The Canadian Association of Financial Institutions in Insurance | L'association canadienne des institutions financières en assurance

200-411 Richmond Street E, Toronto, ON M5A 3S5
(416) 494-9224 (416) 967-6320
info@cafii.com www.cafii.com

CAFII ALERTS WEEKLY DIGEST: May 27-31, 2024

May 31, 2024

The CAFII Alerts Weekly Digest is intended to provide a curated compendium of news on insurance, regulatory, and industry/business/societal topics of relevance to CAFII Members – drawn from domestic and international industry trade press and mainstream media – to aid in Members' awareness of recently published media content in those areas.

TABLE OF CONTENTS

200-411 Richmond Street E, Toronto, ON M5A 3S5
☎ (416) 494-9224 (416) 967-6320
info@cafii.com www.cafii.com

GOVERNMENT/LEGAL/REGULATORY/ BUSINESS DEVELOPMENTS

Insurance Notice – LLQP Examination Administration Policy

By The Financial and Consumer Services Commission, May 28, 2024

https://fcnb.ca/en/news-alerts/insurance-notice-llqp-examination-administration-policy

The Financial and Consumer Services Commission of New Brunswick (the Commission) is adopting a modernized Life Licence Qualification Program (LLQP) examination administration policy developed by the Canadian Insurance Services Regulatory Organizations (CISRO) to ensure that consumers are working with life insurance agents who meet the highest national qualification standards.

The modernization of the policy will improve the integrity of the examination process in New Brunswick and align with best practices across Canada.

The policy provides clear standards for LLQP exams taken in-person or online by formalizing exam security procedures and outlining penalties for those cheating on, or attempting to steal, the LLQP exams.

Some of the key policy changes include:

- a longer wait period for candidates after the third and fourth unsuccessful attempt at the exam.
- a requirement for candidates to provide a written response when an exam breach occurs, prior to being able to rewrite the exam.
- tougher consequences for candidates caught cheating such as a two-year suspension period from exams or permanent removal from the exam process and refusal of licensing.

The LLQP exam is administered by Durham College on behalf of the Commission in New Brunswick. Information about the application of the LLQP policy in New Brunswick can be found at FCNB.ca. A condensed version of CISRO's LLQP Examination Administration Policy is found here.

HSBC Fined For Fairness Failures

Bank's Treatment Of Customers In Financial Difficulty Sparks Sanction From U.K. Regulator

By James Langton, Investment Executive, May 23, 2024

https://www.investmentexecutive.com/news/from-the-regulators/hsbc-fined-for-fairness-failures/

The U.K.'s Financial Conduct Authority (FCA) is sanctioning HSBC for failing to treat customers fairly when they were suffering financial difficulties.

The bank was fined £6.3 million for violating, in 2017 and 2018, the regulator's principles on the fair treatment of customers by failing to accommodate customers who fell into arrears or faced other financial struggles.

"The failings were caused by deficiencies in HSBC's policies and procedures and the training of their staff, as well as inadequate measures to identify and address instances of unfair customer treatment," the FCA said.

The bank identified these issues itself in 2018 and alerted the FCA.

Since then, it has paid £185 million in redress to 1.5 million affected customers.

The bank has also invested £94 million to resolve the shortcomings in its policies and procedures.

"People must be able to trust their lenders to treat them fairly when in financial difficulty. By failing to do so, HSBC put 1.5 million people at risk of greater financial harm," said Therese Chambers, joint executive director of enforcement and market oversight with the FCA, in a release.

"It deserves credit for identifying the issue and putting it right," she said. "The cost it has incurred in doing so, however, should be a warning to all lenders that they need to understand their customers' circumstances so as not to make a bad situation worse."

The regulator said it took HSBC's efforts to resolve the issue into consideration when setting the monetary penalty, and the bank earned a 30% discount on that fine by agreeing to settle. Without the discount, the bank would have been fined £8.97 million.

Securities Commission Publishes Six-Year Strategic Plan

By Kate McCaffery, Insurance Portal, May 06, 2024

https://insurance-portal.ca/economy/securities-commission-publishes-six-year-strategic-plan/?utm_source=sendinblue&utm_campaign=weekly_flash_202405-13&utm_medium=email

The Ontario Securities Commission (OSC) published its new strategic plan on May 3, setting how the OSC will approach its work over the next six years. Created following a strategic review of the organization, they say the plan, Strategic Plan 2024-2030, will help the organization manage competing priorities and make the regulator more efficient, responsive and proactive. They say the plan does not replace the OSC's statement of priorities, published annually.

"Technological innovation, as well as changes in investor behaviours and demographics have led to a substantial shift in today's capital markets landscape and the OSC must adapt in response," says Kevan Cowan, chair of the OSC board of directors.

The report also notes that the report, the first of its kind developed for the OSC since 2011, also reflects massive changes the OSC has undergone since that time.

200-411 Richmond Street E, Toronto, ON M5A 3S5
☎ (416) 494-9224 🖷 (416) 967-6320
info@cafii.com www.cafii.com

A Very Different Regulator
The plan notes that the regulator's role has evolved significantly since the global financial crisis of 2007-2008 when financial stability and reduction of systemic risk was added to its mandate.

More recently, the OSC's mandate, structure and regulatory agenda changed again in 2021 and 2022 when the Ontario Government's Capital Markets Modernization Taskforce recommendations were implemented, resulting in the separation of the OSC's adjudicative and regulatory functions. In addition to significant governance changes, the OSC's mandate was expanded again at that time to include fostering competitive markets and capital formation.

Changing Investor Behaviour
Rapid technology development, changing demographics and shifting investor attitudes, meanwhile, are all creating an environment of accelerated change, they say. "Today's capital markets look vastly different from a decade ago," they write. "At the same time, there has been an erosion of trust in traditional authorities, institutions and information channels, and a more fragmented financial and media landscape." Retail investors, they add, rely on information which may or may not be reliable, "but is certainly influential."

Moreover, they point out that novel financial products and services are being introduced that straddle traditional lines of regulatory jurisdiction. "Technological innovations are enabling the proliferation of new marketing techniques, novel business models and products that may not fit into traditional regulatory models but require rapid responses," they write.

The report also discusses artificial intelligence (AI), decentralized finance, gamification, and digital engagement, which blur advice lines. It adds that environmental, social, and governance (ESG) factors are influencing investors who are demanding greater transparency. "These issues are becoming increasingly polarizing," they state.

Private Finance Excludes Some
In a look at private finance, the report points out that "Canada and other developed economies have seen a steady increase in private financing and a growing tendency for issuers to stay private for longer or not go public at all," they write. "These trends raise concerns related to the ability of average investors to participate in economic growth through compelling opportunities in our public capital markets." They add that these opportunities are less transparent and have less regulatory oversight.

Six Strategic Goals
The OSC's goals stated in the strategic plan include the following:

- To quickly deliver effective regulatory actions in anticipation of emerging trends.
- Enhance the experience of individual investors.
- Dynamically right-size regulation is informed by changing needs, risks, and practices in Ontario and globally.
- Implement a tougher and more visible response to capital markets misconduct.
- Foster connections for capital formation and innovation in both public and private markets.
- Strengthen the OSC's position as a trusted and influential voice in Canadian capital markets.

"The OSC will continue to consult extensively with stakeholders to shape annual priorities and receive input on policy areas," they write.

OTHER CAFII MEMBER-RELEVANT NEWS

TD Bank Exceeds Estimates Amid Ongoing US Regulatory Probes

TD Bank Surpasses Earnings Forecasts With Strong Trading Contributions, Despite Rising Credit Losses

By Freschia Gonzales, Wealth Professional, May 24, 2024

https://www.wealthprofessional.ca/news/industry-news/td-bank-exceeds-estimates-amid-ongoing-us-regulatory-probes/385964?hsmemberId=83982452&tu=&utm_campaign=&utm_medium=20240524&_hsenc=p2ANqtz-8TbVKPftvCBl3muoZjwn7qa80szv5BHAfJ2TQQiXO23fJ0T2maUCZ75X4U7XOMCQPIZy7pUbo-64Uyno4OAqVx92nIPg&_hsmi=308606126&utm_content=&utm_source=

Toronto-Dominion Bank surpassed analysts' expectations due to strong performance in its capital-markets division, as reported by BNN Bloomberg.

The bank announced that a "comprehensive overhaul" of its US anti-money-laundering program is "well underway."

In the fiscal second quarter, Canada's second-largest lender earned $2.04 a share on an adjusted basis, exceeding the $1.85 average estimate of analysts in a Bloomberg survey.

The acquisition of US investment bank Cowen Inc., completed in last year's second quarter, contributed to the capital-markets unit's net income doubling to $441m on an adjusted basis.
"We had strong contributions from trading, investment banking — and that would include advisory underwriting as well — and then lending revenues too," said Chief Financial Officer Kelvin Tran. "So, fairly broad-based. We're very pleased with that."

While the bank's overall revenue grew from the previous year, provisions for credit losses totalled $1.07bn in the three months through April, exceeding analysts' forecast of about $1bn.

North American consumers are increasingly struggling with credit-card payments, and Canadian homeowners face rising mortgage costs due to high interest rates. Business bankruptcies are also rising in Toronto-Dominion's home market.

TD Bank is dealing with multiple US law enforcement and regulatory investigations into laundering funds tied to illegal drug sales. The bank has set aside US$450m for one of three regulatory probes and is investing heavily in improving its internal controls, increasing expenses.

On a conference call with analysts, Chief Executive Officer Bharat Masrani called the issue "unacceptable" and expressed hope for a resolution "as soon as possible," but provided little additional commentary.

The money-laundering issues were not a problem at the "enterprise level," said Ajai Bambawale, the bank's chief risk officer.

200-411 Richmond Street E, Toronto, ON M5A 3S5
☎ (416) 494-9224 🖷 (416) 967-6320
info@cafii.com www.cafii.com

"If I go right to the root cause of what happened, there were some procedural weaknesses in the US that caused bad actors to exploit us," he explained. "And we were also disappointed that some of our colleagues didn't follow our code of ethics."

Analysts questioned whether the bank is constrained in expanding its retail footprint in the US, where it has about 1,200 branches.

Leo Salom, who leads the American division, said the bank is making significant investments to improve money-laundering controls and is "deliberately pacing" the addition of locations.

"I'm not making the claim that we cannot grow stores, but I also want to be clear that we are in the midst of discussion with regulators and I don't want to prejudice any of those conversations at this point," Salom said. "I know that there's lots of questions about what we can and cannot do."

The lender's net income totalled $2.56bn, slightly below the $2.58bn average estimate, due to loan-loss provisions and higher expenses, including costs related to the anti-money-laundering probes.

The bank incurred a charge of $103m for a special assessment by the US Federal Deposit Insurance Corp. related to bank failures and $165m for severance payments and other cost-cutting measures.

The restructuring program, which is expected to lead to annual savings of $725m on a pretax basis, will conclude after a final $50m expenditure in the third quarter.

TD Bank has scrapped its proposed US$13.4bn acquisition of Memphis-based First Horizon Corp. last year due to regulatory approval issues linked to its anti-money-laundering controls.
The bank, with a surplus of capital, has been regularly buying back shares. Its Common Equity Tier 1 capital ratio to risk-weighted assets declined to 13.4 percent at the end of April, partly due to the regulatory provision booked in the quarter.

The bank's results reflect broad-based strength across all operating segments, according to several analysts. However, focus remains on US anti-money-laundering issues.

"We continue to view TD's US anti-money-laundering investigations as the biggest event impacting the company and consider this well-priced into its stock," Royal Bank of Canada analyst Darko Mihelic noted.

The bank's shares have fallen nearly 11 percent since the beginning of the year, with little change at $76.52 in Toronto.

Back to Table Of Contents

200-411 Richmond Street E, Toronto, ON M5A 3S5
☎ (416) 494-9224 (416) 967-6320
info@cafii.com www.cafii.com

Health Insurance Fraud Constantly On The Rise

By Kate McCaffery, Insurance Portal, May 16, 2024

https://insurance-portal.ca/health/health-insurance-fraud-constantly-on-the-rise/?utm_source=sendinblue&utm_campaign=daily_complete_202405-23&utm_medium=email

Dr. Steve Woh, medical director and health claims, global medical with RGA Re says the one thing to know about fraud is that it is an ever-present factor in a health insurer's day-to-day business.

"Fraud, waste and abuse. Prevalence of all three of these challenges is constantly on the rise for healthcare providers and insurers, leading to materially increased costs for payers, be they consumers, government bodies or insurers," he writes in the recent RGA Re bulletin entitled Fraud. Waste. Abuse.

"Fraud, waste and abuse can also be either planned or opportunistic. Planned actions are more likely to meet legal definitions of fraud as there would have been premeditated intent to gain," he adds. "Opportunistic actions of this sort, on the other hand, are more likely to be viewed as waste or abuse." (Waste, he says, could be a case of providing extravagant or unnecessary treatment. Abuse is defined as being harmfully or morally wrong.)

Abusive Practices

The report goes on to identify and explain a number of abusive practices, including non-disclosure and misrepresentation, phantom billing, overutilization and overcharging, duplicate claims, unbundling (where practitioners claim individual elements of each procedure to increase reimbursement), upcoding (where providers submit a billing code for a more expensive service), identity theft and kickbacks.

"Insurers require controls, processes and strategies to detect and combat all three (elements – fraud, waste and abuse), as each can be perpetrated by several healthcare stakeholders."

Although not infallible, he goes on to say that artificial intelligence (AI) is emerging as a tool. He also urges companies to look at their policy language and assessment criteria. "Client-facing strategies should include strong policy terms and conditions language, especially around definitions of 'medical necessity' and 'reasonable and customary,'" he adds.

Prosecuting Fraud

The briefing concludes with a discussion about legal issues and urges insurers to report appropriate cases to local law enforcement, recommend prosecution and be prepared to assist. "Insurers should not shy away from pursuing such cases," he says. "Prosecution of insurance fraud is in the public interest."

Guiding Clients Through A CI Claim

Balancing Immediate *Needs With Long-Term Expenses Is Key To Using The Payout Effectively*

By Jonathan Got, Investment Executive, May 13, 2024

https://www.investmentexecutive.com/newspaper_/insurance-guide/guiding-clients-through-a-ci-claim/

William Chang recently received a call from a client who asked vague questions about his critical illness (CI) insurance policy. Chang, founding partner with CRW Financial Group in Montreal, suspected the client had been diagnosed with an illness, so he asked for more details.

It was lung cancer.

"Any time a client or any individual hears the 'C word,' it is a scary moment," Chang said. "But when they do have someone they can call, it does give them reassurance."

Clients are emotionally vulnerable when they learn of their diagnosis. Your role is to guide clients through the claims process and suggest ways to effectively use the lump-sum payment to reduce their financial burden. Financial advisors emphasize the importance of completing paperwork on time. They also recommend clients keep an emergency fund to tide them over during the waiting period and that you provide time to discuss how the payout will be used.

Chang immediately advised this client to locate his CI policy, as it would provide all the details of his coverage.

The claim was approved and paid out soon after the client's doctor submitted a report to the insurer.

Canada Life Assurance Co. aims to process CI claims within 20 days of receiving documentation, said Karen Rondeau, advanced planning strategist of living benefits. If delays occur, they are often caused by doctors, who can't always prioritize completing insurance forms.

You can help by contacting the client's doctor to explain the importance of the form, said Pierre Ghorbanian, vice-president of advanced markets with BMO Insurance in Toronto. Ghorbanian had to make a CI claim himself when he had a heart attack in 2016. Although his insurer paid out the benefit within a week, it took a month for his doctor to fill out the form. "Doctors are super busy," he said.

At the time, Ghorbanian's wife didn't know she could make a CI claim on his behalf. He was able to explain everything to her despite his illness. But there may be cases in which the client is incapacitated, so check in with clients and their spouse regularly to make sure both partners know how to make a claim. When a claim is approved, monitor the process to ensure a smooth payout.
"Once you actually go through a claims process, this is where the promise the advisor and the insurance company made to the client is being fulfilled," Ghorbanian said.

While claims for illnesses such as cancer are usually paid out immediately, some policies may include a survival period — a set interval between the diagnosis and the payout — for other conditions. The longest wait for a payout Chang has seen was up to six months for a client with multiple sclerosis. That is why he recommends clients have three to six months of savings in case a claim takes longer than expected.

If a survival period is longer than a client has saved for, they can either draw on a line of credit or liquidate some investments to make ends meet, said Sara McCullough, financial planner and owner of WD Development in Kitchener, Ont. She usually recommends using a line of credit, as redeeming investments would affect future growth. The decision, however, depends on the client's comfort with debt.

If a client is averse to taking on debt, McCullough advises withdrawing from non-registered accounts and TFSAs rather than making RRSP withdrawals.

When an insurer pays a claim, help your clients assess their priorities in deciding how to use the money. A client who has suffered from a critical illness could take up to a year to find out what their long-term needs are, McCullough said.

Not all of the payout should necessarily be invested. While money in a chequing account doesn't provide returns, it does provide liquidity, McCullough said.

"The role of the insurance is to be a safety net when something that we didn't want to happen happens," McCullough said. "Its role, by definition, is to be available."

You should help clients plan for short-term expenses and map out long-term costs, Ghorbanian said. For example, home modifications are a one-time, upfront cost, but a medication co-pay could last years.

Once the long-term costs become clear, the funds can be invested to provide interest and dividend income, or the client could buy an annuity.

After a client receives a CI policy payout, insuring that person again may be difficult. However, some insurance companies may cover a second, unrelated critical illness. For example, Toronto-based Canada Protection Plan Inc. offers a cardiac and cancer CI policy that provides up to two $50,000 benefits for each type of illness, and provides CI coverage for cancer survivors. It also provides cancer patients with cardiac coverage, and those diagnosed with heart disease or diabetes with cancer coverage.

"Someone who had cancer can still qualify for our cardiac product, and someone who had a cardiac event can still qualify for our cancer product," Michael Aziz, chief distribution officer with Canada Protection Plan, told Investment Executive when the CI products launched in 2020.

Canada Life offers a second-event rider that will cover a second critical illness from the same policy. If a client had a cardiac event and received the full benefit, they will be issued a paid-up 10-year term CI policy that covers cancer at no additional cost and will pay 50% of the original face value up to $100,000, Rondeau said.

200-411 Richmond Street E, Toronto, ON M5A 3S5
☎ (416) 494-9224 🖷 (416) 967-6320
info@cafii.com www.cafii.com

Anti-Selection Is A Significant Financial Burden For Insurance Industry

By Kate McCaffery, Insurance Portal, May 06, 2024

https://insurance-portal.ca/life/anti-selection-is-a-significant-financial-burden-for-insurance-industry/?utm_source=sendinblue&utm_campaign=weekly_flash_202405-13&utm_medium=email

New research published by RGA Re is revealing that the reinsurer, MIB Group and TAI, a reinsurance software and consulting services firm, have collaborated to create an unprecedented database of policy-level data, giving the industry insight into the impact of anti-selection on the life insurance industry and potential ways to prevent it.

Life Insurance Industry Hit Hardest

"Fraud, misrepresentation and anti-selection pose a significant financial burden to the insurance industry, leading to annual losses in the hundreds of billions of dollars across all sectors; the life insurance industry is hardest hit," they write, adding that anti-selection hinders insurance innovation, increases the prices that consumers pay and reduces insurer profits.

"RGA partnered with MIB to analyze anonymized data from a contributory industry database, known as the MIB Data Vault," they write. "TAI, the market leader in reinsurance software and consulting services, teamed up with MIB," they add, "to create an unprecedented in-force and terminated policy dataset to serve the U.S. and Canadian insurance industry."

TAI reportedly administers 75 per cent of reinsured in-force business in the United States while MIB screens nearly 100 per cent of pending applications in both countries. "Combining in-force and pending coverage data provides a more comprehensive picture of total coverage exposure."

Churning And Stacking

The report from RGA, Impact of Anti-Selective Behavior on the Life Insurance Industry, in particular looks at two types of anti-selective behaviour: churning and stacking. "Novel means and techniques to commit insurance fraud continue to emerge," they add.

"Churning and stacking are of greater concern for insurers writing policies with small to mid-level face amounts than for those focused on policies for high-net-worth individuals. In addition, as long-established agents retire, and a younger generation takes over, insurers are concerned this may increase churning if the new generation is less familiar with or has lower regard for established norms for ethical business practices."

Accelerated Underwriting

Anti-selection, they add, has increased over the last 10 years and is increasingly difficult to identify, thanks to accelerated underwriting and some distribution models. They say policies with face amounts over $2-million produced disproportionately higher levels of churning flags, with the $3-million to $5-million band having the highest levels. "Studying the dataset for stacking flags by face amount, we found that policies with less than $500,000 in face value posed the largest risk of stacking concerns, which may be related to industry underwriting practices." (Accelerated underwriting and certain distribution models making the lower face amounts to obtain without close scrutiny.)

Back to Table Of Contents