



**CONFIDENTIAL: DO NOT DISTRIBUTE**

**BRIEFING DOCUMENT FOR CAFII LIAISON LUNCH MEETING WITH**

**GERRY MATIER, EXECUTIVE DIRECTOR,**

**INSURANCE COUNCIL OF BRITISH COLUMBIA**

**MAY 15, 2013 IN TORONTO**

*This document sets out current issues, and related recent news, of interest to CAFII vis a vis the Alberta Insurance Council in particular, and also the insurance regulatory community in general.*

**ABOUT CAFII**

**CAFII's goal as an association is to foster an open and flexible marketplace that allows consumers an expanded choice in the purchase of insurance products and services.**

**CAFII members offer convenient and cost effective insurance alternatives for all Canadians.**

- New structure with an Executive Director, and an enhanced website.
- CAFII intends to use the new structure for research, and communication. Indicate that we hope regulators will find the website a good source of information and hope they will let us know what further information they require.

**Harmonized Life Insurance Licensing Qualification Program**

CISRO's LLQP Committee, chaired by Ron Fullan, Executive Director of Saskatchewan's Insurance Council, provided a comprehensive update on the Harmonized Life Insurance Licensing Qualification Program (LLQP) at Stakeholder Information Sessions held at the FSCO office in Toronto on January 17 and April 9, 2013.

At these information sessions, Fullan and LLQP Committee colleagues from **B.C. (Gerry Matier)**, Alberta, Ontario, Quebec, and New Brunswick updated attendees on the following:

- the harmonized LLQP's features, program governance, and development/implementation timeline;
- progress to date in developing the new program, including the just-released "Life Insurance Agent Competency Profile" and the anticipated Curriculum Design Document;
- stakeholder feedback and CISRO responses;
- their stakeholder engagement plan; and
- next steps in the process.

255-55 St. Clair Ave West, Toronto, Ontario M4V 2Y7

Tel: (416) 494-9224 Fax: (416) 967-6320

Email: [info@cafii.com](mailto:info@cafii.com) Web: [www.cafii.com](http://www.cafii.com)

**The recently published Life Insurance Agent Competency Profile** was developed via a series of Occupational Assessment Workshops held across the country. Over 700 individuals have provided feedback on the Competency Profile via a survey link on the CISRO web site, with 90% of respondents being favourably disposed towards the Profile.

**Gerry, any update for us on the LLQP Harmonization project developments since early April? Is the Committee pleased with the feedback on the Competency Profile? How is development of the Curriculum Design Document coming along?**

#### **Insurance Council of B.C. Priorities**

Gerry, we've noted from the Message from your new Council Chair, David Porter, posted on your web site (see Appendix B), that the Council will be focusing on three key issues this year: Competency, Confidentiality, and Conflicts-of-Interest.

**While Competency is fairly obvious – given its connection to the LLQP Harmonization initiative – can you elaborate on the Confidentiality and Conflicts-of-Interest priorities a bit, in terms of any implications they might have for CAFII member businesses?**

#### **Insurance Council of B.C. Regulatory Update**

Gerry, we've seen on the web that you're going to be giving a "Regulatory Update" at the Credit Union Insurance Services Association Conference in Victoria in early June; and you provided an "Insurance Council Update" at the Independent Financial Brokers' BC Spring Summit in April.

**Can you share with us the highlights of the news that you're sharing in those presentations?**

#### **CCIR Agencies Regulation Committee To Review Third Party Administrators (TPAs)**

CCIR has approved a work plan for the second phase of its Agencies Regulation Committee (ARC)'s work. The ARC will now review the regulation of Third Party Administrators (TPAs) in group life, accident and sickness, creditor's group insurance, and travel insurance to determine potential risks to consumers. (This was pre-figured in the Background (introduction) to CCIR's November 2008 "Incidental Selling Of Insurance Report," which states "the ISI Working Group did not review potential issues related to third party administrators since CCIR has mandated the Agencies Regulation Committee to work on this matter.")

CAFII has been asked, and has agreed, to have an initial telephone consultation with the ARC about the TPA review, in which clarity will be sought around what should be the definition of a TPA for the purposes of the review.

**Gerry, we're aware that Harry James, who works for Carolyn Rogers at FICOM, is chairing this CCIR ARC initiative. What's your understanding of the objectives of this review? Do you have an understanding of the scope/breadth of the definition of "TPA" for this project?**

#### **Role And Responsibilities Of MGAs In Distribution Of Life Insurance In BC (Appendix C)**

**Gerry, what sort of feedback have you received on the Notice that you released in January 2012 on the Role and Responsibilities of MGAs in B.C., and the related duties of insurers and agents? Have any violations or enforcement actions related to the Notice arisen since its release?**

## **Supervision Of New Life and Accident & Sickness Agents In BC**

**Gerry, what sort of feedback have you received on the Notice, released last year, that came into force on September 1, 2012 re Supervision of New Life and Accident & Sickness Agents? Have any violations or enforcement actions related to the Notice arisen since its release?**

### **Recent Amendments to BC's Financial Institutions Act**

In January 2013, the B.C. Government passed an Order-in-Council (OIC) to implement amendments to the province's *Financial Institutions Act* that were passed in 2010.

Two provisions of the OIC are of particular relevance to CAFII members.

First, the Order brings into force an updated administrative penalty framework set out in section 253.1 of the Act and also enacts a regulation listing provisions of the statute and related regulations for which an administrative penalty may be imposed, along with the maximum penalty for a contravention of each provision. The relevant section reads as follows:

SECTION 34: *[Financial Institutions Act, section 253.1]* replaces an administrative penalty scheme, for which regulations have not yet been enacted, with one that, among other things,

- authorizes the commission to impose monetary penalties for contraventions of prescribed provisions of the Act and regulations and of conditions of business authorizations, orders under certain sections of the Act and undertakings under section 208 and 244 (2) (g) of the Act;
- requires the person to either pay or dispute the penalty within 14 days;
- if a person disputes the penalty, requires the commission to provide an opportunity to be heard, by written submissions only for penalties below specified amounts or by written submissions or oral hearing for penalties above those amounts;
- allows a person to appeal an order, made after a hearing, confirming the penalty, in accordance with existing appeal provisions in the Act;
- authorizes the commission, if a corporation has committed a contravention, to impose, in accordance with the section, an administrative penalty on an officer, director or agent of the corporation who authorized, permitted or acquiesced in the commission of the contravention;
- changes the time limit for imposing an administrative penalty from 6 months to 2 years after the commission first becomes aware of the facts leading to the administrative penalty notice;
- establishes a maximum on the administrative penalty (\$50,000) the commission may impose under the section.

A second change relates to the exemption available for the sale of credit insurance by a lender from the obligation to use a licensed insurance agent, **which has now been expanded to include regulated insurers that themselves advance credit.**

**Gerry, what sort of feedback has the Insurance Council and/or FICOM received about the recent amendments to the Financial Institutions Act?**

What role, if any, will the Insurance Council play in determinations with respect to imposing AMPs on those judged to have contravened relevant provisions of the Act?

### **National Database of Disciplinary Information**

CCIR and CISRO have agreed in principle to move forward with an electronic form-based database as a central source for disciplinary information, and CCIR has approved a new Disciplinary Information Implementation Working Group (DIIWG) to oversee the building of the database.

The DIIWG is to be joint between CCIR and CISRO and co-chaired by Shonna Neil, FSCO's Senior Manager of Licensing, for CCIR; and a designate to be named by CISRO.

The idea is to allow consumers, regulators and firms to search a single database to determine whether an insurance advisor has faced disciplinary action in any province across the country. The database would include listings for both life and property and casualty agents.

**CAFII supports this initiative and encourages CCIR to take the national database concept even further** by including not only disciplinary details but also licensing information for all insurance agents, as this information is also dispersed among different databases across the country.

From an operational standpoint, there are challenges associated with distinguishing between agents with the same name: regulators want to avoid having an advisor with a clean record mistaken for one with a history of misconduct.

### **Restricted Licensee Representation on Provincial Insurance Councils**

CAFII is seeking the opportunity to have restricted licensees represented or otherwise participate on provincial Insurance Councils. The Licensing Efficiency Issues Committee identified a need for an analysis of options for BC, Alberta and Saskatchewan. This issue has been discussed with Saskatchewan and Alberta. CAFII has engaged legal assistance to assist in the analysis of options, given legislative and regulatory requirements, and preparation of a proposal, focusing on Saskatchewan in the first instance.

**See Appendix D for Composition and Mandate of Board of Insurance Council of B.C.**

### **Insurance Act Reviews**

Several provinces have made changes and several are planning changes. For major changes such as this, industry needs sufficient lead time -- preferably 18 months.

### **Multi-Jurisdictional Licensing**

**Harmonized license requirements could reduce cost and complexity of licensing.**

CAFII members have client contact centers and must manage licensing across a number of jurisdictions. Ideally, when agents are duly licensed in their home jurisdiction, CAFII would like this license to be recognized across all jurisdictions.

**CAFII supports electronic license application and renewal systems as a means to increasing efficiency for both regulators and industry.**

**A national business number registration database would facilitate multi-jurisdictional licensing of intermediaries as well as assist insurers and regulators in undertaking background checks of licensees.**

### **IAIS/IMF Audit of Canada Around Insurance Core Principles (ICPs)**

The International Monetary Fund (IMF) will be conducting a financial stability assessment of Canada in 2013 under the Financial Sector Assessment Program (FSAP). The FSAP will assess Canada's adherence with international standards in the areas of insurance, banking, securities, payment/settlement systems, and fiscal transparency.

CCIR has shared with CAFII the news that, likely due to limited time and resources, the auditors/reviewers from the IMF will be taking a sample-based approach to Canada.

CCIR has learned that the IMF auditors will be looking at just Ontario and Quebec. They'll be on-site beginning in June, and working mainly out of Ottawa. They'll be looking at a wide range of financial system areas including banking, securities, clearing, solvency, and insurance.

How much time they'll have to focus on market conduct in insurance is unknown, but because the Insurance Core Principles (ICPs) are new, they may give that area a generous amount of time.

(Note ICP 18 deals with intermediaries, while ICP 19 focuses on Conduct of Business. It is in the latter that the "fair treatment of consumers" concept is embedded.)

### **E-Commerce**

CAFII made a submission to CCIR in response to its 2012 Consultation Paper on Electronic Commerce, ie. use of Internet for insurance distribution. CCIR is now preparing to release a follow-up Position Paper on E-Commerce. Its release will give rise to a 30 day consultation period, during which CAFII will deliver its second webinar for the CCIR community, on "E-Commerce and Use of Social Media in Insurance."

Issues of interest re e-commerce are as follows:

#### **Requirement for involvement of a licensed intermediary**

**Consumers should be permitted to transact in their channel of choice.**

Clients self-select a channel to achieve satisfaction; consumers should not be required to use a broker as this would add redundancy and costs and go against clients' needs and wants.

For those products that require a licensed intermediary, we recommend that a licensed intermediary be available for contact at the client's request during business hours.

It is important to have Internet commerce available to consumers for broad access and to reach the underserved market.

### Financial Literacy

#### **A web-based offering can greatly simplify the learning process for consumers.**

The web has the ability to clarify information and present it to consumers in a logical and consistent manner. Tools on websites step customers through typical scenarios, have hints, product suggestions, links, telephone access and allow for education and comparison on alternatives.

### Designation of Beneficiaries/Termination of insurance

Industry would like legislation to clearly specify that electronic beneficiary designation is acceptable. This will provide clarity.

### Underserved Market

#### **Many Canadians need access to insurance**

More than one third of adults in Canada have no life insurance coverage at all<sup>1</sup> and 47% of households find it very or somewhat difficult to find an advisor/agent<sup>2</sup>. Mass market, younger and lower income households need and want access to insurance advice and simple, affordable products.

#### **Independent insurance agents focus on higher face value and more complex products**

It is difficult for a broker to make a living from the middle market with smaller needs. A broker would have to sell 7 small policies to earn the amount of commission from a single larger policy. Brokers target and develop relationships with more affluent clients.

#### **Alternate Channels Provide Important Access to Underinsured Markets**

Brokers are aging and few are entering the business. Simple, competitive and cost effective insurance solutions can be more broadly available through alternative distribution channels such as online, telephone, direct from insurers and branch distribution of creditor and travel products. It is important that regulatory regimes help to foster and support the ongoing growth and development of these channels.

---

<sup>1</sup> LIMRA: 2007 Canadian Life Insurance Ownership, Person Trends, pg 10

<sup>2</sup> LIMRA: Tracking Opinions of the Public in Canada (TOPIC) 2009 pg 18

**BIO PROFILE OF GERRY MATIER, EXECUTIVE DIRECTOR,  
INSURANCE COUNCIL OF BRITISH COLUMBIA**

**GERALD D. MATIER**



Gerry has been the Executive Director of the Insurance Council of British Columbia since September 1991. The Insurance Council is the primary regulator in the province, responsible for over 29,000 persons involved in the distribution of insurance products. Gerry has twice served as the Chair of the Canadian Insurance Services Regulators' Organization and sits on a number of national committees involving the insurance industry.

**Personal Re Gerry Matier:**

**Caring for my wife with dementia**

**May 14, 2010**

**Society seeks to expand program for caregiver support**

In 2001, when Gerry Matier and his wife Dede Jamieson received her diagnosis of dementia, they were in shock. Dede was forty-seven.

Like many newly diagnosed families, Gerry didn't know where to turn.

"When the doctor told me Dede had primary progressive aphasia, a form of dementia, I didn't know what it was, or how to talk to her about it," says Matier.

Gerry began doing research and found the Alzheimer Society of B.C. He received one-on-one support and joined a caregiver support group, which he attended monthly for two years. "People sometimes have the wrong idea about support groups," says Matier. "Being a caregiver can be a very lonely experience, the group was a place to learn about the disease and talk with others having a similar experience."

Currently there are over 10,000 people in B.C. under the age of 65 with dementia. As our population ages, dementia is exacting a growing toll not only on the person with the disease, but on caregivers, family and friends.

To increase access to dementia education and services, the Society is seeking funding to expand *First Link*, an early intervention program. Using referrals from physicians, the program enables us to proactively contact families and connect them with the services they need, as soon as possible after diagnosis.

“A program like *First Link* would have been wonderful,” says Matier. “To have someone phone and say, ‘There are places and people out there to help you,’ would have helped me manage stress and have more tools to support Dede.”

As a spokesperson for the Society, Gerry who is Executive Director of the Insurance Council of British Columbia, currently gives back to help others understand the caregiver role.

Dede now lives in the Delta View care facility where Gerry spends time with her.

“Dede and I hope that by sharing our story, we can help people to better plan for the challenges of this disease.”

## **Appendix B**

### **Message From Chair of Insurance Council of British Columbia**



Over the past few years, Council has made great strides in becoming a progressive regulator in the insurance industry. As Chair, I look forward to continuing in this direction and will seek to maintain a cooperative effort with the industry to protect the public by ensuring individuals licensed to sell insurance are competent, qualified, and trustworthy.

Over the next year, I see Council focusing on a number of key areas, specifically competency, confidentiality, and conflicts of interest.

In the area of competency, Council continues to review its educational criteria. We are currently working with the other Canadian jurisdictions to update and improve the existing qualification program for life insurance agents. We anticipate the updated LLQP program will be in place by 2015.



Council is also commencing preliminary discussions with the general insurance industry to determine whether the existing educational criteria for general insurance agents and salespersons is still appropriate and current. It is important that Council maintains a minimum educational criteria for individuals entering the industry.

With regards to confidentiality, Council is concerned with cases it has encountered where clients' confidentiality has not been properly maintained. One of the key cornerstones of the insurance industry is the maintenance of clients' information. Unfortunately, we continue to experience situations where clients' information has not been properly maintained or has been intentionally breached. The public is entitled to expect their information will be properly safeguarded and, for the insurance industry to maintain the public's trust, it must ensure confidentiality is paramount. Council is working on a paper that will articulate areas of confidentiality and the duties and obligations of licensees.

In the area of conflicts of interest, Council is developing guidelines that will specify expectations for insurance agents, adjusters and salespersons regarding issues pertaining to conflicts of interest. There are a number of ways in which conflicts of interest can be addressed; the most important being proper disclosure to the client. Council will identify conflicts of interest that licensees should avoid, as well as conflicts of interest that, at the very least, require appropriate disclosure to and consent of a client before proceeding.

In closing, I want to take this opportunity to acknowledge the departure of Ken Thom, one of the voting life insurance agent representatives on Council, and a number of non-voting members who have completed their terms. I also want to acknowledge the work done by Dan Swanlund, Council's outgoing Chair.

I look forward to working with Council members and staff over the next year to continue to enhance the professionalism of Council and to look for ways to improve upon the services we provide to the public and the industry.

As Chair, I want to continue to maintain the high quality of service that Council has established over the years. I welcome any feedback the industry wishes to provide and will always be receptive to suggestions on how Council can continue to improve the quality of service stakeholders expect.

C. David Porter, B.Comm., LL.B., FCIP, CRM

## **Appendix C**

### **B.C. Regulator Lays Down Precedent-Setting Guidelines**

*From Insurance & Investment Journal, February 21, 2012*

Managing General Agencies are a bit of an industry anomaly in that they've never really been subject to regulation specifically geared toward them, until now. Although there have been several attempts on the part of national organizations to draft guidelines or advice, most of these are still hung up in discussion and debate with stakeholders. Given that insurance regulation is a provincial responsibility, however, the Insurance Council of British Columbia decided it was past time to give MGAs a clear outline of the regulator's expectations.

“We waited to see how the CCIR (Canadian Council of Insurance Regulators) paper went, but because of a number of events, including a few issues in our jurisdiction, and because MGAs were looking for clarification, we felt it was time to publish the work we had done,” says Gerry Matier, ICBC executive director. “We think it will be complimentary to whatever comes out of the CCIR.”

The six-page notice, released in January, discusses and recognizes the duty MGAs have to the insurers they’re under contract with. It puts new onus on the companies to know about an agent’s abilities and background, and it spells out the duty life agents have to MGAs and insurers as well.

Although some provisions are somewhat obvious – that MGAs need to carry adequate errors and omissions insurance, or that they need to have any vague contract details or anomalies clarified in writing – other provisions will undoubtedly be welcomed by executives and compliance staff.

Notably, the Council draws a line in the sand, clearly stipulating that a number of insurance company responsibilities such as underwriting, policy issuance or claims cannot be “pushed down” to the MGA level.

Although such duties are not in dispute at the moment, Mr. Matier points out that responsibilities can evolve quite dramatically over time. “At some point MGAs may become involved in the claims process; it’s not unreasonable to believe that could happen,” he says. “If, down the road these things start to come up, we want to be on the record saying these are the duties of the insurer and they should remain there.”

### **Reporting responsibilities**

New “know your agent” rules, meanwhile, address known problems in the industry where sub-par brokers are sometimes cut loose by their MGA. Oftentimes, lack of production is cited as a reason for the agent’s termination, when, in reality, the known problem is a larger question of competency or weak ethics.

“The fact that somebody has done something wrong doesn’t mean they’re going to lose their career,” says Mr. Matier. “But if they have knowledge problems, competency problems or ethical problems, whatever it is, we shouldn’t be hiding from them, we should identify them. What are the issues and how do we deal with it? How do we make sure it doesn’t happen again and how do we make sure the next consumer doesn’t get hurt by the same problems?”

In these cases traditionally, MGAs reported problem cases to insurers who in turn decided whether or not to report the problem to regulators.

“We wanted to be very clear. We think the MGAs are in an excellent position to identify issues if they do see them, and we feel they should be responsible enough to bring those to our attention.”

In the past, he says enforcement staff have encountered situations where the MGA involved could have assisted in identifying the problem before it had a chance to escalate. “I’m not saying these things would not have occurred, but they might have been identified sooner,” he says, adding that such reporting can take place formally or informally.

“I’m prepared to take a phone call from an MGA on the side, saying we can’t put our finger on it, but we think this person might benefit from an inspection.”

In addition to these provisions, the notice acknowledges that an MGA’s primary duty is to the insurer, thanks to the contractual nature of the relationship. It addresses situations where an MGA might be engaged in retail sales activity by soliciting the public directly or by servicing existing business. In these cases, it says the far more stringent know your client rules that apply to retail agents will apply to the MGA as well. (Not normally the case when the business is simply acting as an intermediary.)

The notice states that, although MGAs are required to carry out all of the responsibility outlined in their contracts, failure on the part of an MGA to meet a contractual obligation “is not a valid reason for an insurer to not address a policyholder’s complaint.” It continues, saying “insurers are ultimately responsible for all of the functions contracted to and completed by MGAs.”

Failure to conduct appropriate life agent background checks, meanwhile, will be enough to call an MGA’s suitability into question – MGAs must be satisfied that business being submitted is consistent with their understanding of the life agent’s knowledge, experience, abilities and business history. Those who fail to properly review transactions outside of an agent’s skills or abilities could face disciplinary action.

### **Independent advisors**

Finally, the notice says life agents also have an obligation to honour their contracts as well – attempting to bypass the MGA for whatever reason, could bring an agent’s abilities and suitability into question.

“Although this paper discusses MGA distribution, I think it’s probably even more important for independent advisors to have a look at the document and read between the lines about what their responsibilities are,” says Paul Brown, CAILBA (Canadian Association of Independent Life Brokerage Agencies) and president and CEO of the IDC Worldsource Insurance Network, adding that he welcomes the paper and the clarity it brings.

As for the more obvious provisions outlined, Mr. Matier says some were included in response to circumstances in some cases or simply for the sake of clarity in others. “It’s kind of hard to hold somebody accountable when you don’t tell them what it is they should be doing,” he says.

## **Appendix D**

### **Insurance Council of British Columbia**

The Insurance Council of British Columbia is a self-regulatory organization constituted under British Columbia's *Financial Institution Act*. In conjunction with the Superintendent of Financial Institutions, the council administers and enforces the *Act*.

## **The Board...**

### *...Composition*

There are 11 voting directors, appointed by the Lieutenant Governor in Council:

- two directors represent life insurance companies;
- two directors represent life insurance agents;
- two directors represent general insurance companies;
- two directors represent general insurance agents; and,
- one director must be a licensed insurance adjuster.

The remaining two voting directors are lay directors; there are no formal requirements for these positions.

Additionally, an unlimited number of non-voting members may be appointed by the Responsible Minister to assist the voting members of the Council on industry committees, to participate on hearing committees, and to provide additional expertise to the council in carrying out its licensing and investigation responsibilities. Non-voting members may also act as alternates for the industry's voting members of the Council.

There are 42 current members.

### *...Mandate*

The Council's mandate is to protect the public by enforcing the licencing and licensee conduct requirements of the *Financial Institution Act*. The Council is responsible for licensing insurance agents, salespersons and adjusters, enforcing entry qualifications and practice standards; for investigating complaints; and for imposing disciplinary sanctions under the *Financial Institution Act* as necessary.

## **What's Involved**

Directors are asked to make themselves available for monthly meetings to deal with council business.