

CAFII Regulator Visit Report
Confidential: Not For Distribution

Regulator: CCIR
Date: September 26, 2013
Location: The Croissant Tree (for coffee), followed by BMO Insurance, 60 Yonge St., Toronto
Purpose: ***Pre-Consultation Discussion around CCIR's Third Party Administrators (TPA) Review Initiative***

Attendees:

CCIR: Harry James, Director, Policy Initiatives at B.C.'s Financial Institutions Commission, and Chair of CCIR's Agencies Regulation Committee (ARC); and Carol Shevlin, CCIR Policy Manager

CAFII: John Lewsen, BMO Insurance; and Brendan Wycks, CAFII Executive Director

We met with Harry James and Carol Shevlin from about 9:05 a.m. to 10:20 a.m. We had a productive exchange in which John and I did as much listening and asking questions for information and clarification – re the motivation for the TPA Review and the direction they're going in – as we did talking and answering Harry and Carol's questions.

We weaved into the conversation most of the Key Messages found on pages 1-2 of "*Briefing Document For CAFII Pre-Consultation Discussion With CCIR Re Agencies Regulation Committee's 'TPA Review' Initiative.*"

Harry James did about 75% of the talking overall, and about 90% of the talking on CCIR's side of the table.

Background to CCIR's TPA Review Initiative

This meeting was part of the ARC's pre-consultation phase of its TPA Review; and the Review itself constitutes the next phase in CCIR's efforts to understand the role of intermediaries in the industry, with a view to being better positioned to provide regulatory monitoring and oversight of outsourced relationships, as appropriate.

Harry James advised that in 2009, CCIR identified that there had been increasing use of third parties (both MGAs and TPAs) on both the general and life sides of the insurance industry.

CCIR became concerned that the existing regulatory model might not be well set-up and not adequately equipped to oversee such use of third parties. So it was decided to undertake reviews of the use and oversight of both MGAs and TPAs. If the reviews identified significant issues from a regulatory perspective, it would be a question of how to address them.

The ARC's initial work was done on the MGA channel in the life industry. The process included a pre-consultation/fact-finding process; a position paper to which industry stakeholder submissions were invited; and concluded with a report with guidelines. The second and final phase of the MGA Review initiative will be a review of MGAs on the p&c side of the industry.

The plan is to follow much the same model and sequence for this review of TPAs on the life side of the industry. However, the ARC will need to determine if it needs to segment Group Life & Health, Creditor's Group Insurance; and Travel Insurance into three discreet segments, or if it can deal with this TPA Review as one aggregated whole.

Some Regulatory Concerns/Issues Behind the TPA Review

- issue of Self-Insured Employee Benefits Plans. Self-insured plans have generally been “carved out” and are exempt from regulation. Is that appropriate from a regulatory and consumer protection perspective?
- travel Insurance: at what point in time is the insurer involved in decision-making given the prevalent involvement of Travel Assistance Providers.

There is also the issue of pure “marketers” of travel insurance, in which an insurer simply lends/gives away their name to a marketer and allows them to run every aspect of the program (eg. recently defunct Ingle Insurance, a pure marketer of travel insurance that had raised much regulatory concern). These are arrangements that seem to be designed to keep regulators at bay. This type of model is a big concern for us as regulators as the consumer can't get through to the insurer behind the product and they aren't even informed as to who the insurer is and that a complaints resolution process exists.

TPAs in Creditor's Group Insurance

Harry James said that it is the regulators' understanding that it's a typical model for a CGI provider to use a third party call centre to handle enrolments in the group insurance product.

We indicated that some CAFII member FIs do use third party call centres.

John Lewsen noted that a lot of the enrolment in CGI is done as part of the card activation process. And that mortgage life/disability insurance enrolment is made at the time of mortgage signing.

Based on comments made by Harry James, it became apparent that a current focus of concern for regulators is CGI marketed in association with retailers' credit cards. He indicated that enrolment and then the ongoing administration of the product were both issues of concern with respect to retailers' credit cards. He also commented that “solutions from 20 years ago may not be appropriate today.”

Carol Shevlin added to Harry's remark by saying “Yes, nowadays it's typically Chase Bank behind a retail credit card, but it wasn't always so.” (Interpretation by B. Wycks: Given that there is a solid, reputable bank entity behind retail credit card CGI these days, issues/problems from the regulator's perspective may not be as much of concern as they were in the past, but some issues still do exist with this product.)

Harry then commented more specifically on regulator concerns with respect to third party outsourcing relationships in CGI.

He specifically mentioned Assurant Solutions, noting that they have a product that they allow others to “brand” and run with. Assurant seems to be in Harry’s sights because he feels that they are getting into Creditor Insurance partnerships with a wide array of players (Leon’s/The Brick was mentioned and “any manner of layaway financing”)**.

Harry also talked about car dealer CGI a lot, as an example of a marketplace situation that concerns him as a regulator. He characterized Leon’s/The Brick-type CGI and car dealer CGI as

- relationship between the insurer and the marketer seems to be loosey, goosey;
- the insurer behind the product is not clearly disclosed to the consumer;
- the complaints handling and escalation process is not clearly disclosed to the consumer;
- he’s not convinced that the insurer is doing adequate “due diligence” on the group policyholder, and wonders whether a robust contract is in place, and whether adequate monitoring/oversight is being done once the arrangement is in place; and
- the insurer seems to be simply “lending/giving away their product” and then taking a hands-off approach (Carol said this, in support of Harry’s point) without adequate control and oversight.

Beyond Assurant Solutions, Harry also said that there is one other CAFII member (un-named) that is involved in CGI with car dealers around the financing for a car purchase/lease, and certain aspects of that business relationship (around the sales/enrolment process, and lack of full disclosure) concern him as a regulator. He said it’s quite often not clear to consumers and to regulators who is behind the product?; and who is issuing certificates?

Towards the end of our discussion, Harry James shared the details of the payday loan company CGI situation that had been causing BC’s FICOM a lot of concern recently. He said that a particular payday loan company was not screening out people who were self-employed even though they were ineligible for coverage. After nine months of regulatory oversight and intervention, that company ultimately entered into a Voluntary Undertaking with FICOM. But then that company got acquired; and a month after being bought out, the company got out of that line of business.

Harry said that regulators are very interested in and potentially concerned by “how do such products get to the payday lender/mortgage broker, etc.?”

“These products could be part of the model that a couple of your members are involved in.”

As we wrapped up the meeting, we agreed that

- given that the primary focus of the TPA Review is Group Benefits Plans, the Review is “out of scope” for CAFII for the most part. CAFII therefore shouldn’t feel obligated to participate in the formal part of the Review to come, especially given that all CAFII members are also part of CLHIA, which will be addressing the Creditor’s Group Insurance and Travel Insurance components of the Review; and
- that said, if CAFII feels that we have a point-of-view on the Use and Oversight of TPAs in CGI and Travel that is distinctive from CLHIA’s, then we should certainly participate and submit our views on those components during the formal consultation process.

Harry even went so far as to say “You may want to encourage the two CAFII members that are involved in outsourcing arrangements that are of concern to us – ie. Assurant Solutions and the other member that’s involved with car dealer CGI – to engage with us directly, rather than burdening all of the other members with getting involved as an Association.”

*** B. Wycks subsequently spoke with John Poolman of Assurant Solutions and passed on the comments and observations made by Harry James. John indicated that Assurant is not the insurer behind the Leon’s/The Brick CGI product, and that Assurant would follow-up directly with Harry to correct his mis-information. An internet search indicates that the insurer behind the Leon’s/The Brick product is Trans Global Life Insurance Company (TGLI).*