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**Regulatory Update –September 19, 2014**

Prepared By Brendan Wycks, CAFII Executive Director

**Executive Summary**

- **BC FICOM**
  - **Directive Letter to Insurers and Lenders on “Creditor’s Group Insurance Issue” Delayed (page 2):** Harry James of BC’s FICOM is arranging a dialogue with Alberta, Saskatchewan, and Manitoba regulator counterparts before issuing the directive letter previously promised on this matter.
  - **10-Year Review of Financial Institutions Act to be launched this Fall (pages 2-3):** BC will be launching a mandated review of its FIA this Fall. FICOM has recommended to the Minister that CAFII be invited to participate in one of two roundtable meetings with industry stakeholders that will be held prior to the formal consultation.
  - **Consultation on Draft Guideline for *Non-Compliant Filings Administrative Penalty* (page 3):** CAFII needs to decide whether it should respond to this consultation as an industry Association; or if the industry’s interests would be better served by leaving it up to interested member FIs to respond individually.
- **Manitoba Regulatory Framework For Incidental Sellers of Insurance Regime (page 4):** Insurance Council Publishes Bulletin On Implementation Of New Restricted Licence Holders Regulation.
- **Ontario To Level Insurance Playing Field For Credit Unions (page 5):** Ministry of Finance Review Leads to Ban on “Online Promotion of Insurance Products By Credit Unions.”
- **New Brunswick (page 6):** Position Paper Is Next Step in Consultation on “Opportunities for Reforming the New Brunswick Licensing Framework for Other-than-Life Agents and Brokers“
- **Financial Consumer Agency of Canada (pages 7-8):** Terry Campbell, President of the Canadian Bankers Association and Leslie Byrnes, Vice President Distribution & Pensions, CLHIA appointed to 15-member National Steering Committee on Financial Literacy.

## **British Columbia**

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

#### **Directive Letter to Insurers and Lenders on “Creditor’s Group Insurance Issue” Delayed**

In an update discussion on September 18, Harry James, Director, Policy Initiatives at FICOM, advised Brendan Wycks that the plan to issue a “directive letter” in mid-September to insurers and lenders involved in Creditor’s Group Insurance in the province has been delayed, and the letter will now likely be issued in October.

Harry is trying to arrange a teleconference dialogue with regulator counterparts in the three other Western provinces, and noted that the term ‘effected’ is common to the insurance legislation in all four provinces as it relates to CGI.” “That dialogue will help to finalize either a harmonized approach that we take collectively as four neighbouring provinces , or individually as provinces taking substantively similar approaches.”

“If there are substantive differences in opinion on the best way to move forward, we may decide to reach out to the industry Associations one more time.”

While there have been logistical difficulties in scheduling that dialogue among the four provinces, “we’re hoping to have that discussion within the next couple of weeks, before the CISRO and CCIR meetings in Fredericton early October.”

*(In summarizing comments at the end of CAFII’s July 28 consultation teleconference with him (which Laurie Balfour, Alberta’s Acting Deputy Superintendent of Insurance, and Ian McIntosh, Saskatchewan’s Deputy Superintendent of Insurance, attended as observers), Harry advised that a directive letter would likely be FICOM’s next step, as follows:*

*Our plan going forward is to provide clarity on the roles of insurers and lenders involved in CGI in BC, which will likely be issued in the form of a directive letter in mid-September 2014.*

*The two question survey in the open letter that we sent to all entities that offer creditor’s group insurance in BC identified that there are 10 or 11 insurers with a CGI product in the market where the group policyholder is not the lender.*

*The letter, which will allow a one year transition period for parties to come into compliance with the terms set out, will be sent to all insurers who identified themselves as having a product in the market where the lender is not the group policyholder; and to industry Associations such as CAFII and CLHIA.)*

#### **10-Year Review of Financial Institutions Act to be launched this Fall**

A mandated 10-year Review of BC’s *Financial Institutions Act* (FIA) will be announced this Fall. Harry James advised that as part of the FIA Review announcement, likely within the next few weeks, the Minister will indicate that FICOM will hold two roundtable meetings with industry stakeholders – to gather input on desired modernizations and other changes to the Act – prior to the launch of the formal consultation phase of the Review.

He indicated that FICOM has put forward “Brendan Wycks, Executive Director of CAFII” as a recommended stakeholder participant in the roundtable meetings. The decision as to who is invited to participate in the roundtable meetings rests entirely with the Minister’s office; “so while there is no guarantee, we wanted you to know that we had recommended that you be invited as a stakeholder participant from CAFII. So you may be hearing about this in the next little while if the Minister’s office does select you.”

BC’s FIA dates from 1989 when it was decided to have a comprehensive Act that would cover governance and the regulatory framework for FIs operating in the province, including the insurance industry. In contrast, BC’s Insurance Act is strictly limited to terms and definitions. Because the FIA is the key piece of legislation for the financial sector in the province, a mandatory 10-year review clause was built-in.

### **Consultation on Draft Guideline for Non-Compliant Filings Administrative Penalty**

On September 9, BC’s FICOM issued, for industry consultation, a draft guideline on the province’s new Non-Compliant Filings Administrative Penalty (NFAP). The notice about this consultation was addressed to all CEOs/General Managers/Chief Agents of British Columbia Authorized Financial Institutions (credit unions, trust companies, P&C and life insurers).

The NFAP guideline is based on provisions set out in the FIA and is intended to provide clarity regarding these sections and some guidelines for penalty amounts.

Under the legislation, FICOM or its delegate can order an administrative penalty for any breach of a prescribed provision of the FIA, or for failure to comply with any order or undertakings given. The *Administrative Penalty Regulation* sets out the maximum penalty that can be charged for a contravention, but the amount of penalty is discretionary, subject to a maximum. FICOM or its delegate has the discretion to issue an administrative penalty or a warning.

In this consultation, FICOM is seeking feedback on the quantum to recommend for an administrative penalty under normal circumstances. It is also seeking feedback on the types of filings that it has identified as being subject to a penalty.

FICOM has developed three potential options for administrative monetary penalties: a *per diem* basis; a flat rate basis; and an escalating by contravention basis. It is seeking feedback on both the basis to be used and the rates being suggested.

The deadline for response submissions to this consultation is October 31, 2014.

**CAFII should consider whether it should respond to this consultation as an industry Association; or if the industry’s interests would be better served by leaving it up to interested member FIs to respond individually.**

### **Insurance Council of BC**

#### **Notice Re Corporate or Partnership (“Entity”) Licensing**

On September 18, the Insurance Council of BC issued a Notice advising that it is regularly encountering problematic situations where an Entity applies for a licence or licence amendment, with a request that Council’s approval be effective on a pre-established date.

These types of situations usually arise as a result of a merger or acquisition, and it is not uncommon for non-standard issues to exist which require the Entity to provide additional information. This can result in the new Entity not being able to commence insurance operations when originally planned.

Therefore, the Council strongly recommends that an Entity submit its application a minimum of 60 days prior to the date on which the Entity wishes to commence operations. By submitting the application 60 days in advance, there is a greater possibility that the requested date will be met.

The Council's review of an Entity's application includes a suitability review of its officers, directors, major shareholders, and partners; the name(s) under which the Entity intends to operate; and any other information that may be material to the application.

## **Manitoba**

### **Insurance Council of Manitoba**

#### Insurance Council Publishes Bulletin On Implementation Of New Restricted Licence Holders Regulation

On August 26, Scott Moore, Deputy Superintendent of Insurance, issued a Fact Sheet on Manitoba's Amended Insurance Act (previously circulated), which announced that the legislative and regulatory changes developed to create an Incidental Sellers of Insurance (ISI)/Restricted Licence Holders regime would become effective January 1, 2015, but transitional provisions would see its implementation line up with the Insurance Council of Manitoba's licensing renewal cycle that has June 1, 2015 as its operative date.

As a follow-up to that, the Insurance Council of Manitoba has issued a bulletin that provides greater detail on implementation of the province's new ISI regime. The bulletin sets out the fee schedule for a Restricted Insurance Agent Licence, a schedule that is tiered and based on the number of employees offering insurance products in the eligible organization.

This bulletin, available on the Insurance Council's website, has been included in the materials for September 23 CAFII EOC meeting.

### **Superintendent of Insurance**

#### 2014 Annual Report Of The Superintendent Of Insurance On The Business Of 2013

Superintendent of Insurance Jim Scalena recently published his annual report on the insurance business in Manitoba in 2013.

The Report includes the following information:

- the types of licence held by each insurance entity licenced in the province;
- total premium income and claims payouts for each class of insurance for 2013;
- direct written premium and direct claims payouts (loss ratio calculated) for each insurance entity operating in the province, for 2013 and 2012; and
- gross insurance in force (number of policies and dollar value) by company at end of 2013 and end of 2012.

## **Ontario**

### **Ontario Ministry of Finance**

#### **Ontario To Level Insurance Playing Field For Credit Unions**

Following a Ministry of Finance review at the beginning of 2014, which included industry roundtable meetings for consultation and input, the Ontario government has decided to ban “online promotion of insurance products by credit unions” by harmonizing the province’s credit union legislation with the federal Bank Act which governs such activities for FRFIs. Here is the relevant excerpt from the Ontario budget that was re-introduced and passed in July following the election of the Wynne majority government:

#### ***Online Promotion of Insurance***

*In recent years, credit unions and other deposit-taking institutions have been providing an increasing array of online services to their customers. Many services that used to be exclusively accessed in a credit union’s “bricks and mortar” branches are now being accessed by consumers online. It is important to ensure that Ontario’s policies regarding the online insurance activities of credit unions keep consumers’ best interests in mind.*

*To this end, in late 2013, the Province initiated an examination of insurance-product promotion on credit union websites. In addition to seeking the views of the insurance and credit union sectors, recent federal government action affecting federally incorporated financial institutions was also considered. As a result, the Province is proposing to prohibit credit unions from online promotion of insurance products such as home and auto insurance, which they are not permitted to promote in their branches.*

This Ministry of Finance review initiative was brought to the CAFII EOC’s attention in January by Moira Gill, as an issue to be watched. CAFII did not receive an invitation to the roundtable meetings so we did not participate directly.

Directly related to the decision to ban online promotion of insurance by credit unions,, the government has also announced that a review of Ontario’s *Credit Unions and Caisses Populaires Act, 1994* will be launched this Fall, likely in October. Following is the relevant excerpt from the July budget:

#### ***Credit Unions***

*Credit unions and caisses populaires play an important role in Ontario’s economy. They have over 1.5 million members and, at the end of 2013, had provided \$33.4 billion in loans to households and businesses throughout the province. A modern regulatory framework that enables the credit union system to flourish and protect members is essential.*

*A review of the Credit Unions and Caisses Populaires Act, 1994, will be launched in the fall. This will provide an opportunity to update the legislation and regulations so credit unions can continue to meet the needs of their members and the economy into the future.*

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

### CAFII Invited To Participate In Panel At FSCO's Annual Symposium For Life & Health Insurance Sector

CAFII has accepted an invitation from FSCO to have a representative participate on a panel at its 7<sup>th</sup> Annual Market Conduct Symposium for the Life & Health Insurance Sector to be held on the morning of Friday, November 21 at Novotel in North York.

The theme for this year's FSCO symposium is "Hot Topics in Life and Health Insurance". The panel that CAFII has been invited to participate in is on the inter-related topics of financial literacy, sales to seniors, and financial planning. Other panel participants are likely to be from CAILBA, CLHIA, Advocis, and OLHI.

The Media and Communications Committee has determined that Brendan Wycks, as Executive Director, will be CAFII's participant on the panel, utilizing a script of approved CAFII Key Messages.

## **New Brunswick**

### **Financial and Consumer Services Commission (FCNB)**

#### Position Paper Is Next Step in Consultation on "Opportunities for Reforming the New Brunswick Licensing Framework for Other-than-Life Agents and Brokers"

In a recent update telephone conversation with Brendan Wycks, David Weir, New Brunswick's Deputy Superintendent of Insurance, advised that the next step in this consultation, to which CAFII responded on October 31, 2013, will be the following:

Based on analysis of the response submissions to the consultation paper, David is nearing completion of a "Position Paper" in which concrete recommendations will be made on each of the key issues set out in the consultation document. His draft Position Paper will be vetted, discussed, and approved by the FCNB's executive team, including Superintendent of Insurance Angela Mazerolle, which has yet to occur.

He expects that the Position Paper will be finalized and released this Fall, in October or November, with a 30 day period likely provided for stakeholder response feedback.

## **Saskatchewan**

### **Financial Consumer Affairs Authority (FCAA)**

#### Completion of Insurance Act Re-Write in 2014-15

Saskatchewan's FCAA recently published its 2013-14 Annual Report on its website.

In his transmittal letter to the Minister, David Wild, Chair and CEO of the FCAA and Superintendent of Insurance, highlights that one of its objectives for next year is to "complete the re-write of the Saskatchewan Insurance Act."

In the Report, the FCAA indicates that it made significant progress on the re-write initiative in 2013-14 by consulting with legislators and regulators in the three other Western provinces – with a view to harmonizing Saskatchewan's Act with those of its neighbours, to the maximum degree possible – and with its own Insurance Councils of Saskatchewan.

### Statistical Report of Superintendent of Insurance for 2013

On August 7, David Wild, Superintendent of Insurance, submitted the *Statistical Report of the Superintendent of Insurance For The Year Ended December 31, 2013*; and it is posted on the FCAA's website.

The Report includes the following information from the Insurance Councils of Saskatchewan:

- trends in the number and types of insurance licences issued over the past five years;
- complaints received and dealt with by each of the three Councils for the past five years;
- the types of licence held by each insurance entity licenced in the province;
- aggregate direct written premium and direct claims payouts (loss ratio calculated) for each class of insurance for the past 20 years; and
- direct written premium and direct claims payouts (loss ratio calculated) for each insurance entity operating in the province in 2013.

### **Federal/National**

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

##### Publication of 2014-17 Strategic Plan Delayed

CCIR's new 2014-17 Strategic Plan, which it had expected to publish mid-summer on its website, has not yet been released. Publication is now likely delayed until immediately following the Council's Fall meeting, which takes place October 2-3 in Fredericton.

Carolyn Rogers, CCIR Chair, will be the guest speaker at CAFII's October 7 Regulator Reception event, where she will share highlights of the new Strategic Plan along with hot-off-the-presses news about implementation plans.

##### Third Annual Stakeholder Meetings: November 5-6, 2014 in Toronto

CAFII has accepted CCIR's invitation to meet during its annual stakeholder meetings being held November 5 and 6 in Toronto. Based on availability times offered by several CAFII Board members, Brendan Wycks proposed three date/time options to Carol Shevlin, CCIR Policy Manager, and is awaiting her confirmation.

This year, due to capacity restrictions at the venue where CCIR is holding the stakeholder meetings, the size of CAFII's delegation will be limited to a maximum of six individuals. In 2013, CAFII's delegation for this stakeholder meeting comprised seven representatives.

### **Financial Consumer Agency of Canada**

##### Terry Campbell, President of the Canadian Bankers Association and Leslie Byrnes, Vice President Distribution & Pensions, CLHIA Appointed To 15-member National Steering Committee On Financial Literacy

On July 30, Minister of State (Finance) Kevin Sorenson and Financial Literacy Leader Jane Rooney announced the membership of FCAC's new National Steering Committee on Financial Literacy. The 15 members selected from more than 100 applicants represent a broad range of public, private and non-profit organizations from across Canada.

Of particular note, Terry Campbell, President of the Canadian Bankers Association, and Leslie Byrnes, Vice-President, Distribution & Pensions, Canadian Life and Health Insurance Association, are among the 15 members selected.

The mandate of the Steering Committee is to provide advice to the Financial Literacy Leader on the development and implementation of a national strategy for financial literacy. The members will champion the national strategy for financial literacy, provide leadership within their sectors, and engage broad stakeholder communities in working to advance the Strategy's goals and priorities. They will also report to the Financial Literacy Leader on progress being made in their sectors.

The Steering Committee will meet at least three times a year. The initial term of membership will be for a two-year period. Members may be re-appointed at the discretion of the Financial Literacy Leader.

Erica Hiemstra of CLHIA has advised that the Steering Committee met for the first time on September 19 in Toronto. She surmised that the major focus of its agenda would be on the program for the National Financial Literacy Conference scheduled for November 6-7, 2014 in Vancouver.

#### National Financial Literacy Conference

The program for the FCAC's National Financial Literacy Conference scheduled to take place in Vancouver on Thursday, November 6 and Friday, November 7 has not yet been released.

However, FCAC has advised Brendan Wycks that there will be no registration fee charged for the conference – in effect, it will be a “by invitation only” event – and that CAFII will definitely be invited.

Erica Hiemstra of CLHIA has advised that, contrary to her earlier indication, CLHIA ultimately did decide to sponsor the FCAC's Financial Literacy Conference. Given that CLHIA's “sponsorship benefits” include Corporate Kiosk (ie. booth/display table) space, it has sponsored at either the Gold level (\$25,000) or Platinum level (\$35,000).

With a Corporate Kiosk to look after, CLHIA will likely have three representatives attending the Conference: Leslie Byrnes, Wendy Hope, and Erica Hiemstra.