

***Agenda Item 6(b)(v)(1)
January 15/19 EOC Meeting***

DRAFT ONLY

For Discussion Purposes Only At January 15/19 CAFII EOC Meeting

January 18, 2019

Mr. David Weir
Deputy Director, Insurance
Financial and Consumer Services Commission, Insurance Division
225 King St., Suite 200
Fredericton, New Brunswick
E3B 1E1

Dear Mr. Weir:

Re: CAFII Input On FCNB's Plans To Introduce An RIA Regime in New Brunswick

Thank you for arranging a preliminary dialogue meeting with CAFII representatives in Toronto on December 5/18 around the FCNB's plans to undertake a multi-year Insurance Act Rewrite project; and, as well, for discussing with us your plans to make the introduction of a Restricted Insurance Agent (RIA) licensing regime in New Brunswick part-and-parcel of the Insurance Act Rewrite initiative. We very much appreciate the FCNB's early and ongoing engagement with CAFII around these modernization initiatives, as a relevant and directly affected stakeholder.

The purpose of this promised follow-up letter is to share with you CAFII's experience-derived views on the optimal features of an RIA regime, which we strongly encourage you to build into your New Brunswick model.

As you may know, as a directly affected stakeholder Association, CAFII was instrumentally involved in advising on the establishment of Alberta's RIA regime in 2000; on the establishment of Saskatchewan's RIA regime in 2010; and on the establishment of Manitoba's RIA regime in 2014. We are also communicating at present with BC's Ministry of Finance about its proposal to introduce an RIA regime in that province.

To begin, we support the FCNB's plans to introduce an RIA licensing regime in New Brunswick. If properly and fairly implemented, an RIA regime can be an effective tool for managing the sale of certain insurance products, including creditor's group insurance and travel insurance. We welcome proper oversight of the marketplace; our members place a strong emphasis on the fair treatment of consumers; and they dedicate significant resources to training staff and others acting on their behalf, and on controls and monitoring.

We strongly encourage New Brunswick to harmonize with the existing RIA regimes in Alberta, Saskatchewan, and Manitoba, to the maximum degree possible.

To that end, a thorough consultation process with the industry will help to ensure that your new RIA regime is structured in a way that will produce the consumer protection and regulatory/industry efficiency and effectiveness results that it seeks.

There are many examples of where the involvement of industry associations such as CAFII was very helpful, at the earliest stages of issue identification, in discussing issues with provincial insurance regulators and CCIR/CISRO before any major regulatory initiatives were undertaken. CAFII was able to provide timely background information, help to vet issues, and provide our perspectives on measures being contemplated.

In that connection, we are pleased to highlight those features of an RIA licensing regime which CAFII views as optimal.

Three Key Features of an Optimal RIA Regime

We believe that the following three features are essential to an optimal RIA regime, a regime which strikes the “right balance” between achieving consumer protection through appropriately detailed and rigorous licensing, while not burdening business with overly restrictive requirements or red tape:

- ensuring sufficient clarity as to which insurance products may be offered under each RIA licence category, including insurance products as group accident insurance and travel insurance;
- implementing an online licensing/registration portal and digital platform, with timely electronic reminders and notifications to RIA licensees; and
- offering a “Head Office exemption,” i.e. an exemption from licensing for head office employees of the RIA licensee, who perform solely administrative and support services related to the insurance products.

Authorization for Contractors

Third parties contracted by a restricted licensee (such as a third party administrator) – where the licensee is a federally or provincially regulated financial institution – should be considered authorized under the financial institution’s RIA licence.

It is critically important to include contractors of RIA licensees as parties authorized under the licence because most financial institutions now outsource certain business activities, functions, and processes to meet the challenges of technology innovation, increased specialization, cost control pressures, and heightened competition. The contractual arrangement between the financial institution and the contractor makes the financial institution liable for the actions of the contractor. Further, federally regulated entities are subject to OSFI’s outsourcing Guideline B-10 which sets standards for monitoring and oversight of the contractor, and requires the financial institution to take ultimate responsibility for outsourced activities. Including contractors under the authority granted to financial institutions holding an RIA licence would recognize the application of OSFI’s outsourcing guideline and be appropriate with respect to the continued distribution of incidentally-offered insurance products by national financial institutions in New Brunswick.

This optimal RIA regime feature – which is fully in place in Manitoba and largely facilitated in Saskatchewan (third party contractors can apply for their own RIA licence, based on an agency contract with an existing RIA licence holder) -- is not yet in place in Alberta, the first province to introduce an RIA regime in 2000, which renders the functioning of its regime more cumbersome and inefficient.

Council Composition

In case the FCNB should ultimately decide to introduce an Insurance Council as part of the province’s new RIA regime, we offer the following pertinent observations.

Insurance Councils in Canada have been designed on the basis of “peer regulation and proportional representation,” principles which are intended to remove conflict of interest and ensure that Council representatives have appropriate knowledge and experience of the business they are regulating. Given the unique nature of incidentally-offered insurance products and of alternate distribution channels, successful oversight of these products requires different expertise and relies on the effective management of competitive sensitivities relative to the matters before a Council at any given point in time. Having a Council’s membership be comprised of all categories of stakeholders on a proportional basis is an important consideration and an approach that would ensure that the Council represents the interests of all stakeholders and permits a fair and informed approach to the oversight of all regulated entities.

To be more specific, CAFII believes that an Insurance Council should be structured and operated in a “channel neutral” manner. That is, the Council should be designed and populated such that the interests of all distribution channels are well-served and the representatives of any particular channel are not in a position to make decisions which could negatively impact consumers’ access to competing distribution channels.

This principle should, in our view, be incorporated into a Restricted Insurance Agent licensing regime in New Brunswick; and that will likely necessitate the creation, at a minimum, of an RIA Advisory Committee. CAFII has recently completed work with the Canadian Life and Health Insurance Association (CLHIA) on recommendations to the Insurance Councils of Saskatchewan on such an RIA Advisory Committee, and we would be pleased to provide additional information on our progress on this key initiative to the FCNB.

Conclusion and Follow-Up Meeting Request

Thank you for inviting CAFII to make this written submission outlining our views on an optimal RIA regime; and for consulting with us as a key stakeholder in your Insurance Act Rewrite project and the now-embedded RIA regime initiative.

In that connection, we would like to re-state our request for a special purpose meeting with you to elaborate on our views on the features of an optimal RIA regime; and what are some of the issues to be aware of and the pitfalls to avoid. A small group of CAFII representatives would like to meet with you for that dedicated purpose, ideally for about two hours. We would be pleased to travel to Fredericton to meet with you in-person at your FCNB office on a mutually convenient date; or, alternatively, during your next visit to Toronto, if there is a near-term date when you will be in town for meetings.

We look forward to hearing back from you at your earliest convenience on this meeting request, David; and hopefully being able to firm up a dedicated CAFII/FCNB consultation discussion on this important initiative which you are advancing and pioneering in Atlantic Canada.

Should you have any questions about the content of this letter or our follow-up meeting request, please contact Brendan Wycks, CAFII Co-Executive Director, at brendan.wycks@cafii.com or 647-218-8243.

Sincerely,

Martin Boyle
Board Secretary and Chair, Executive Operations Committee

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 choice in the purchase of insurance products and services. Our members offer travel, life, health, property and casualty, and creditor's group insurance across Canada. In particular, creditor's group 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 that helps ensure Canadian consumers get the insurance products that suit their needs. Our aim is to ensure appropriate standards are in place for the distribution and marketing of all insurance products and services.

CAFII is currently the only Canadian Association with members involved in all major lines of personal insurance. Our members are the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Financial Security; National Bank Insurance; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players American Express, Assurant, Canadian Premier Life Insurance Company, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and The Canada Life Assurance Company.