we could.

CAFII has now received a response to its 7 July, 2020 letter to the AMF on credit card-embedded insurance benefits.

CAFII created a Working Group on "Creative Solutions" on this file, and tried to meet the AMF half-way, but the AMF in its response is unyielding, saying:

*"The AMF takes note of your concerns but cannot grant any exemption under its regulations" and adds:
"Therefore, the AMF expects insurers to prepare product summaries that fully comply with the Regulation respecting alternative distribution methods (the « RADM »). These summaries must be given to consumers when they choose their credit card. We also expect insurers to complete an initial disclosure in accordance with section 20 of the RADM."*

The AMF further adds that the requirement to give consumers the Fact Sheet, which we indicated could confuse consumers, continued to be a requirement. As an indication of the importance of presenting a united front to regulators, the AMF states on this particular matter that *"There are insurers offering credit card-embedded insurance products that have these documents delivered by distributors and to date, no issues have been brought to our attention by these insurers nor did we receive any complaint from consumers confused by the approach."*

The AMF has given our members until **17 September, 2021** to comply with its expectations, specifically the AMF states:

The AMF therefore expects that the insurers will fulfill the following before September 17, 2021:

- *Disclose each product embedded in the credit cards under the DWR regime (one file per product);*
- *Make each product summary and a specimen of the policy or the insurance certificate accessible on their own website;*
- *Provide the AMF with an action plan to implement the delivery of the summary by their distributors to the clients, to train their distributors and to implement the necessary adjustments to their processes to comply with the Quebec laws and regulations.*

REQUEST

CAFII's Board met yesterday 13 April 2021 and this item was discussed. There are several next steps that we will take, including striking a Working Group that will look at how industry might best respond to the expectations of the AMF.

There is also a desire to develop our "legal arguments." You had previously developed for us the legal options if we wished to legally challenge the AMF on this file—thank you. However, that approach is slightly different from what the Board is currently asking. While we will keep the option of legal action open, the Board is more focussed on the approach we took with the Spousal Insurance file—that is to say, develop the arguments on our position, with the possibility of submitting them in writing or verbally sharing them with the AMF.

Are you available and interested in taking on such an effort? If so, I believe the next steps are:

- 30 minute meeting with Brendan Wycks and myself to discuss the file in more detail;
- High level overview plan and quote from Norton Rose;
- CAFII will share all relevant documents and set up a 1 hour virtual meeting with the Working Group on this file, and invite members' legal counsel to also participate in that meeting to share their input and thoughts;
- Norton Rose to develop the legal arguments document;
- 1 hour web meeting with the Board (and other CAFII members) to review your findings and discuss next steps.

Marc, let me thoughts on this and I look forward to hearing back from you.

Thank you,

--Keith

Keith Martin

Co-Executive Director / Co-Directeur général
Canadian Association of Financial Institutions in Insurance