

Summary of a Virtual Meeting between CAFII and the AMF 7 March, 2023 (9-10am)

Background

At the 11 October, 2022 CAFII Board meeting and AMF dialogue and liaison meeting in Montreal, Quebec, there was a presentation and dialogue with the AMF at which a main topic raised by CAFII was the lack of progress around CAFII member concerns with respect to the distribution of the Fact Sheet and Notice of Rescission for credit card-embedded insurance benefits. There was some tension at that meeting, and after it concluded AMF Superintendent, Client Services and Distribution Éric Jacob approached CAFII Board Chair Peter Thompson and suggested that the two of them have regular quarterly meetings to discuss issues on the table between CAFII and the AMF.

At the most recent such meeting, on 6 February, 2023, Éric Jacob and Peter Thompson came to an understanding where CAFII members did not need to distribute the Fact Sheet and Notice of Rescission for credit card-embedded insurance benefits, and the AMF and CAFII would have an “informal understanding” where the AMF would not do anything further on this file. The full summary of that meeting can be found below in Appendix A.

Peter Thompson said at the conclusion of the 6 February, 2023 meeting that it would be beneficial for a follow-up meeting to be held with Keith Martin, CAFII Co-Executive Director, in attendance to hear this commitment along with another AMF representative, and Éric Jacob readily agreed. That meeting was held on 7 March, 2023 from 9-10am, with Éric Jacob, Peter Thompson, Keith Martin, and Mario Beaudoin (Director, Alternative Insurance Distribution Practices) in attendance. The meeting was held entirely in French.

Summary of 7 March, 2023 CAFII/AMF Meeting

After the exchange of some informal comments and pleasantries, Peter Thompson thanked Éric Jacob and Mario Beaudoin for joining CAFII in this call. Peter then gave a summary of the commitment that he understood from Éric Jacob, which was that the distribution of the Fact Sheet and Notice of Rescission was not an AMF priority, and not something they wanted to focus on. He noted that the AMF felt it was difficult to formally revise the Regulation, as it would require Ministerial approval to do so, and the AMF preferred to just not do anything at this time. Peter Thompson noted as well that if something changed at some point in future, the AMF indicated that it would let CAFII know with time to adjust. Finally, Peter Thompson said that the meeting today was to reiterate and confirm this understanding with Keith Martin and an additional AMF executive in attendance.

Éric Jacob said that he was comforted and reassured by Peter Thompson’s summary, and that he was fully aligned with it. He said that it was difficult to change a regulation, and that doing so would raise all sorts of difficulties. Furthermore, such a change would trigger all the requirements associated with a regulatory change—including communications, consultations with industry, and an implementation period. This is not something the AMF wants to do right now, Mr. Jacob said, and then, smiling, he added “we are already viewed as too active with regulation.”

Éric Jacob said that the Regulation respecting Alternative Distribution Methods was not developed with credit card-embedded insurance benefits in mind, and that this resulted in requirements that did not really fit—Mr. Jacob used the colloquial expression <<un Molson pour tout le monde>> (“*a Molson beer for everyone*”). He reiterated that if the unwritten agreement ever needed to be changed—which is not something he envisions, this is nowhere on his priority list—CAFII would be given ample notice.

Mario Beaudoin added to Mr. Jacob's comments, flatly acknowledging that "the Fact Sheet was never meant for credit cards," but that changing the regulation would be a big change, with potentially unexpected consequences. For example, changing the requirements for the travel insurance industry would involve travel agencies and other parts of the insurance space in addition to the areas that CAFII members are active in, and this would be a major undertaking. It would, he said, "open a Pandora's box" for something that is "not a deal breaker for the AMF."

Mario Beaudoin said that the AMF simply wants proper disclosure for insurance for customers, and that this file is nearly complete with CAFII members' Action Plans largely implemented. He said that he has been working closely on the Action Plans with CAFII members, and that the CAFII member employees he and his team have been working with have "collaborated impeccably on the Action Plans" and that other than some fine-tuning, these are largely implemented now. He said it was best not to reopen this file for credit cards, and that this was now a "done deal."

However, Mario Beaudoin said that while the AMF would not pursue this file further, there was always the risk of someone complaining that the Regulation was not being adhered to, and that if such a complaint were made the AMF would have to respond to it in some way.

Peter Thompson asked Keith Martin if he had any questions, and Keith Martin said that the summaries by all three were excellent, and that he had spoken with members about this informal agreement solution and CAFII members were very appreciative of the effort by the AMF to find a solution to this matter. He added that this approach would allow CAFII members to conform with the Regulation. Keith Martin said that the industry appreciated the dialogue and effort by the AMF, and he concluded by saying "thank you for offering this solution."

Éric Jacob said he appreciated those comments. He then added that he was carefully reviewing a recent CAFII letter to the AMF on the *Regulation on Complaints and Dispute Resolution*, and that we made many interesting observations in the submission. He then noted that we mentioned in our letter that we had previously made a submission to the AMF on Burden Reduction, but had not received a response to that submission yet¹, which Mr. Jacob said concerned him. He elaborated that while a formal response might not have been made yet, there were AMF initiatives that he hoped were helping industry around burden reduction. Keith Martin responded to Mr. Jacob by agreeing that there were informal initiatives being made by the AMF that industry appreciated, and called out specifically the initiative that Mario Beaudoin shared in late 2022 to not require industry to submit to the AMF lists of all branches distributing products covered by the RADM, but instead to only submit the address of the head office, which was a very important and elegant solution and one that was much appreciated by the industry. Mario Beaudoin was smiling and nodding during this comment. Keith Martin also noted that there was a 23 March, 2023 virtual meeting called by Julien Reid of the AMF, that Keith Martin would be attending, on burden reduction initiatives by the AMF.

¹ The exact quote from the 17 February, 2023 letter "Re: CAFII Feedback On Revised 8 December, 2022 Draft 2 of AMF's Regulation respecting Complaints Handling and Dispute Resolution in the Financial Sector" was: "CAFII made an AMF-requested submission on regulatory burden reduction opportunities in Québec on 25 October, 2021, a submission to which we have yet to receive an official response."

The meeting was notable for the friendly and well-intentioned tone of both Éric Jacob and Mario Beaudoin. They were engaged, sincere, and seemed to genuinely seek a resolution to the credit card-embedded insurance benefit issue.

In a debrief call after the meeting between Peter Thompson and Keith Martin, Peter Thompson said that he felt that there was a desire for collaboration on the part of the AMF after some of the tensions of the past. Peter Thompson felt that there was benefit to continuing with the quarterly meetings, and that Keith Martin's involvement in future meetings would be a positive step forward. Peter will suggest that to Éric Jacob at the next quarterly meeting, and also suggest that Éric Jacob may also wish to bring a senior person within his team to future meetings. Finally, it was agreed that with an imminent naming of a new President and CEO of the AMF, the time was ideal to seek to recalibrate the relationship overall and seek a resetting of the AMF tendency to over-regulate, not harmonize, and to be overly prescriptive.

Appendix A**Summary of Peter Thompson Virtual Meeting with Éric Jacob, 6 February, 2023—(Summary is from a 16 February, 2023 Email From Keith Martin to CAFII Board, EOC, and Committee Members)****CAFII Update on AMF Regulation respecting Alternative Distribution Methods (RADM) and Credit Card-Embedded Insurance Benefits****Background**

- CAFII has tried to persuade the AMF that credit card-embedded insurance benefits should not fall under the RADM regime, but the AMF has not accepted that argument. Relevant CAFII member companies therefore submitted Action Plans to the AMF in December 2021 with respect to how they would comply with the RADM in the case of credit card-embedded insurance benefits.
- However, since the Fall of 2021, CAFII has continued to make the case to the AMF that the Fact Sheet and the Notice of Rescission, both of which indicate that customers can cancel the insurance benefits that come embedded in a credit card, were inaccurate with respect to these products and would confuse and mislead consumers.
- On 10 September, 2021, in a meeting with Eric Jacob, the AMF's Superintendent, Client Services and Distribution Oversight, and Louise Gauthier, the AMF's Senior Director of Distribution Framework Policies, a commitment was made to CAFII that the Fact Sheet and the Notice of Rescission did not have to be distributed to consumers until the AMF and CAFII had identified a resolution to this impasse issue. As a result, most CAFII members included common language in their December 2021 Action Plans that they would not be distributing the Fact Sheet and Notice of Rescission for credit card-embedded insurance benefits until a resolution had been agreed upon. As a result, nearly all CAFII members are currently not distributing those documents to the holders of credit cards with embedded insurance benefits.

6 February, 2022 Meeting between CAFII Chair Peter Thompson and AMF Superintendent Eric Jacob

- CAFII made a presentation at the 11 October, 2022 Industry Issues Dialogue with the AMF in Montreal which noted that this impasse issue was not yet resolved, despite the fact that CAFII had proposed language to modify the Fact Sheet and the Notice of Rescission to make them accommodate and fit credit card-embedded insurance benefits. Coming out of that 11 October, 2022 meeting, Eric Jacob requested quarterly virtual meetings with CAFII Board Chair Peter Thompson to enhance communication between the AMF and our industry Association.
- The first such quarterly meeting was held in November 2022, at which Eric Jacob committed to try to resolve the impasse between the AMF and CAFII on the credit card-embedded insurance benefits issue. A subsequent meeting was held on 6 February, 2023.
- At the 6 February, 2023 meeting, Eric Jacob said that changing the RADM would require securing approval from the Quebec Minister of Finance, and making such an entreaty was not something that the AMF wanted to undertake at this time. However, Mr. Jacob said that the AMF understood the concerns of CAFII members about distributing the Fact Sheet and Notice of Rescission in their present form to consumers; that monitoring and enforcement with respect to the requirement to distribute those two documents to holders of credit cards with embedded insurance benefits was currently very low on the AMF's priority list; and that there was no AMF desire or intention to impose sanctions or penalties, or even to act on this matter with respect to regulated entities which are not distributing the Fact Sheet and Notice of Rescission to holders of credit cards with embedded insurance benefits.

- **As such, Mr. Jacob said that the solution to this impasse might be simply for the status quo to prevail: i.e. for CAFII members to continue to refrain from distributing the Fact Sheet and Notice of Rescission to holders of credit cards with embedded insurance benefits; and the AMF would simply continue to do nothing based on an “unwritten understanding.”**
- Mr. Jacob said he understood that some CAFII members might prefer a written commitment, but the AMF would not be able to provide that. However, he gave his word about the unwritten understanding; and furthermore said that if, for whatever reason, this situation changes in future, he would give CAFII ample notice.
- Peter Thompson said that it would be beneficial to have additional people, from both CAFII and the AMF, become a party to the proposed “unwritten understanding”; and he therefore proposed that Keith Martin (CAFII Co-Executive Director) join a subsequent virtual meeting at which this commitment would be repeated; and Eric Jacob readily agreed to such a meeting in the very near future, to which he would bring Mario Beaudoin.

Analysis and Observations

- In many respects, the AMF’s proposed “unwritten understanding” meets all of the “best case” outcomes desired by CAFII with respect to distribution of the Fact Sheet and Notice of Rescission. That’s because if, in the alternative, those two documents were modified and then had to be distributed to consumers, a new round of Action Plans, process changes, and implementation efforts would be required. All of that is avoided by essentially retaining the status quo.
- Mr. Jacob acknowledged that FIs prefer written commitments over unwritten understandings, but this verbal entente has the potential to strengthen the relationship between the AMF and industry, and establish a good faith resolution to this long-standing impasse.
- If, at some point, the AMF reverses its position on this matter, CAFII and its members would have a very strong and persuasive argument, and even a solid legal foundation, after many years of not distributing the Fact Sheet and Notice of Rescission to holders of credit cards with embedded insurance benefits, with the AMF having been fully aware of that reality and not having taken any action in response.

Next Steps

- Following a meeting on 7 February, 2023 at which Peter Thompson briefed CAFII Management (Keith Martin and Brendan Wycks) and the EOC volunteer leaders (EOC Chair Rob Dobbins and EOC Vice-Chair Karyn Kasperski) on the outcomes of his 6 February, 2023 meeting with Eric Jacob, Peter Thompson asked Keith Martin to distribute a summary note on the 6 February, 2023 meeting and, through that communication, to seek support from the CAFII Board for the approach outlined; or, alternatively, to determine if the CAFII Board would like to have a Special Purpose Board Meeting convened to discuss the proposed solution.
- If there is support for the proposed solution, Peter Thompson will reach out to Eric Jacob for a meeting to confirm the AMF’s commitment to the unwritten understanding, at which Keith Martin and Mario Beaudoin will be present along with Eric Jacob and Peter Thompson.
- **CAFII Board members are therefore requested to provide their views on the proposed solution to this impasse issue with the AMF by end of day on Friday, 17 February, 2023.**

Keith Martin

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