

July 30, 2024

Janet Sinclair
Chief Executive Officer, Insurance Council of British Columbia
1400-745 Thurlow Street
Vancouver, BC V6E 0C5

Dear Ms. Sinclair,

Re: Consultation—Insurance Council of British Columbia Restricted Insurance Agency Performance Requirements Framework

CAFII would like to thank the Insurance Council of British Columbia (“**Insurance Council of BC**”) for offering us the opportunity to comment on the ***Restricted Insurance Agency Performance Requirements Framework***.

General Comments

Background

CAFII met virtually with the Insurance Council of BC on May 8, 2023, at which an explanation was provided of the “Competency Model” (since renamed the “Performance Requirements Framework”), which would outline specific requirements around knowledge and training for individual representatives offering insurance under a corporate Restricted Insurance Agency (“**RIA**”) license. The Council introduced an expectation that individual representatives would have to meet a series of requirements that were, in CAFII’s view, more appropriate for “licensed individuals” than “unlicensed representatives” operating under a corporate license. In a meeting that occurred on April 24, 2024, CAFII was relieved that the Council suggested it would allow RIA licensees to administer an examination if they were able to do so in a way that met the Council’s expectation, rather than requiring a licensing examination conducted by a third-party certification authority.

Unlicensed Representatives are Not Providing Advice

In CAFII’s view, these requirements for unlicensed representatives under an RIA regime are transplanting the expectations that exist in British Columbia for a fully licensed insurance agent onto an unlicensed representative. Such unlicensed representatives should not be required nor expected to have the level of knowledge akin to someone who is individually licensed. For CAFII member companies, non-insurance representatives operating under an RIA, based on the Bank Act restrictions, cannot conduct a needs analysis for the customer nor can they offer any insurance advice. Under an RIA, the unlicensed representative can facilitate a customer obtaining a mortgage, HELOC, or loan know that there are optional credit protection insurance products that can insure the product against a loss, and, if the customer is interested in learning more, provide the customer with documentation and sources of information related to these credit protection insurance products.

CAFII notes that the Insurance Council of BC has similar requirements to what is being proposed for an unlicensed individual under an RIA regime as for licensed individuals, as demonstrated on your website here: [General Insurance Competency Framework \(insurancecouncilofbc.com\)](https://insurancecouncilofbc.com)

Unlicensed Representatives in Financial Institutions Have Processes and Technology to Support Them

CAFII's members have training and processes in place that ensure that the information and documentation that customers need are embedded into the process of offering specific insurance coverages. This knowledge is different from that required for someone in an individually licensed advisory role.

By promoting training for individual representatives under an RIA regime that is comparable to training for individual licensing requirements, the Council risks misalignment with other regulatory regimes that are more likely to ensure proper consumer protections. Because of the type of product and distribution channels we operate in, CAFII believes that current training requirements and processes already in place, which are regularly reviewed and refreshed, meet the requirements needed to offer these optional protections.

Examinations for Unlicensed Representatives May be Unnecessary

CAFII was concerned that the Council expected that unlicensed individuals would need to pass an exam administered by a third party. However, we have been reassured that if a CAFII member meets the training requirements expected by the Council, then that organization could fulfill those expectations itself. This is a realistic and reasonable approach, and we appreciate this clarification.

CAFII continues to believe that the expectation of an exam is more aligned with the expectations for licensed individuals. Given the internal training and processes already in place with CAFII members for RIA regimes in other provinces, as well as the design of the products being offered, we do not believe that an exam is necessary; and we believe the requirement for an exam would not be aligned with other RIA regimes. CAFII feels that if an examination is required, the level of knowledge mandated currently in the Framework will be greater than necessary for an unlicensed individual.

Council's Existing Requirements Not Harmonized with Other Provincial RIA Regimes

The Council's proposed approach for unlicensed representatives under an RIA regime would lead British Columbia to be unharmonized with the other existing RIA regimes. Alberta, Saskatchewan, Manitoba, and New Brunswick do not have examination requirements, and their requirements for unlicensed representatives are more general in nature. The approach currently proposed in British Columbia would increase the administrative burden on organizations that operate nationally by imposing unique requirements in BC.

CAFII is of the view that new regulatory requirements should only be implemented if it has been demonstrated that they fulfil a necessary purpose. CAFII is not aware of concerns among the existing jurisdictions with RIA regimes around their operation. Therefore, we would ask what is the problem that these additional requirements are solving? Additional regulatory requirements should be based on evidence of the customer protection it is producing.

Other RIA regimes have a broader set of requirements for representatives and are principles-based, as opposed to prescriptive. Examples of requirements for unlicensed individuals in other provincial jurisdictions can be found in Appendix A.

CAFII would also like to highlight the important distinction between a designated representative within an RIA-licensed organization and their knowledge requirements and obligations to ensure proper procedures and policies are followed, versus the requirements of the actual individual representatives offering the products. We believe that the expectations in section 3.1.2 of the Framework are

reasonable; however, our concern is with the detailed and granular level of knowledge for individual representatives detailed in other sections of the Framework.

Credit Protection Insurance Fills an Important Gap in the Life and Health Insurance Sector

CAFII has recently commissioned research which found that 80 percent of Canadian homeowners are underinsured or uninsured and that these individuals are often not served by the commissioned, licensed channel. Given such realities, regulations should not inhibit the opportunity to offer Canadians access to critically important insurance protections.

Different Sectors Offering Insurance May Require Different Levels of Regulatory Oversight

We recognize the challenge for the Insurance Council of BC in developing a regime that captures a variety of different business models and applies them to companies of different sizes. There may be challenges that your organization faces with some channels, like the auto dealership channel offering some credit protection-type insurance products. You may feel this requires greater scrutiny or regulatory oversight by the Insurance Council of BC than is the case for other channels.

CAFII members are among the largest financial companies in Canada, including large banks, credit unions, and insurers. They are committed to the fair treatment of customers, prioritize compliance with the regulatory requirements of provincial regulators and licensing authorities, and have advanced processes, systems, and technologies to ensure customer protections are embedded into the actual process of offering insurance. We believe that it is crucial not to have a “one-size-fits-all” approach that risks organizations, which already meet expectations, becoming mired in new requirements to ensure that other channels or business models also meet your expectations.

We are attaching an excerpt of a letter we wrote to CIRSO on April 21, 2023, in relation to its consultation on its 2023-2026 strategic plan, outlining the benefits of a fully harmonized approach to RIA regimes among provincial licensing authorities (see Appendix B). We recommend this excerpt as an aspirational example of what industry believes would be a more efficient way to achieve the same consumer protections that you seek without in any way limiting the authority of provincial authorities around their implementation and management of RIA regimes.

Specific Comments

Examples of expectations of unlicensed individuals in the Restricted Agency Performance Requirements Framework that we feel are too granular or are simply not applicable include the following:

Examples of Problematic Requirements in the Restricted Agency Performance Requirements Framework

Section	Requirement	Comments
1.1.1	Demonstrate knowledge of the function of insurance and the structure of the insurance sector.	Why is there a requirement to understand the structure of the sector?
1.2.1	Demonstrate knowledge of applicable insurance coverage to assist clients in forming an informed decision.	Unlicensed individuals are limited to speaking to the actual creditor insurance products being offered and do not offer advice, and would not assist the customer in making a decision,

Section	Requirement	Comments
		other than sharing appropriate resources and documentation that they could consult.
2.1.1	Demonstrate ability to evaluate the client's needs and recommend the best available insurance product, if applicable.	Unlicensed individuals do not offer recommendations, do not conduct a needs analysis, and do not offer advice.
2.1.2	Representatives provide clients with an explanation of the benefits and limitations of the product(s) under consideration.	Unlicensed individuals provide information and facts, rather than explanations.
2.1.3	Representatives support clients in making informed decisions. // Demonstrate the ability to respond to the client's concerns and expectations about insurance products and services.	The unlicensed individual is letting the customer know about certain optional insurance products that are available, and are not helping them make decisions and are not offering advice.
2.1.5	Demonstrate knowledge of the purpose of an intermediary in an insurance transaction.	Credit protection insurance is insurance that is offered directly to a customer without an intermediary.
2.1.7	Representatives support clients in claim reporting.	In the broker/advice channel, the intermediary may support the customer in the making of a claim. In the direct-to-consumer model used with credit protection insurance, the distributor channel is not engaged in the claim other than providing the customer with the contact information, if requested, of the insurer. The insurer or underwriter of the insurance manages the claim process directly with the customer.
3.1.1	Demonstrate knowledge of their obligations set out by the Insurance Council of BC, including but not limited to applicable Council Rules and the Code of Conduct.	It might be more effective to call out that the Designated Representative needs to have this knowledge, and needs to ensure that there are policies in place that ensure that the unlicensed individual conforms to those expectations.

Section	Requirement	Comments
3.1.1	Demonstrate awareness of any policies under the Financial Institution Act, directed through the Insurance Council of BC.	Same point as above.
3.1.1	Demonstrate knowledge of the basis and limitations of their license.	Unlicensed individuals do not hold a license.
3.2	Errors and omissions.	There is no E&O requirement under the federal Bank Act for Authorized Products like credit protection insurance.

Concluding Comments

CAFII would like to conclude by noting how collaborative, transparent, and open to feedback you and your colleagues at the Insurance Council of BC have been. We believe that better regulations emerge from open dialogue between regulators and regulated entities, therefore, we appreciate your willingness to hear our concerns and feedback.

We would also like to call out that the Insurance Councils of Saskatchewan has been engaged in sharing information with the credit protection insurance industry through the creation of a Restricted Insurance Agent Advisory Group (“RIACC”), which includes representatives from the industry as well as observer status for CAFII and CLHIA in the meetings of this group. The inspiration for the creation of this group was the need for representation from the credit protection insurance industry in the deliberations of the Insurance Councils of Saskatchewan, whose Council members only represented advisory channels. We understand that the western provinces have a body for discussing licensing issues of common interest, at which the concept of expanding the RIACC to include all four western provinces has been raised. We encourage the Insurance Council of BC to consider this mechanism for ensuring continued open dialogue and the pursuit of more harmonized western Canada licensing regimes.

Thank you again for the opportunity to provide input and feedback on the *Restricted Agency Performance Requirements Framework*. 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
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 choices when purchasing 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.

Appendix A

Provisions of RIA Regimes in Provinces Across Canada

Saskatchewan RIA Regime

Saskatchewan Insurance Act

5-78(1) Every business that is a restricted licensee shall have a designated representative who:

- (a) meets the prescribed requirements;
- (b) is recommended by the licensed insurer that recommended that the business be issued a restricted insurance agent's licence; and
- (c) is responsible for receiving notices and other documents pursuant to this Act on behalf of the restricted licensee and for carrying out any other prescribed duties.

Manitoba RIA Regime

Insurance Agents and Adjusters Regulation, Man Reg 389/87 R

Qualifications of designated official

28 A person may not be the designated official under a restricted insurance agent licence unless

- (a) the person
 - (i) is a director, officer or employee of the restricted licence holder if it is a body corporate,
 - (ii) is a member of the partnership if the restricted licence holder is a partnership, or
 - (iii) in a case where the restricted licence is issued to an individual in connection with a business — carried on by the individual — that is not a body corporate or a partnership, is that individual; and
- (b) the person has the qualifications, and satisfies the educational, training and other standards, established under section 396.1 of the Act.

Replacement or incapacity of designated official

29(1) If a restricted licence holder's designated official ceases to be eligible under subclause 28(a)(i) or (ii) or the designation of a person as the designated official under a restricted insurance agent licence is otherwise to be terminated, the restricted licence holder must, without delay, inform the superintendent and provide the superintendent with a designation of a replacement designated official.

29(2) If a restricted licence holder's designated official is unable to discharge the responsibilities expected of the designated official, the restricted licence holder must, without delay, inform the superintendent and provide the superintendent with a designation of a replacement designated official.

Restricted licence holder's responsibilities

30(1) A restricted licence holder must

- (a) have reasonable and demonstrable policies and procedures to ensure that anyone who solicits, negotiates or transacts insurance on behalf of the restricted licence holder is knowledgeable, competent and suitable taking into account the class or type of insurance;
- (b) ensure that anyone who solicits, negotiates or transacts insurance on behalf of the restricted licence holder complies with the policies and procedures mentioned in clause (a);

Qualified entity's responsibilities

31(1) A qualified entity that acts on behalf of a restricted licence holder must

- (a) ensure that its employees who solicit, negotiate or transact insurance in relation to the restricted licence holder's goods or services comply with the policies and procedures mentioned in clause 30(1)(a);
- (b) upon receiving an application for insurance in relation to the restricted licence holder's goods or services, ensure

- (i) that the person applying is informed that the person is contracting with the insurer and not with the restricted licence holder or the qualified entity,
- (ii) that the person applying is provided with a summary of
 - (A) the terms, including limitations and restrictions, of the insurance, and
 - (B) the circumstances under which the insurance commences or terminates and the procedures to follow in making a claim, and
- (iii) that the person applying is notified that, upon approval of the application,
 - (A) the insurance policy and documentation describing the insurance coverage will be sent to the person, or
 - (B) a certificate will be sent the person if the insurance applied for is group insurance;
- (c) ensure that, within 20 business days after a person's insurance coverage comes into force, the person applying is provided with
 - (i) documentation evidencing the insurance coverage and stating the name of the insurer and how it may be contacted,
 - (ii) documentation stating the information required by subclause (b)(i), and
 - (iii) the policy and documentation referred to in paragraph (b)(iii)(A) or the certificate referred to in paragraph (b)(iii)(B) is provided to the person applying within 20 days after the insurance coverage comes into force; and
- (d) ensure that, if the restricted licence holder or the qualified entity receives direct or indirect compensation, or a direct or indirect inducement or benefit, from the insurer for soliciting, negotiating or transacting the insurance, it discloses that fact to any person considering obtaining insurance from it.

Alberta RIA Regime

Alberta Insurance Act

Restricted certificate holders — designated individual

457 Every business that holds a restricted insurance agent's certificate of authority must designate an individual to be responsible for receiving notices and other documents under this Act.

New Brunswick RIA Regime

FINANCIAL AND CONSUMER SERVICES COMMISSION RULE INS-001

INSURANCE INTERMEDIARIES LICENSING AND OBLIGATIONS

PART 10 – DESIGNATED REPRESENTATIVES

Requirements for a designated representative

73. A designated representative of a licensed firm or a restricted insurance representative shall be:

- (a) in the case of a corporation, a director, officer or management employee of the licensed firm or restricted insurance representative;
- (b) in the case of a partnership, a partner or a management employee designated by the partnership; or
- (c) in the case of a sole proprietorship, the sole proprietor or a management employee designated by the sole proprietor.

74. A designated representative shall satisfy the following qualifications:

(a) in the case of a general insurance agency, the person shall hold a level 3 general insurance agent licence;

(b) in the case of a managing general agent, the person shall hold one of the following:

(i) a level 3 general insurance agent licence;

i (ii) a life insurance agent licence and have been licensed as a life insurance agent for two years;

ii (iii) an accident and sickness insurance agent licence and have been licensed as an accident and sickness insurance agent for two years;

iii (c) in the case of a life insurance agency, the person shall hold a life insurance agent licence and have been licensed as a life insurance agent for two years;

iv (d) in the case of an accident and sickness insurance agency, the person shall have been licensed for at least two year as either:

v (i) an accident and sickness insurance agent licence; or

vi (ii) a life insurance agent licence;

vii (e) in the case of an adjusting firm, the person shall hold a level 3 senior adjuster licence.

75. (1) A licensed firm or a restricted insurance representative shall satisfy the Superintendent that the individual nominated as the designated representative is suitable.

(2) On request by the Superintendent, an individual nominated as the designated representative shall provide the Superintendent with any information or documentation required by the Superintendent to assess the nominated individual's suitability to be the designated representative.

Appendix B

Excerpt from April 21, 2023 Letter to CISRO on its Consultation on its 2023-2026 Strategic Plan

With respect to the inter-related Priorities of “Promote Consumer Protection Through Harmonized Approaches To The Regulation Of Insurance Intermediaries” and “Enhance Effectiveness Of CISRO As A Forum For Information-Sharing And Regulatory Collaboration”, CAFII congratulates CISRO for identifying those two priorities as areas of strong, strategic focus and a commensurate allocation of resources over the next three years.

Our strong support for the inclusion of those two inter-related priorities is rooted in our view that a lot of work remains to be done for CISRO to live up to its full potential with respect to “Harmonized Approaches.” Harmonization, from CAFII’s perspective, does not mean that a jurisdiction contemplating licensure regime change will review the definitions, rules, and requirements deployed in other, predecessor jurisdictions, and then try to align itself overall, more or less, with what came before. Rather, harmonization – in order to achieve clarity/lack of ambiguity, consistent consumer protection objectives, and to foster opportunities for industry efficiencies and effectiveness – means that a common set of RIA/RIR licensing definitions, rules, and requirements should be established.

We cite as an example the four Restricted Insurance Agent licensing regimes that now exist across the country: Alberta (established 2000), Saskatchewan (established 2010), Manitoba (established 2015), and New Brunswick (established 2023).

All four of those RIA/RIR regimes are aligned in terms of objectives, but they all differ in aspects that are typically of a minor nature; but in some instances the differences constitute more substantive, unique positioning. In an ideal world, CISRO would have been able to play a real-time and impactful harmonization role by facilitating a process through which each successive RIA/RIR regime would have been able to harmonize more fully with its predecessors. In CAFII’s view, this is a role and goal which CISRO should strive for, as it would facilitate the exact same consumer protections that each successive RIA/RIR regime province has sought, while at the same time largely eliminating the melange of unique definitions, rules, and requirements among the provincial/territorial licensing authorities.

Alternatively, but in the same vein, CISRO would, at this point in time, be ideally placed as a national co-ordinating body to engage in an exercise of identifying a common set of RIA/RIR licensing definitions, rules, and requirements – building upon the existing requirements in the four provinces with such a regime – which could then be put forward as a model for Alberta, Saskatchewan, Manitoba, New Brunswick, and any future RIA/RIR provinces/territories to adopt.

CISRO’s pursuit of either of the two RIA/RIR ‘harmonization approaches’ recommended above would not compromise provincial/territorial autonomy, as each jurisdiction would still have its own licensing authority, its own governance model, and its own priorities and supervisory plans around audits, monitoring, communication, and enforcement. But each provincial/territorial authority would be operating under the same set of definitions, rules, and regulatory requirements, allowing industry players to focus on meeting the harmonized, common expectations rather than having to engage in the significant “exception management” exercise of allocating resources to understanding, and complying with, subtle differences among jurisdictions.

While the CAFII recommendation above boils down to is our strong encouragement to CISRO to assume a heightened “Harmonized Approaches and Accountability” role, with the emphasis on accountability being that CISRO members should be accountable to each other, around the national co-ordinating body table, for prioritizing and achieving Harmonized Approaches; and we therefore recommend that this aspirational growth dimension be reflected in CISRO’s new Strategic Plan.

To return to the RIA/RIR regimes example, with a more focused “Harmonized Approaches and Accountability” lens: if one of the existing RIA/RIR regimes is clearly better than the others, CISRO would clearly be the ideal forum for conducting a comparative analysis; and, if a case can be made for the superiority of one such regime, the other regimes should be willing to align with the best approach at their first available legislative/regulatory amendment opportunity.