

October 11, 2024

Mr. Blair Morrison
CEO, BC Financial Services Authority
600-750 West Pender Street
Vancouver, B.C. V6C 2T8
insurance@bcfsa.ca

Copy to:

Thomas Taller, Acting VP of Client and Stakeholder Engagement
Marina Makhnatch, Director, Market Conduct Financial Institutions
Harry James, Senior Regulatory Advisor

Dear Mr. Morrison,

Re: Expectations of “Adjusters” in the Life and Health Insurance Industry in BC

The Canadian Association of Financial Institutions in Insurance (CAFII) would like to thank the British Columbia Financial Services Authority (BCFSA) for the opportunity to provide feedback on your interpretation of the *Financial Institutions Act; Insurance Licensing Exemption Regulation*.

BCFSA Interprets Certain Activities to be Adjusting

It is a common interpretation in the insurance sector that adjusting refers to making decisions around whether an event triggers a payout of insurance and if so, the amount of that payout. These decisions are made for events that can trigger losses that must be calculated, and which require investigation and discussion between representatives of insurance companies (adjusters) and policy-holders.

This is typical in the auto insurance industry, where an auto accident could result in losses that need to be calculated; and in home insurance where a fire, flood, or other event could result in losses that need to be calculated. An auto accident does not result in a pre-determined or automatic payout, but rather requires determining the extent of the damage and the cost of returning the vehicle to its pre-accident state, or alternatively if the costs to repair the vehicle exceed its value a decision may be made to write off the vehicle and pay the insured for the value of the vehicle at the time of the accident. A flood, fire, or other house event similarly requires determining the extent of the loss and how to return the home to its pre-event state. These determinations are made by adjusters who specialize in making these determinations, often in conjunction with the policy-holder.

This is fundamentally different from the life and health insurance industry where there is not “adjusting” but rather “adjudication” as the question is whether the triggering event is consistent with existing contractual arrangements. A life insurance claim, for example, does not have any “adjusting” component focused on determining the extent of payout; the claim is valid claim or it is not, and if it is valid then the amount of the claims payout is what the contract specifies. These are straightforward administrative decisions that do not require adjusting or negotiation, but rather require simply determining if contractual terms were met.

We note that BCFSa’s interpretation of adjusting in the Regulatory Statement that was shared with us is as follows:

BCFSa’s position is that exercising significant judgment and/or discretion when handling or coordinating a claim file may attract the licensing requirement. Actively investigating, evaluating and arranging for significant steps in the settlement of claims made by policyholders and beneficiaries under insurance contracts (the “insured”) constitutes adjusting.

The administrative determinations made in the life and health insurance sector around determining eligibility with respect to existing contracts and validating if contract terms were met or not does not involve significant judgment or discretion or involve significant steps. As such, we do not agree with the BCFSa interpretation of adjudication being similar to P&C adjusting, and as such we do not believe that the people making these decisions within the life and health insurance sector require individual licenses.

We further note that the BC legislation provides for an exemption for salaried employees acting for an insurer processing these claims from the requirement for an individual license for an adjuster, and as such the requirement for an individual license would appear to apply to individuals operating solely in outsourced, third-party TPAs and MGAs. However, we are also of the view that such individuals are not making adjusting decisions about these claims, but rather are administratively determining eligibility against existing contracts.

Thank you again for the opportunity to provide input and feedback on the BCFSAs' consultation on adjusters in the life and health insurance industry. 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 choice in the purchase of 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.