

CAFII Executive Operations Committee Teleconference Meeting

Date: Tuesday, August 13, 2019

Location: Teleconference Only

Chair: M. Boyle

Time: 2:00 – 3:30 p.m. EST

Dial-in: 416-477-0921 / 1-888-543-2249

Pin #: 1500

Agenda

Item	Presenter	Action	Document
1. Call to Order 2:00 p.m.	M. Boyle		
2. Consent Items 2:02 p.m.			
a. Meeting Notes of June 25/19 EOC Teleconference Meeting			✓
b. Meeting Notes of July 23/19 EOC Teleconference Meeting			✓
c. Consultations/Submissions Timetable			✓
d. CAFII Submission to BC FICOM on “Insurance Fees” (Industry Funding of New BCFS)			✓ (2)
e. THIA Notices Re September 9/19 “Innovation Summit” and September 10/19 Annual Meeting			✓
f. AMF Save the Date Notice Re 2019 Rendez-Vous Mini-Conference: Monday, November 25/19			✓
3. CAFII Financial Management and Governance Matters 2:05 p.m.			
a. Financial Statements as at July 31/19	T. Pergola	Update	✓
b. 2019 Fiscal Year Forecast as at July 31/19	T. Pergola	Update	✓
c. Development of 2020 CAFII Operating Budget: September Outreach to Committee Chairs	K. Martin/B. Wycks	Update	
d. New Approach/Format for October 1/19 CAFII Lunch/Industry Issues Dialogue With AMF Executives	B. Wycks/K. Martin	Update	
4. Recent and Upcoming CAFII Strategic and Regulatory Initiatives 2:25 p.m.			
a. Resolution of Yukon Issue Re Licensing Gap and Cessation Order On Sale of Credit Protection Insurance	K. Martin	Discussion	✓ (3)
b. AMF Position on Embedded Creditor’s Group and Travel Insurance Coverages	M. Boyle	Discussion	✓
c. CAFII Opportunity To Take Over CBA’s Quarterly CGI Benchmarking Study: Decision Not To Proceed With Issuing An RFP At This Time And Defer Final Decision To October 1/19 CAFII Board Meeting	K. Martin	Update	✓
d. CCBPI Industry Practices, Standards, and Gap Analysis Initiative: Next Steps	K. Martin/M. Boyle	Update	✓ (5)
e. AMF Spousal Coverage Issue: New Developments	B. Wycks/K. Martin	Update	
f. AMF Plans For Regulatory Review of Creditor’s Group Critical Illness Insurance In Fall 2019	K. Martin	Update	
g. FCNB Plans To Develop An RIA Licensing Regime In New Brunswick, Including Changing Nomenclature/Terminology To “Incidental Sellers of Insurance Licensing Regime”	B. Wycks/K. Martin	Discussion	
h. CAFII Congratulatory Letter to New FCAC Commissioner Judith Robertson; and Next Steps Pursuit of Follow-up “Creditor Insurance Education and Dialogue Meeting”	B. Wycks/K. Martin	Discussion	✓
i. Australian Securities and Investments Commission Final Report on Consumer Credit Insurance	K. Martin	Discussion	✓ (2)
j. Itinerary for CAFII Fall 2019 CAFII Western Canada Tour; and Meeting Acceptances	B. Wycks	Update	✓
k. Ontario Government Termination of OHIP Out-of-Country Medical Coverage:	K. Martin	Update	
i. Letter from Deputy Minister, OHIP Division, Ontario Ministry of Health			✓ (2)
ii. CAFII participation in Zoomer Radio Interview			✓ (2)
l. Public Release and Dissemination of Pollara Consumer Research Results on CPI:	K. Martin	Updates	
i. Presentation to FSRA staff on July 29/19 (in-person)			
ii. Production of Printed “Leave-Behind” Summaries			
m. CAFII Website Enhancements:	K. Martin	Updates	
i. Mortgage Life Insurance Video (To Be Posted Imminently)			
ii. Two Videos on Pollara Consumer Research Results on CPI (In-Development)			
iii. Additional Consumer Vignettes on CPI Products (To Be Posted Imminently)			
iv. Visually-Pleasing Version of Pollara Consumer Research Results on CPI (In-Development)			
5. Other Business 3:25 p.m.			
a. CAFII Registration As A Lobbyist: Federally And With Provinces/Territories, Particularly Quebec	K. Martin/B. Wycks	Discussion	✓
6. Tracking Issues			
a. BC 10-Year Review of Financial Institutions Act			
b. FCNB Insurance Act Rewrite; and Linked Plan To Introduce An RIA Regime			
c. AMF Consultation on Updating Sound Commercial Practices Guideline			
d. Alberta Government Plans to Create a Single Financial Services Regulator			
e. FCAC: Phase 2 of Domestic Bank Retail Sales Practices Review			

Next EOC Meeting: Tuesday, September 24/19, 2:00 – 4:30 p.m., CIBC Insurance, 18 York St., 9th Floor (Manitoba Room), Toronto

Next Board Meeting: Tuesday, October 1/19, 12 Noon to 4:00 p.m., Location: National Bank Insurance, 600 de la Gauchetière, 4th Floor, Montreal

Agenda Item 2(a)

August 13/19 EOC Teleconference Meeting

CAFII Executive Operations Committee
Summary Notes of Teleconference Meeting, 25 June 2019

In Attendance:

Martin Boyle, BMO Insurance *Chair*
Tony Pergola, ScotiaLife Financial (Treasurer)
Brad Kuiper, ScotiaLife Financial
Peter Thorn, TD Insurance
John Lewsen, BMO Insurance
Shawna Sykes, CUMIS
Joanna Onia, CIBC Insurance
Sharon Apt, Canada Life Assurance
Michele Jenneau, National Bank Insurance
Scott Kirby, TD Insurance
Afzal Baig, TD Insurance
Dominique Julien, CIBC Insurance
Charles MacLean, RBC Insurance
Kamana Tripathi, TD Insurance
Laura Bedford, RBC Insurance
Rob Dobbins, Assurant
Anita Mukherjee, RBC Insurance
Michelle Costello, CUMIS
Monika Spudas, Manulife Financial
Vivek Sahni, RBC Insurance
Natalie Hill, Managing Matters
Brendan Wycks, CAFII
Keith Martin, CAFII

A set of consent items were approved or received without discussion (draft Minutes of May 28, 2019 EOC Meeting; June 2019 Regulatory Update; Consultations/Submissions Timetable; a Report on the May 31/19 Fasken Insurance Regulatory Law Update; and a Report on June 11/19 FCNB Consumer Protection Conference).

CAFII Treasurer Tony Pergola updated participants on the financial statements as at May 31, 2019; including the 2019 fiscal year forecast as at May 31, 2019. Finances were trending as expected with no unexpected variances or surprises, with some excess of revenue over expenses this month due mostly to timing issues around recognition of expenses. CAFII's financial reserves ratio (as a percentage of annual operating expenses) is at 26% currently, which is on the low end of the desired 25-50% range.

It was noted that at the Board's request, Stikeman Elliott had prepared and presented a short report on CAFII's compliance with the Competition Bureau's Guidance for trade associations. In general, Stikeman Elliott felt that CAFII was conforming to best practices in its by-laws, preparation of minutes, other documentation, and in its processes and procedures. However, some small modifications to some of CAFII's documentation, including its by-laws, were recommended and Brendan Wycks will develop the proposed changes for consideration by the Board.

A survey was conducted on the quality of the EOC meeting held on 28 May, 2019. Further surveys will be held after future EOC meetings, and a summary of the results will be presented at the 24 September, 2019 in-person EOC meeting.

Due to the heavy number of issues that CAFII is currently dealing with, it was proposed and agreed that the EOC would hold teleconference meetings over the summer, on 23 July 2019 and 13 August 2019. It was also confirmed that the AMF had agreed to meet with CAFII as part of our Fall Board meeting in Montreal on 1 October, 2019. Brendan Wycks also mentioned that the AMF's Frédéric Pérodeau had reached out about having a discussion with CAFII about how the meeting is structured. B. Wycks believes that this emanates from comments we received at last year's meeting that AMF CEO Louis Morisset wanted to keep the conversation at a fairly high level and not delve too deeply into the weeds.

EOC Chair and Secretary to the Board Martin Boyle updated the EOC on the in-camera discussion at the 4 June, 2019 Board meeting, which he attended in his capacity as Secretary to the Board. The discussion largely focused on the Special Project on Credit Card Balance Protection Insurance. There was a consensus that the funds collected would remain available, and not be refunded to the members; but that they would not be spent on the major initiatives that the RFP with business consultants had envisioned, including comparative research.

However, a special CCBPI "gap analysis" project would be undertaken to review existing best practices, including the Fair Treatment of Customers Guidance, CLHIA Guidelines G-7 and G-9, and other relevant documents, to identify where CAFII members could improve their compliance with these guidelines, and to identify whether any additional guidance could be developed for CAFII members. This project will be led by the EOC. It was agreed that CAFII's Co-Executive Directors would develop a proposal and framework with some specific recommendations, and that a Working Group of the EOC would then be struck to flesh out and develop specific recommendations to the Board. In response to a question, K. Martin said that Stikeman Elliott did not need to be involved in the project initially, but depending on its outputs they might be engaged at a later stage.

At the 4 June, 2019 Board meeting as well, RBC Insurance Board member Chris Lobbezoo noted that the CBA had decided to no longer produce a quarterly benchmarking study on credit protection insurance. He suggested that this was a natural fit for CAFII to take over, and the Board agreed with this assessment and asked CAFII's Co-Executive Directors to explore that possibility. Discussions have subsequently been held with the CBA, including an in-person Keith Martin and Brendan Wycks held with Aaron Meyer and Alex Ciappara of the CBA on 20 June, 2019.

The CBA will communicate the intention to transfer this ongoing project over to CAFII to the current participants in the benchmarking study. Following that, CAFII will develop a proposal and an RFP, as this study will need to be conducted by an outside actuarial firm; the intention is to ask RSM Canada and Towers Watson, two actuarial firms with expertise in this area, to bid on the RFP. The proposal will include details on the content of the benchmarking study, and options, so that if there is a desire to do so, additional data can be potentially collected. It was noted by K. Martin that the current study includes two non-members of CAFII, Laurentian Bank and HSBC, and they would no longer be able to participate in the study unless they joined CAFII. As well, two credit protection insurance distributors within CAFII, Desjardins and CUMIS, would be invited to participate in the study, and the four insurance members of CAFII (Canada Life, Manulife, Assurant, and Canadian Premier Life) would have access to the results as CAFII members.

It was noted that an agenda item for CAFII was about preparing for a 27 June, 2019 CAFII meeting with the CCIR / CISRO FTC Working Group, but that this meeting had just been cancelled by CCIR / CISRO. In this connection, Keith Martin and Brendan Wycks each gave updates of relevance to the CCIR / CISRO fair treatment of customers efforts.

Keith Martin noted that he and Brendan Wycks attended an 11 June, 2019 Financial and Consumer Services Commission of New Brunswick (FCNB) “2019 Consumer Protection Conference” in Fredericton, New Brunswick. At that conference, Louise Gauthier, Senior Director, Distribution Policies, Autorité des marchés financiers (AMF), gave a presentation on the CCIR/CISRO Guidance: Conduct of Insurance Business and Fair Treatment of Customers. In the question and answer period, Keith Martin asked Ms. Gauthier to comment on the issue of measuring the implementation of the fair treatment of consumers, given that much of this was about business culture and that was something that was difficult to measure. Ms. Gauthier agreed, and said that the CCIR/CISRO FTC Working Group was trying to develop key performance indicators (KPIs) on FTC. Ms. Gauthier then said something we had not heard before, which both CAFII Co-Executive Directors were surprised and disconcerted by: she said that one such possible KPI was the loss ratio or claims ratio, which she described as the amount of premium collected relative to the amount of claims paid out. If the ratio was too low, she said, that could indicate that premiums were too high, or claims paid out too low; and that could be an indicator that consumers were not being treated fairly.

Brendan Wycks updated the EOC on a conversation he had with Mark White, CEO of the Financial Services Regulatory Authority of Ontario (FSRA), at a FSRA Launch Party held on June 24/19, from 4:00 to 6:00 p.m. in the Davies and Takacs Lobby of the Elgin and Winter Garden Theatre Centre.

Mark White advised that the CCIR/CISRO Fair Treatment of Consumers Working Group, co-chaired by Louise Gauthier (AMF) of CCIR and Ron Fullan (ICS) of CISRO, had recently indicated that it planned to communicate to industry stakeholders that it intended to take a strong focus on “incentives management” in its quarterly meetings with them in the immediate future, as well as in insurer audit inspections, etc.

When FSRA, as a member of the CCIR/CISRO FTC Working Group, was asked to approve of and sign off on “incentives management” being a key immediate initiative, Mark White continued, its response was along these lines (slight paraphrase of Mark White’s statement): “Yes, we’re comfortable with incentives management being the key immediate focus of the CCIR/CISRO FTC Working Group, but only if it’s done properly, in a principles-based way. We’re okay with an FTC focus on incentives management if it stems from the starting point of a standards/best practices-based document and then focuses on gaps where there is evidence that industry players are diverging and falling short of those standards and best practices. However, we would not be comfortable with and cannot support an approach where the FTC Working Group just forges ahead with a blanket, shotgun approach to incentives management. It has to be done under a principles-based, targeted approach.”

Mark White advised that that was his and FSRA’s input to the CCIR/CISRO FTC Working Group as it was finalizing its agenda and plans for meetings with industry stakeholder groups on June 26 and June 27 in Toronto.

Brendan Wycks advised Mark White that in the late afternoon of Friday, June 24, CAFII received a notification from CCIR Policy Manager Tony Toy that the CCIR/CISRO FTC Working Group’s meetings with industry stakeholders scheduled for June 26 and 27 would now be postponed to the Fall “due to a last minute conflict that has arisen.” Mark advised that that postponement decision was news to him.

At that point, both Mark White and Brendan Wycks realized and collectively acknowledged that the reason for the postponement of the June 26 and 27 stakeholder meetings with the CCIR/CISRO FTC Working Group was likely not because of the sudden unavailability of a key member of the Working Group but rather because of FSRA’s opposition to the FTC Working Group’s plans to launch a blanket, shotgun approach-based incentives management initiative. Mark asserted that differences of opinion such as this, which had given rise to a prudent postponement, would likely be resolved within a short period of time through dialogue among CCIR and CISRO members.

As the discussion concluded, Mark mentioned that he had noticed around CCIR/CISRO meeting tables, particularly given that the AMF currently chairs CCIR and its representatives also lead many key committees and Working Groups at CCIR, a tendency to “charge into” a regulatory initiative, in a sometimes reactionary way, rather than taking a more considered, principles-based, measured, and goals-focused approach. Mark indicated that one of the ways in which FSRA can add value at the national co-ordinating bodies -- for the benefit of both consumers and the industry by identifying and insisting upon the right balance -- is by serving as a bulwark of sober second thought and as a buffer against tendencies to take somewhat reactionary, non-principles-based, blanket approaches to regulatory issues.

Brendan Wycks and Martin Boyle noted that there had recently been a webinar on modifications to the Year 4 CCIR Annual Statement on Market Conduct, but these were not substantive. It was agreed that the document with the changes would be circulated to the EOC, and depending on the responses from EOC members a decision will be made on whether CAFII wishes to comment on the proposed changes.

Brendan Wycks noted that the CLHIA had made additional representations to the AMF on spousal coverage. However, nothing concrete had come out of those efforts yet. The issue, B. Wycks noted, was now with the AMF. EOC members reported that none of them had heard further from the AMF on this issue after the deadline passed for the submission of action plans.

The EOC was updated on the intention to arrange a meeting with Teresa Frick, Acting Managing Director, supervision and promotion Branch at the FCAC. However, moments before the EOC meeting, Finance Minister Bill Morneau announced the appointment of Judith Robertson as Commissioner of the Financial Consumer Agency of Canada (FCAC), effective August 18, 2019, for a term of five years. Judith Robertson is on the FSRA board and we have had cordial meetings with her. It was agreed that based on this development, a meeting should instead be arranged in October 2019 or November 2019 with Ms. Robertson.

K. Martin provided an update on the media release of the Pollara consumer research on CPI on mortgages and HELOCs. The media release occurred on Tuesday, 18 May, 2019 and 4 positive stories came out of it, including in Insurance Journal, a U.K. retail bank trade industry newsletter, and a mortgage broker trade industry newsletter. This now provides additional positive stories on CPI and will be helpful in the ongoing effort to tell CAFII's narrative on the products of its members.

A presentation of the results with the AMF, in French, is set via webinar for 12 July, 2019 at 2pm, and EOC members will be invited to listen in if they wish to. As well, a presentation in person to FSRA is being organized and will likely occur within the next few weeks.

Now that the research results have been publicly shared, CAFII can move forward on additional collateral, including a web-friendly version of the research to post on our website, and the creation of videos summarizing the research. In addition another video is being produced on mortgage life credit protection insurance; and the explanations on the website of CAFII members' products are being enhanced by the creation of additional "vignettes," or short personalized stories about the products.

K. Martin noted that Pete Thorn of TD Insurance had recently shared a branch manager's testimonial about a customer's very positive experience with credit protection insurance. It was suggested that CAFII explore developing a section of the website for member-provided consumer testimonials. B. Wycks noted that this had been explored in the past but legal and other challenges stalled the project, but it was agreed that this concept was worthy of further exploration.

B. Wycks noted that BC had initiated an "Insurance Fees Consultation" on the funding formula for financing the new Financial Services Authority, with a 24 July, 2019 deadline for submissions. EOC and Market Conduct Committee members will be asked for their input into the CAFII submission. The BC Insurance Council is also soliciting feedback on its Updated Guidance for New Life Agent Supervision.

Mr. Wycks also noted that the RIA Advisory Committee in Saskatchewan would not come into affect until 1 January, 2020 as that was the date that the updated By-Laws, which would provide the authority for this new Advisory Committee to exist, would become law. However, it might be possible to have an informal "soft-launch" of the Advisory Committee before then.

It was noted that Brendan Wycks and Keith Martin recently met with David Weir, Senior Technical Advisor, Insurance; and Jennifer Sutherland Green, Deputy Director of Pensions and Insurance and Senior Legal Counsel in conjunction with the 11 June, 2019 Financial and Consumer Services Commission of New Brunswick (FCNB) “2019 Consumer Protection Conference” in Fredericton, New Brunswick. Mr. Weir raised the specific issue of his preference for calling his province’s imminent RIA regime an “incidental sellers of insurance licensing regime.” CAFII’s Co-Executive Directors raised our Association’s long-standing concerns with calling credit protection insurance “incidental” as it has a pejorative connotation.

It was also noted that FCNB had asked for feedback on “Insurance Licensing Exemptions” and on “Licensing of Insurance Adjusters and Damage Appraisers,” and CAFII would be following up with the EOC and the Market Conduct Committee on whether submissions should be made on these issues.

B. Wycks brought forward RankHigher’s application for CAFII Associate status; and the EOC approved the application.

B. Wycks suggested that providing Associates with the Regulatory Update might sweeten the value proposition of being an Associate. EOC members thought there might be merit to the idea but a definite decision on this was deferred until the next in-person EOC meeting in September.

Mr. Wycks also provided some conceptual ideas around a new category of membership, to attract smaller players who might not feel capable of paying the existing dues. It was agreed that this needed further discussion and it was suggested this be placed on the agenda of the next in-person EOC meeting in September.

Mr. Wycks confirmed the October 21-25, 2019 timing for the upcoming CAFII Western Canada insurance regulators and policy-makers visits tour.

Keith Martin raised the idea of working with the CLHIA on the development of a template to replace the Distribution Guide in Quebec, but there were some suggestions that the CLHIA was already doing work in this area. K. Martin was asked to follow up with the CLHIA to get more information about this.

Agenda Item 2(b)

August 13/19 EOC Teleconference Meeting

CAFII Executive Operations Committee
Summary Notes of Teleconference Meeting, 23 July 2019

In Attendance:

Tony Pergola, ScotiaLife Financial (Treasurer)
Sharon Apt, Canada Life Assurance
Greg Caers, BMO Insurance
Scott Kirby, TD Insurance
Afzal Baig, TD Insurance
Joanna Onia, CIBC Insurance
Dallas Ewen, Canada Life
Charles Blaquiére, valeyo
Charles MacLean, RBC Insurance
Pete Thorn, TD Insurance
John Lewsen, BMO Insurance
Michelle Costello, CUMIS Group Inc.
Anita Mukherjee, RBC Insurance
Dominique Julien, CIBC Insurance
Brad Kuiper, ScotiaLife Financial
Marie Nadeau, National Bank Insurance
Brendan Wycks, CAFII
Keith Martin, CAFII

A set of consent items was received without discussion (draft minutes of 4 June, 2019 Board meeting; consultations/submissions timetable; CAFII submission to FCNB on "Licensing of Insurance Adjusters and Damage Appraisers"; CAFII submission to Insurance Council of BC on "Updated Guidance for New Life Agent Supervision"; THIA notices regarding 9 September, 2019 "Innovation Summit" and 10 September, 2019 Annual Meeting; AMF "Save the Date" notice regarding 2019 rendez-vous mini-conference in Montreal on Monday, 25 November, 2019.

CAFII Treasurer Tony Pergola updated participants on the financial statements as at 30 June, 2019; including the 2019 fiscal year forecast as at 30 June, 2019. Finances were trending as expected with no unexpected variances or surprises, with some excess of revenue over expenses this month due mostly to timing issues around recognition of expenses. CAFII's financial reserves ratio (as a percentage of annual operating expenses) is at 27% currently, which is on the low end of the desired 25-50% range.

K. Martin noted that CAFII Treasurer Tony Pergola had requested an update on expenses incurred to date from Stikeman Elliott for their work in relation to the Special Project on Credit Card Balance Protection Insurance ("the Special Project").

By way of background, it was noted that \$205K had been collected from members for the Special Project, and those funds were being segregated and accounted for separately from the regular CAFII operating budget, as recommended by our auditors in keeping with accounting best practices. While the Special Project was on hold currently, our legal counsel had done a significant amount of work, including some work not originally anticipated, such as in-person meetings with some members who expressed concerns around some legal aspects of the Special Project, as well as a request for Stikeman Elliott to review CAFII minutes, processes, and procedures to ensure they were aligned with best practices around adherence to competition law.

Stikeman Elliott, in response to the request for an update on expenses incurred to date, noted that on a straight time-line basis, their bill to date is \$89K (including HST). K. Martin has reviewed the bill and suggested that it was a realistic reflection of the work done to date. However, he also noted that Stuart Carruthers, our lead lawyer at Stikeman Elliott, has suggested that a reduced bill might be possible when it was time to invoice CAFII.

K. Martin noted that the original Engagement Letter with Stikeman Elliott, signed 5 March, 2019, anticipated costs of between \$100-125K for the Special Project. With the Special Project on hold, that full cost might not be incurred, but there may be other costs incurred with Stikeman Elliott, such as a review of the CBA Quarterly Benchmarking Reports, if CAFII does decide to take over that initiative. If additional costs are incurred that are closer to the original amount anticipated, Stikeman Elliott may offer CAFII a “volume discount” that lowers our costs. On that basis, CAFII management presented options to CAFII Board Chair Nicole Benson that included paying the existing bill immediately, or waiting and potentially incurring additional costs that would bring CAFII up to a threshold where a discounted price might be possible. CAFII Board Chair Nicole Benson had opted for that latter option, and so we will not be paying the Stikeman Elliott bill yet.

Based on the volume of initiatives that CAFII is engaged in right now, it was agreed that we need to hold a second EOC summer teleconference-only meeting on 13 August, 2019.

An update was provided by B. Wycks on the 1 October, 2019 Board meeting in Montreal at which there will be a lunch and dialogue meetings with AMF officials. It was noted that K. Martin and B. Wycks will be speaking to the AMF’s Frédéric Pérodeau (Superintendent, Client Services and Distribution Oversight) on 6 August, 2019, to review the approach and possible modifications to the meeting.

K. Martin provided an update on the file around Yukon’s order that credit protection insurance cannot be sold in the Yukon. K. Martin had a conversation with Acting Superintendent of Insurance Stephanie Connolly on 16 July, 2019, at which she shared a crucial development, which was that insurers with appropriate licenses in life, health, and accident insurance in Yukon were eligible to underwrite credit protection insurance. The remaining issue for the Yukon was how to allow distributors to sell or enrol customers in credit protection insurance.

After consultations with members, a CAFII letter, stating our view that a license for distributors was not necessary, was developed and sent to Yukon authorities on 22 July, 2019. We also learned from CLHIA that in their conversation with Stephanie Connolly, later on the same day that CAFII spoke to her, she added that she was also struggling with how to manage the job loss category. As a result, that element was also addressed in our CAFII letter to Stephanie Connolly. We are now waiting for the Yukon authorities to review and respond to the letter and the arguments it advances.

A proposal was shared with the Board on CAFII taking over the CBA Quarterly Benchmarking Report, and while there were some questions and concerns expressed, generally the Board was supportive of moving forward on this initiative.

As a result, an RFP has been circulated to the Board for review. If the Board approves of moving forward, the RFP will be circulated to two actuarial firms that specialize in this sort of initiative, RSM Canada and Towers Watson, both of whom are also CAFII Associates. The RFP will be due on 30 August, 2019, and the Board and surrogates will have the opportunity to hear presentations from the bidding firms, followed by a discussion and decision, on one of the 11th, 12th, or 13th of September.

J. Lewsen asked when CAFII could formally take over the file, and K. Martin responded that while it may take some time for the actual data collection and reporting to occur, the formal transfer of files and ownership could occur soon after a decision by the Board to proceed with this initiative and award the contract to conduct the data collection and reporting to one of the RFP bidding firms. K. Martin added that the CBA seemed anxious to move forward with the transference of the file to a successor manager of this project.

At the 4 June, 2019 Board meeting, the Board mandated that a special CCBPI-related initiative be undertaken to review CLHIA Guidelines G-7 and G-9, as well as other documents on industry best practices, to see what enhancements and improvements might be considered. This was referred to as a “gap analysis,” and the next step will be for CAFII management to develop and circulate a preliminary thought piece on these matters, and then to ask for EOC and CAFII Committee members to join a Working Group on the Gap Analysis that will review the prepared material, and offer direction on a document with options that could be presented to the Board at its next meeting on 1 October, 2019.

K. Martin and B. Wycks met with the CLHIA on 18 July, 2019 on a variety of matters. Present from the CLHIA were Joan Weir, Brent Mizzen (recently promoted to Assistant Vice President, Market Conduct Policy and Regulation, succeeding Erica Hiemstra who recently left the CLHIA), Luke O'Connor, Lyne Duhaime, and Michele Helie. In particular, a detailed debrief on a variety of issues with the AMF was provided by Michele Helie.

On the issue of spousal coverage offered through credit cards, Ms. Helie noted that the CLHIA/ACCAP holds periodic in-person meetings with the AMF, and at the most recent such meeting on July 3/19, the spousal coverage issue was one of the main topics of discussion. She said that the AMF stated that it had not shifted its view on the issue and felt that in the absence of the creditor being able to demonstrate a clear pecuniary interest in the life and/or health of the debtor's spouse, no credit protection insurance should be offered to the spouse.

In that regard, the AMF said it was pleased with the insurer action plans submitted which said that they would only offer spousal coverage when there was clear evidence that the spouse was connected to the credit, or would discontinue offering spousal coverage altogether. The AMF said that was the sort of Action Plan they were looking for.

The AMF continued by saying that they had concerns with the loss ratio for the credit protection insurance products offered by industry, which reinforced in their minds that these products were not consistent with the fair treatment of customers. They developed estimates of loss ratios based on some of the data received from industry players as part of the Action Plans, and found that in 2017 there was an overall 17% loss ratio, and in 2018 a 25% loss ratio. In 2018, they found as well the following loss ratios:

AMF Loss Ratio Findings

Product	Loss Ratio
Credit Card	0.62% - 56%
Traditional Loans	19.1% - 40.4%

Michele Helie said that when these numbers were shared at the meeting, the industry representatives' "jaws dropped"; and the AMF said that these numbers raised serious questions about the suitability of the product for consumers. However, the AMF also acknowledged that the data was imperfect, and as such they recognized more work needed to be done to refine and confirm the loss ratios, and as such they would not be publishing them on their website.

Ms. Helie added that the AMF plans on moving forward with a supervisory Initiative on critical illness insurance in the Fall of 2019, now that it is wrapping up its work on spousal coverage.

K. Martin noted that there was discussion at EOC meetings of CAFII working with the CLHIA on developing a template of the new summary that is to replace the Distribution Guide in Quebec, in accordance with the final version of the Regulation on Alternative Distribution Methods (RADM). M. Helie noted that the CLHIA has a Working Group with the AMF on the implementation of the RADM, and the idea of a template being developed had been contemplated. However, in the end the CLHIA felt that this was not an initiative they should support, as they wished to avoid having the AMF develop prescriptive proposals around how the summary should look or be structured. It was better, Ms. Helie said, for industry participants to make those decisions on their own.

Some EOC members have asked CAFII management whether the RADM requirement for a summary extends to embedded credit card insurance, such as (but not limited to) embedded travel medical insurance, or other insurance products that are not add-ons but which come with and as a part of the credit card.

M. Helie said that this was the subject of discussion among CLHIA members, and no consensus exists on the issue. Furthermore, there was a concern about asking the AMF for clarity on this, with some members concerned that the AMF may say there is such a requirement where some members firmly believe that there is not, and they prefer to simply not produce such a summary and push back if told that they should produce one. Based on that lack of consensus, the CLHIA / ACCAP does not feel it can move forward on this file and is leaving the decision of how to proceed to individual members.

B. Wycks updated EOC members on the current, well-advanced draft of CAFII's submission to BC ICOM on "Insurance Fees" related to industry funding of the new BC Financial Services Authority, the most important element of which is a request for the new fee structure, which has the potential of doubling fees for some members, to be phased in over a two-year period.

B. Wycks noted that the FCNB's plans to develop an RIA licensing regime in New Brunswick include a proposal to use the term "incidental sellers of insurance licensing regime," as opposed to "restricted insurance agent." Mr. Wycks reminded EOC members that he and K. Martin, following the 11 June, 2019 FCNB Consumer Protection Conference, had an in-person meeting with David Weir and Jennifer Sutherland Green, newly appointed Deputy Director of Pensions and Insurance and Senior Legal Counsel at FCNB, at which they advocated against changing the nomenclature in this way, noting that "incidental" has a pejorative connotation and that this also would not cover certain products such as travel insurance. B. Wycks also reported that at the 18 July, 2019 session with CLHIA they reported their own opposition along similar lines to this change, and that the CLHIA had also communicated this view to the FCNB. B. Wycks however also added that the tone of Mr. Weir suggested that he was fairly set in his ways on this issue; and, as such, changing his mind might not be a simple matter.

B. Wycks noted that the 27 June, 2019 CCIR/CISRO Fair Treatment of Consumers (FTC) Working Group meeting had been delayed to the Fall of 2019. In a conversation that B. Wycks had with FSRA President and CEO Mark White at the 24 June, 2019 celebration of the launch of FSRA, Mr. White noted that he had indicated that CCIR's initiative around compensation practices in relation to FTC was viewed by FSRA as too prescriptive as opposed to principles-based, and they both realized that this concern was the probable reason for the delay in the meeting.

Judith Robertson, who sits on the FSRA Board, has been appointed as the new Commissioner of the FCAC. CAFII management proposes to send her a letter congratulating her, and proposing that CAFII's Co-Executive Directors meet her in Ottawa in the Fall of 2019 to present on credit protection insurance, including sharing the results of recent consumer research on some of the products that CAFII members offer.

B. Wycks provided an overview of the itinerary for the 21-25 October, 2019 Western tour, noting that the plan was to start in Manitoba, and work westward, concluding the tour in British Columbia. B. Wycks was encouraged by the generally positive responses and acceptances to invitations that have already been received, and the tour is shaping up nicely at this time.

K. Martin noted that a series of presentations had been made on the CAFII Pollara consumer research results on mortgage and HELOC credit protection insurance. On 12 July, 2019, K. Martin presented the research results in French, via webinar to Mario Beaudoin and members of his team at the AMF. Stéphanie Gamache of Canada Life and Marie Nadeau of National Bank Insurance were both on the webinar call as well. Mario Beaudoin seemed very appreciative of the presentation, and very engaged.

One of the research results found that 90% of Canadians with credit protection insurance said they felt they understood the terms of the insurance, but only 64% felt that the document was easy to understand. K. Martin explained that the representatives received high marks for explaining the product well from those with credit protection insurance; documents on the other hand did have to have some legal language to protect consumers and the insurance providers, which might make them difficult to understand, but having said that K. Martin said that this was one of the results industry was disappointed by and would work on improving. Mario Beaudoin said that he thought that the Quebec Distribution Guide might have been part of the problem, given how long and cumbersome it was, and the new Summary that will replace it might improve these numbers. K. Martin agreed that the new approach might make consumers' understanding of documentation better, and this new approach could become a model for the rest of Canada¹.

Mario Beaudoin said that consumers self-reporting views was a perception, not necessarily a reality, and that the AMF would continue to review loss ratios to ensure that products were meeting the needs of consumers. K. Martin emphasized the high level of satisfaction of consumers with these products, the high claims payout, and the result that 71% of Canadians said that they did not know what they would do without these products, were something to happen to them or their family. Generally, Mr. Beaudoin was engaged, and seemed appreciative of the presentation and the fact that the few results which could be better were not avoided or hidden in the presentation.

Lesli Martin, Vice President of Pollara, presented the research results to the CLHIA at a well-received presentation on 18 July, 2019. As well, on 29 July, 2019 CAFII will be making an in-person presentation of the results to FSRA, led by Lesli Martin and with CAFII's Co-Executive Directors, and about six CAFII members, in attendance. FSRA will be represented by the following executives: Judy Pfeifer, Chief Public Affairs Officer; Glen Padassery, Executive Vice President, Policy; Huston Loke, Executive Vice President, Market Conduct; Stuart Wilkinson, Director, Policy (formerly with the Department of Finance); and Joel Gorlick, Director, Policy – Market Conduct.

Finally, K. Martin noted that the research results would be published in the form of "leave-behinds" that can be inserted into a small brochure, and left with regulators and policy-makers after meetings with them.

¹ On an aside, Mario Beaudoin said that some Summary documents had already been tabled with the AMF, all on the P&C side, and he was disappointed by them, as they were still too long at 7-8 pages, and still too difficult to understand. He hoped that industry would continue to try to simplify and clarify these documents.

K. Martin noted that he had recently had a phone conversation with Tom Keepers, the Executive Director and EVP of the Consumer Credit Industry Association (CCIA), an Association with a focus on credit protection insurance in the United States. Mr. Keeper had seen the results of the Pollara research and wanted to compare notes with CAFII. The dialogue was insightful, with Mr. Keeper saying that in the U.S. one of the biggest challenges to the industry was from well-funded, media-savvy consumer interest groups. Mr. Keeper said he would reach out to K. Martin about possibly presenting to the CCIA Board and members at a future event of theirs.

K. Martin noted that there are many enhancements to the website that are about to be published, including a new video on mortgage life insurance; two new videos on the Pollara consumer research results; new consumer vignettes which are a short story with visuals about a person or family purchasing one of our members' products; and visually-pleasing summaries of the Pollara consumer research results.

B. Wycks noted that he had recently been invited to serve as a judge in the 2019 Insurance Business Canada Awards.

Mr. Wycks advised that Emily Brown, a former BMO Insurance employee who is now at Sunlife Financial, had recently inquired about the possibility of Sunlife Financial joining CAFII.

CAFII Consultations/Submissions Timetable 2019-20

Regulatory Issue	Deliverable	Deadline	Accountable
BC Ministry of Finance 10-Year Review of FIA (Initial Public Consultation Paper released June 2, 2015)	<ul style="list-style-type: none"> Preliminary Recommendations Paper on policy proposals for change CAFII Response to Preliminary Recommendations Paper Ministry announces FICOM transition into Financial Services Authority (FSA) FICOM-led Consultation on Industry Funding of BCFSa (successor regulator) CAFII submission on Industry Funding of BCFSa Proposed Revised Financial Institutions Act released for consultation CAFII submission on proposed revised FIA <i>Meeting with Ministry of Finance officials, if necessary</i> 	<ul style="list-style-type: none"> Released March 19/18 June 19/18 April 4/19 Released June 10, 2019 July 24/19 Q4 2019 (expected) Q4 2019 (expected) <i>Q3 or Q4 2019</i> 	<ul style="list-style-type: none"> Joint Market Conduct/Licensing Committee; Co-EDs to monitor
AMF Sound Commercial Practices Guideline Update	<ul style="list-style-type: none"> 2018 "update" consultation announced by L. Gauthier AMF releases consultation document CAFII submission on updated Sound Commercial Practices Guideline 	<ul style="list-style-type: none"> May 3/18 Q3 2019 (expected) Q3 or Q4 2019 	<ul style="list-style-type: none"> Market Conduct Cttee; Co-EDs to monitor
Quebec Bill 141 and Related Regulations	<ul style="list-style-type: none"> CAFII submission on Bills 141 and 150 to National Assembly Committee National Assembly passes Bill 141 (certain Bill 150 provisions included) AMF releases Regulation Respecting Alternative Distribution Methods (RADM) CAFII submission on Regulations Supporting Bill 141 AMF Response to Feedback on RADM Implementation/In-Force Period for RADM (varies by Article/Chapter) 	<ul style="list-style-type: none"> January 16, 2018 June 2018 October 10, 2018 December 10, 2018 April 17/19 June 13/19: Chapter 2; June 13/20: Chapter 3 	<ul style="list-style-type: none"> Joint Mkt Conduct/Licensing Committee; Co-EDs to monitor
CCIR/CISRO Guidance: Conduct of Insurance Business and Fair Treatment of Customers	<ul style="list-style-type: none"> CCIR issues final version of FTC Guidance document Meeting with CCIR/CISRO Working Group re Guidance implementation Meeting with CCIR/CISRO Working Group re Guidance implementation <i>Meeting with CCIR/CISRO Working Group re Guidance implementation</i> 	<ul style="list-style-type: none"> September 27, 2018 November 28, 2018 March 27, 2019 <i>Deferred from June 27/19 to Fall 2019</i> 	<ul style="list-style-type: none"> Market Conduct Cttee; Co-EDs to monitor
CCIR Review of Travel Health Insurance	<ul style="list-style-type: none"> CCIR Travel Health Insurance Products Position Paper Released Follow-up meetings with TIWG re travel insurance data collection Pan-Industry Meeting with TIWG re travel insurance data collection (CAFII, CLHIA, and THIA) 	<ul style="list-style-type: none"> May 31, 2017 Oct. 24 & Dec. 5, 2018 May 17, 2019 	<ul style="list-style-type: none"> EOC; Co-EDs to monitor
SK Bill 177	<ul style="list-style-type: none"> CAFII submission on The Insurance Amendment Regulations, 2018 FCAA delays implementation of new Act and Regulations to Jan 1/20 FCAA releases transition-related Guidance and Interpretation Bulletin 	<ul style="list-style-type: none"> September 14, 2018 November 26, 2018 May 17, 2019 	<ul style="list-style-type: none"> Market Conduct Cttee; Co-EDs to monitor
FCNB Insurance Act Rewrite and Introduction of RIA Regime	<ul style="list-style-type: none"> CAFII Meeting with David Weir and Jennifer Sutherland Green, FCNB in Fredericton CAFII submission on FCNB Licensing of Insurance Adjusters and Damage Appraisers Consultation FCNB launches industry consultation on RIA licensing regime model CAFII submissions on FCNB's Insurance Act Rewrite and RIA Regime 	<ul style="list-style-type: none"> June 11, 2019 July 2/19 Q3 2019 (expected) Q3 or Q4 2019 	<ul style="list-style-type: none"> Licensing Committee; Co-EDs to monitor

Underline = new/updated item since previous publication; **Boldface** = CAFII response pending; *Italics* = CAFII meeting with regulators/policy-makers pending

July 24, 2019

Insurance Fees Consultation
Financial Institutions Commission of British Columbia
2800 – 555 West Hastings St.
Vancouver, British Columbia
V6B 4N6
feedback@ficombc.ca
Attention: Frank Chong, Acting Superintendent of Financial Institutions

Re: CAFII Submission on Insurance Fees Consultation Paper, June 2019

Dear Mr. Chong:

CAFII commends the Financial Institutions Commission of BC for undertaking this consultation and we appreciate the invitation to comment on the principles and proposals set out in the paper.

We have aligned our feedback with the sections and sequencing used in the consultation paper, under the following headings: Rationale; Principles for Developing Fees; Proposed Changes to Fee Model and Analysis Against Foundational Principles; and Questions.

Rationale

CAFII supports the stated Rationale for a new fee methodology, given the need to fund the new BC Financial Services Authority (BCFSA) as an independent Crown Corporation and the fact that FICOM's current fee formula has not been reviewed and updated since 1990.

CAFII is pleased that the BC government has committed funding beginning in fiscal year 2019-20 to help with the transition from FICOM to the new BCFSA and to ensure that the regulated sectors are self-funded by fiscal year 2021-22. We view that commitment as a prudent and beneficial measure on the government's part, one which will allow 2020-21 to be treated as a transitional year and help facilitate a smooth change-over to the new fee methodology and full self-funding of BCFSA by the industry in 2021-22 (see related feedback and adjustment recommendation under Proposed Changes to Fee Model and Analysis Against Foundational Principles, p. 2).

Principles for Developing Fees

CAFII supports the five principles articulated as the underpinnings of the proposed fee formula. In particular, our Association is pleased with the commitment that fees will be predictable year-over-year.

We are pleased that "investing in IT infrastructure to support more efficient and user-friendly interactions between insurers and the regulator" has been articulated as a BCFSA Service Commitment, as we view that as a necessary and key modernization initiative for the new regulator to achieve. In that connection, we ask that in designing and building the new IT infrastructure, BCFSA give priority consideration to making that infrastructure as harmonized and integrated as possible with other Canadian jurisdictions' similar systems, in order to optimize its efficiency and effectiveness for both insurers and for BCFSA, as a CCIR member and participant in its national co-operative market conduct supervision framework.

We also took note of the Transparency commitment that BCFSa “will report on its activities in its annual Service Plan and publish financial statements annually,” as we view such reporting to be a minimum transparency requirement (see related feedback and recommendation under Questions, p. 3).

Proposed Changes to Fee Model and Analysis Against Foundational Principles

CAFII supports the need for a new fee model to fund BCFSa as a modernized, independent, and adequately resourced regulator which exercises its authority under a supervisory framework that is principles/risk-based and aligns with international best practices.

Like FICOM/BCFSa, CAFII regards Fair Treatment of Customers as of paramount importance. We therefore support the new BCFSa’s having strong investigative capabilities under a principles/risk-based supervisory framework that facilitates identifying and dealing with bad actors in the regulated sectors.

The principles/risk-based framework adopted by CCIR several years ago is commendable and produces desired results; it should not be varied from lightly. It allows regulators to allocate resources to the issues or industry players which pose the greatest risk, thereby making best use of their finite resources and their regulation more efficient.

CAFII strongly supports CCIR’s risk-based approach to regulation, including the emphasis on industry self-regulation solutions, which was described as follows by former CCIR Chair Danielle Boulet in her Foreword to the Council’s 2011-2014 Strategic Plan: “We don’t just react – we identify and assess risks first. We focus on the outcomes needed and how to accomplish them, not on rules and forms. We recognize that the best control is self-control, so we work with industry stakeholders to develop industry standards so that all market participants know what is expected of them.”

CAFII recommends that the new BCFSa’s foundational documents and its initial and future strategic plans should contain a commitment to maintain a principles/risk-based approach to its regulatory mandate.

Our Association is generally comfortable with the proposed new formula for calculating the annual fee payable by insurers to support the BCFSa, especially given that it will allow for a high degree of fee predictability year-over-year.

However, that said, we respectfully request that the following adjustment be made with respect to implementation of the new fee formula: the new funding formula proposes a 107.6% average fee increase (more than doubling the current average fee) for extra-provincial insurance corporations, in one fell swoop in 2020-21. Given the magnitude and relative suddenness of that proposed fee increase, CAFII recommends that the proposed new fee model be phased in over a two-year period, at least for extra-provincial insurance corporations, with half of the fee increase being introduced in 2020-21 and the remaining portion of the fee increase being implemented in 2021-22. This phased-in approach should be quite feasible given that the BC government has prudently committed transitional funding to help ensure that the new BCFSa is fully self-funded by the regulated sectors by fiscal year 2021-22.

In addition, we recommend that in finalizing the new fee model, BC should provide precise definitions of what is meant/intended by such key terms as “non-consolidated assets,” “direct premium,” and from what period of time the insurer’s direct premium number is to be derived (recommendation: the insurer’s most recently completed fiscal year).

Questions

With respect to the consultation paper’s question on whether there are any other Service Commitments we would like to see from the BCFSa, CAFII recommends that the new regulator include in its founding principles a higher level of commitment to consultation with the industry and transparency through additional initiatives such as annual “accountability and feedback meetings” between the regulator and industry stakeholder groups on the regulator’s performance, financial situation/stability, and future direction. This would be akin to the consultation and transparency commitment which the new Financial Services Regulatory Authority of Ontario (FSRA) has made to the regulated sectors in Ontario.

Conclusion

CAFII appreciates the opportunity to comment on this important FICOM/BCFSa consultation initiative, and we look forward to continued communication and input on related regulatory policy matters.

We would be pleased to meet with you, Mr. Chong, and/or other FICOM/BCFSa representatives to discuss our feedback in more detail. Should you wish to arrange a meeting for that purpose, please contact Brendan Wycks, 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 Assurant Solutions, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), The Canada Life Assurance Company, and Valeyo.

***Agenda Item 2(d)(ii)
August 13/19 EOC Teleconference Meeting***

From: O'Brien, Rob FIN:EX <Rob.O'Brien@ficombc.ca> **On Behalf Of** Feedback FIN:EX

Sent: July-25-19 12:28 PM

To: Brendan Wycks <brendan.wycks@cafii.com>

Cc: Chong, Frank FIN:EX <Frank.Chong@ficombc.ca>; James, Harry FIN:EX <Harry.James@ficombc.ca>; McTavish, Michael FIN:EX <Michael.McTavish@ficombc.ca>; Carter, Chris A FIN:EX <Chris.Carter@ficombc.ca>

Subject: RE: CAFII Submission On BC Insurance Fees Consultation Paper, June 2019

Hi Brendan,

Thank you for your submission.

Best regards,
Rob

Rob O'Brien

Managing Director, Policy

Financial Institutions Commission

2800 - 555 West Hastings Street | Vancouver, BC | V6B 4N6

Cell: 604-505-5896

Website: www.fic.gov.bc.ca

Agenda Item 2(e)
July 23/19 EOC Teleconference Meeting

How are artificial intelligence-led innovation, blockchain, customer self-service, enterprise content development, and other technology trends reshaping the travel health insurance industry?

Join us for the first **THiA Innovation Summit**, a one-day event that **brings together technology and travel health insurance Movers, Shakers, and Doers** to share their experiences, predictions and their aspirations for the next wave of technological advancement in our industry.

Register today to reserve your early bird price! Price increases after July 5th.

Early bird, members – \$175; Summit + AGM – \$250

Early bird, non-members – \$225

[**REGISTER NOW**](#)

Regular, members – \$225; Summit + AGM – \$300

Regular, non-members – \$275

Last Minute (members, non-members) – \$300; Summit + AGM – \$375

On-site (members, non-members) – \$400; Summit + AGM – \$475

Early bird ends July 5th

Regular ends August 9th

Last Minute ends Aug 30th

Date:

September 9th, 2019

9AM – 7PM

Location:

2nd Floor Events

461 King Street West

Toronto, ON

Canada M5V 1K4

** 2nd Floor is located in a heritage building and therefore is not wheelchair accessible. There are no wheelchair washrooms on site.

9:00 – 9:30: Breakfast & Opening Remarks (by Brad Dance, THiA President)

9:30 – 10:45: Keynote Speaker

10:45 – 11:05: Morning break

11:05 – 12:05: Panel Discussion – Consumer-Facing Technology Issues.
Moderated by Elliott Draga.

12:05 – 1:05: Lunch

1:05 – 1:50: Andrew Lo – Current trends in technology applicable to travel
insurance

1:50 – 2:40: Industry Insights – Food for thought. Data-driven presentations from
3 experts

2:40 – 3:00: Afternoon break

3:00 – 4:00: Product Pitches – 4 technology product pitches

4:00 – 5:00: Panel Discussion – Industry Facing Technology Issues

5:00 – 7:00: Networking Cocktail Reception

2019 THiA AGM & Golf Tournament

September 10, 2019, 8:00 AM - 6:00 PM

THIA's Annual General Meeting will be held on Tuesday, September 10th, 2019 at the **Richmond Hill Golf Club** at 8903 Bathurst Street in Richmond Hill (just north of Hwy 7 and 407), Ontario.

This year's event will consist of a half-day business agenda and lunch, followed by an optional golf tournament.

As always, the AGM will address emerging issues in our industry and THIA's committees will expand on the updates provided at the Santa Monica conference in the spring.

The AGM will also include an election for the position of treasurer, currently occupied by Kimberly Winkworth, and the position of secretary, currently held by Mindy Tarantelli. If you are interested in seeking election to either position, nominations will be held from the floor. Please be sure to have a seconder available if you choose to run.

Registration is \$90.00. Golf is an additional \$125.00.

Members who are attending both the Innovation Summit on September 9th and the AGM on September 10th are eligible for combination pricing.

If you are golfing, we will coordinate foursomes with you separately.

AGENDA

8:00 AM – 9 AM -- Coffee & Registration

9:00 AM – 9:10 AM -- President's Welcome

9:10 AM – 9:20 AM -- Treasurer's Report

9:20 AM – 10:00 AM --Committee Updates

- 20/20 Task Force
- Communications Committee
- Claims Committee
- Regulatory Affairs Committee

10:00 AM – 10:50 AM -- Guest Speaker (TBC)

10:50 AM – 11:00 AM -- Nominations & Voting: President and Vice-President

11:00 AM – 11:15 AM -- Coffee Break

11:15 AM – 11:20 AM -- Election Results

11:20 AM – 11:55 AM -- Committee Updates

- Visitors to Canada Committee
- Conference Committee
- Technology Committee
- Education Committee

11:55 AM – 12:00 PM -- Closing Remarks

The business portion of the day will conclude at noon, followed by the lunch, then optional golf or networking.

Please note, there are no refunds available after August 31st, 2019.

Agenda Item 2(f)
July 23/19 EOC Teleconference Meeting

From: AMF | Autorité des marchés financiers <info.courriel@lautorite.qc.ca>

Date: July 12, 2019 at 1:39:24 PM EDT

To: Brendan Wycks <brendan.wycks@cafii.com>

Subject: Notez cette date à votre agenda!

Reply-To: AMF | Autorité des marchés financiers <info.courriel@lautorite.qc.ca>

[Visionner dans votre navigateur](#)



Notez cette date à votre agenda!

Le **Rendez-vous avec l'Autorité** aura lieu au Palais des congrès de Montréal, le **25 novembre 2019**.

La programmation et le formulaire d'inscription suivront prochainement.

Au plaisir de vous y rencontrer!

[Ajouter à mon agenda](#)

CAFII

411 Richmond Street E, Suite 200
Toronto, ON M5A 3S5

Statement of Operations As at July 31, 2019

	Current Month	Budget Jul-19	Variance to Monthly Budget	Current YTD	Budget '19 YTD	Variance Budget to YTD	Budget 2019
Revenue							
Membership Dues	\$61,422	\$61,422	\$0	\$427,954	\$429,954	(\$2,000)	\$737,064
Luncheon Revenue	\$0	\$0	\$0	\$195	\$195	\$0	\$195
Interest Revenue	\$133	\$3	\$130	\$351	\$18	\$333	\$33
TOTAL REVENUE	\$61,555	\$61,425	\$130	\$428,500	\$430,167	(\$1,667)	\$737,292
Expenses							
Management Fees	\$38,084	\$40,167	\$2,083	\$274,713	\$281,167	\$6,453	\$482,000
CAFI Legal Fees/Corporate Governan	\$0	\$0	\$0	\$0	\$1,000	\$1,000	\$1,000
Audit Fees	\$1,217	\$1,217	\$0	\$8,718	\$8,519	(\$199)	\$14,600
Insurance	\$449	\$458	\$9	\$3,094	\$3,206	\$112	\$5,500
Website Ongoing Maintenance	\$331	\$1,683	\$1,352	\$3,289	\$3,813	\$524	\$5,330
Telephone/Fax/Internet	\$104	\$483	\$379	\$3,587	\$3,381	(\$206)	\$5,800
Postage/Courier	\$31	\$33	\$2	\$140	\$231	\$91	\$400
Office Expenses	\$152	\$166	\$14	\$1,384	\$1,162	(\$222)	\$2,000
Bank Charges	\$0	\$4	\$4	\$0	\$28	\$28	\$50
Miscellaneous Expenses	\$0	\$42	\$42	\$0	\$294	\$294	\$500
Depreciation Computer/Office Equipm	\$95	\$100	\$5	\$663	\$700	\$37	\$1,200
Board/EOC/AGM							
Annual Members Lunch	\$0	\$0	\$0	\$12,052	\$12,089	\$37	\$12,089
Board Hosting (External)	\$0	\$0	\$0	\$6,363	\$15,000	\$8,637	\$30,000
Board/EOC/Meeting Expenses	\$9	\$0	(\$9)	\$29,156	\$15,600	(\$13,556)	\$26,000
Industry Events	\$0	\$0	\$0	\$0	\$1,300	\$1,300	\$1,300
EOC Annual Appreciation Dinner	\$0	\$0	\$0	\$2,193	\$2,193	(\$0)	\$2,193
Sub Total Board/EOC/AGM	9	-	-	49,764	46,182	-	71,582
Provincial Regulatory Visits	\$445	\$0	(\$445)	\$4,836	\$8,000	\$3,164	\$12,000
Research/Studies	\$677	\$1,000	\$323	\$2,987	\$3,000	\$13	\$5,000
Website SEO and Enhancements	\$2,472	\$3,333	\$861	\$7,204	\$23,333	\$16,130	\$40,000
Regulatory Model(s)	\$0	\$0	\$0	\$3,643	\$10,000	\$6,357	\$25,000
Federal Financial Reform	\$0	\$0	\$0	\$0	\$0	\$0	\$500
Media Outreach	\$2,260	\$2,917	\$657	\$21,503	\$20,417	(\$1,087)	\$35,000
Marketing Collateral	\$97	\$0	(\$97)	\$542	\$4,000	\$3,458	\$5,000
Speaker fees & travel	\$0	\$0	\$0	\$1,189	\$1,400	\$211	\$2,000
Gifts	\$0	\$0	\$0	\$0	\$300	\$300	\$500
Networking Events	\$0	\$0	\$0	\$0	\$300	\$300	\$500
Sub Total Networking & Events	-	-	-	1,189	2,000	811	3,000
TOTAL EXPENSE	46,422	51,603	5,180	387,254	420,433	33,179	715,462
NET INCOME	15,132	9,822	5,310	41,246	9,734	31,512	21,830

Explanatory Notes:

- 1 - Amortization of office equipment based on 4 year straight line depreciation
- 2 - Management fees includes Managing Matters and Executive Director
- 3 - Website includes hosting cafii.com, subscription and website improvements

CAFI
411 Richmond Street E, Suite 200
Toronto, ON M5A 3S5
Balance Sheet
As at July 31, 2019

	CAFII Operations			CCBPI Project			Combined		
	31-Jul 2019	30-Jun 2019	31-Dec 2018	31-Jul 2019	30-Jun 2019	31-Dec 2018	31-Jul 2019	30-Jun 2019	31-Dec 2018
ASSETS									
Current Assets									
Bank Balance	\$417,255	\$204,697	\$193,381	\$0	\$0	\$0	\$417,255	\$204,697	\$193,381
Savings Account	\$351	\$218	\$0	\$205,257	\$205,257	\$0	\$205,608	\$205,475	\$0
Accounts Receivable	\$91,797	\$4,800	\$0	\$0	\$0	\$0	\$91,797	\$4,800	\$0
Prepaid Expenses	17,462	20,828	2,197	\$0	\$0	\$0	\$17,462	\$20,828	\$2,197
Computer/Office Equipment	\$8,014	\$8,014	\$8,014	\$0	\$0	\$0	\$8,014	\$8,014	\$8,014
Accumulated Depreciation -Comp/Equip	(\$5,268)	(\$5,174)	(\$4,605)	\$0	\$0	\$0	(\$5,268)	(\$5,174)	(\$4,605)
Total Current Assets	\$529,610	\$233,383	\$198,986	\$205,257	\$205,257	\$0	\$734,867	\$438,640	\$198,986
TOTAL ASSETS	\$529,610	\$233,383	\$198,986	\$205,257	\$205,257	\$0	\$734,867	\$438,640	\$198,986
LIABILITIES									
Current Liabilities									
Accrued Liabilities	\$8,519	\$7,302	\$18,409	\$89,632	\$89,632	\$0	\$98,151	\$96,934	\$18,409
Account Payable ^B	\$2,937	\$10,937	\$10,379	\$0	\$0	\$0	\$2,937	\$10,937	\$10,379
Deferred Revenue	\$306,710	\$18,802	\$0	\$115,625	\$115,625	\$0	\$422,335	\$134,427	\$0
Total Current liabilities	\$318,166	\$37,041	\$28,788	\$205,257	\$205,257	\$0	\$523,423	\$242,298	\$28,788
TOTAL LIABILITIES	\$318,166	\$37,041	\$28,788	\$205,257	\$205,257	\$0	\$523,423	\$242,298	\$28,788
UNRESTRICTED NET ASSETS									
Unrestricted Net Assets, beginning of year	\$170,198	\$170,198	\$180,447	\$0	\$0	\$0	\$170,198	\$170,198	\$180,447
Excess of revenue over expenses	\$41,246	\$26,144	(\$10,248)	\$0	\$0	\$0	\$41,246	\$26,144	(\$10,248)
Total Unrestricted Net Assets	\$211,444	\$196,342	\$170,198	\$0	\$0	\$0	\$211,444	\$196,342	\$170,198
TOTAL LIABILITIES AND UNRESTRICTED	\$529,610	\$233,383	\$198,986	\$205,257	\$205,257	\$0	\$734,867	\$438,640	\$198,986

Financial Reserves Targets as per 2019 Budget:

Minimum 3 months (25%) of Annual Operating Expenses= \$ 178,866
Maximum 6 months (50%) of Annual Operating Expenses= \$ 357,731

Current Level of Financial Reserves (total unrestricted net assets): **\$211,444**
Current Level of Financials Reserve (%): **30%**

CCBPI initiative

Time value of consulting services
incurred to date (25 June 2019)
\$89,631.54 (\$79,319.95 plus HST)

CAFII

411 Richmond Street E, Suite 200
Toronto, ON M5A 3S5

Membership Fees As At July 31st, 2019

	<u>Jan-18</u>		<u>Jul-18</u>	
	<u>To be billed</u>	<u>Received</u>	<u>To be billed</u>	<u>Received</u>
BMO Bank of Montreal	\$ 36,719.00	14-Mar-19	\$ 36,719.00	
CIBC Insurance	\$ 36,719.00	28-Feb-19	\$ 36,719.00	29-Jul-19
RBC Insurance	\$ 36,719.00	25-Feb-19	\$ 36,719.00	30-Jul-19
ScotiaLife Financial	\$ 36,719.00	11-Feb-19	\$ 36,719.00	11-Jul-19
TD Insurance	\$ 36,719.00	11-Feb-19	\$ 36,719.00	31-Jul-19
Desjardins Financial Security Life Assurance Company	\$ 36,719.00	8-Apr-19	\$ 36,719.00	
AMEX Bank of Canada				
Assurant Solutions	\$ 18,360.00	12-Feb-19	\$ 18,359.00	4-Jul-19
Canadian Premier Life Insurance Company	\$ 18,360.00	23-May-19	\$ 18,359.00	
Cumis Group Ltd/Co-operators Life Insurance Co.	\$ 18,360.00	14-Mar-19	\$ 18,359.00	9-Jul-19
National Bank Life Insurance Company	\$ 27,540.00	15-Feb-19	\$ 27,539.00	8-Jul-19
Manulife Financial	\$ 22,000.00	29-May-19	\$ 22,000.00	11-Jul-19
The Canada Life Assurance Company	\$ 22,000.00	25-Feb-19	\$ 22,000.00	22-Jul-19
RSM Canada	\$ 4,800.00	15-Feb-19		
Willis Towers Watson	\$ 4,800.00	4-Apr-19		
KPMG MSLP	\$ 4,800.00	27-Feb-19		
Munich Reinsurance Company Canada Branch (Life)	\$ 4,800.00	15-Feb-19		
Optima Communications	\$ 4,800.00	28-Mar-19		
RGA Life Reinsurance Company of Canada	\$ 4,800.00	25-Feb-19		
DGA Careers Inc.				
AXA Assistance Canada				
Torys LLP	\$ 4,800.00	13-Feb-19		
PWC	\$ 4,800.00	15-Jul-19		
RankHigher.ca			\$ 2,400.00	9-Jul-19
Feb Invoices	\$385,334		\$349,330	
July Invoices	\$349,330			
Total Membership Fees	\$734,664			
Total amount to reallocate monthly Jan-Sept	\$ 61,222			
Total amount to reallocate monthly Oct-Dec	\$ 61,222			

2019 CAFII Budget

	2016 Actual	2017 Actuals	2018 Actuals	2019 Budget Revised	2019 Revised Budget (Apr 2019)	2019 YTD (July 31)	2019 Revised Forecast	Comment/Rationale
Revenue								
Membership Dues	\$435,750	\$475,425	\$695,545	\$757,904	\$737,064	\$427,954	\$734,664	See breakdown in Member Dues Revenue Tab
Luncheon 2019	\$231	\$126	\$0	\$0	\$195	\$195	\$195	
Interest	\$231	\$126	\$0	\$0	\$33	\$351	\$450	Interest from the Savings Account
TOTAL REVENUE	\$ 436,212	\$ 475,677	\$ 695,545	\$ 757,904	\$ 737,292	\$ 428,500	\$ 735,309	
EXPENSE								
Management Fees	\$279,042	\$442,012	\$460,299.15	\$482,000	\$482,000	\$274,713	\$475,547	Includes MM Fees (3% increase) and two Co-Eds (3% increase)
CAFII Legal Fees/Corporate Governance	\$10,565	\$2,954	\$563	\$1,000	\$1,000	\$0	\$0	
Audit Fees	\$13,560	\$14,271	\$14,432	\$14,600	\$14,600	\$8,718	\$14,803	Same as 2018 Budget
Insurance	\$5,238	\$5,238	\$5,258	\$5,500	\$5,500	\$3,094	\$5,338	Same as 2018 Budget
Website Ongoing Maintenance	\$13,060	\$42,575	\$6,461	\$5,330	\$5,330	\$3,289	\$5,481	Includes CG Technology (\$250 per month), Translation (\$400), Domain (\$30) & CAFII Insurance Domain Name Renewal (\$999 USD)
Telephone/Fax/Internet	\$3,538	\$6,119	\$5,939	\$5,800	\$5,800	\$3,587	\$5,800	Same as 2018 Budget
Postage/Courier	\$180	\$380	\$458	\$400	\$400	\$140	\$250	Same as 2018 Budget
Office Expenses	\$5,257	\$1,312	\$2,423	\$2,000	\$2,000	\$1,384	\$2,000	Same as 2018 Budget
Bank Charges	\$25	\$38	\$23	\$50	\$50	\$0	\$25	Same as 2018 Budget
Amortization Expense	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
Depreciation Computer/Office Equipment	\$467	\$1,564	\$1,136	\$1,200	\$1,200	\$663	\$1,136	Same as 2018 Budget
Miscellaneous Expense		\$433	\$0	\$500	\$500	\$0	\$500	Same as 2018 Budget
Board/EOC/AGM								
Annual Members Luncheon	\$12,044	\$10,247	\$10,503	\$12,000	\$12,089	\$12,052	\$12,052	Increase to \$12,000 to cover costs
Board Hosting (External)	\$19,407	\$7,500	\$19,515	\$30,000	\$30,000	\$6,363	\$30,000	Four events at \$7,500
Board/EOC Meeting Expenses	\$8,145	\$25,493	\$20,715	\$26,000	\$26,000	\$29,156	\$39,696	Same as 2018 Budget
Industry Events		\$36	\$1,270	\$1,300	\$1,300	\$0	\$1,300	CAFII Purchase of full table of 11 seats at Economic Club of Canada Luncheon
EOC Annual Appreciation Dinner	\$2,079	\$8	\$763	\$800	\$2,193	\$2,193	\$2,193	Same as 2018 Budget
Total Board/EOC/AGM	\$41,675	\$43,284	\$52,766	\$70,100	\$71,582	\$49,764	\$85,241	
Provincial Regulatory Visits	\$10,395	\$11,011	\$11,230	\$12,000	\$12,000	\$4,836	\$12,000	Same as 2018 Budget
Research/Studies	\$1,356	\$17,807	\$77,345	\$60,000	\$5,000	\$2,987	\$5,000	Pollara Proposal on Creditor's insurance research
Website SEO and Enhancements			\$21,702	\$40,000	\$40,000	\$7,204	\$39,550	Continuing enhancements including videos
Regulatory Model(s)	\$0	\$15,001	\$6,490	\$25,000	\$25,000	\$3,643	\$25,000	Includes provision for legal advice re RIA representation on Sask, Alta, Manitoba; possible new RIA regime in BC; new single integrated regulators in Ontario and Alta; and additional provision re Regulations supporting Quebec Bills 141 and 150
Federal Financial Reform	\$0	\$0	\$0	\$500	\$500	\$0	\$500	Same as 2018 Budget
Media Outreach	\$27,408	\$44,023	\$38,522	\$35,000	\$35,000	\$21,503	\$35,000	Includes Media Consultant's Monthly Retainer (\$2,260.00 per month)
Marketing Collateral	\$1,781	\$0	\$557	\$5,000	\$5,000	\$542	\$5,000	
Tactical Communications Strategy	\$446	\$379	\$0	\$0	\$0	\$0	\$0	
CAFII Reception Events		\$500	\$0	\$0	\$0	\$0	\$0	
Media Relations	\$0	\$164	\$0	\$0	\$0	\$0	\$0	
Speaker fees & travel		\$0	\$191	\$2,000	\$2,000	\$1,189	\$2,000	Same as 2018 Budget
Gifts	\$221	\$452	\$0	\$500	\$500	\$0	\$500	Same as 2018 Budget
CAFII 25th Anniversary Celebration (Formerly CAFII 20th Anniversary Celebration)		\$26,495	\$0	\$0	\$0	\$0	\$0	Deferred to 2022
Networking Events		\$350	\$0	\$500	\$500	\$0	\$500	Same as 2018 Budget
TOTAL EXPENSE	\$ 414,214	\$ 675,862	\$ 705,793	\$ 768,980	\$ 715,462	\$ 387,254	\$ 721,172	
Excess of Revenue over Expenses	\$21,998	(\$200,185)	(\$10,248)	(\$11,076)	\$21,830	\$41,246	\$14,137	
Unrestricted Net Assets (beginning of year)	\$358,991	\$380,758	\$180,447	\$170,198	\$159,122	\$170,198	\$159,122	
Unrestricted Net Assets (end of year)	\$380,989	\$180,573	\$170,198	\$159,122	\$180,952	\$211,444	\$173,259	

Explanatory Notes:

- (1) Assumes Two Co-Executive Directors, one @ 5 days per week; one @ 4.5 days per week; plus Managing Matters Admin support
- (2) Amortization of office equipment based on 4 year straight line depreciation

Actual/Forecasted Financial Reserves	2016 Actual	2017 Actuals	2018 Actuals	2019 Budget	2019 Revised Budget (Apr 2019)	2019 Revised Forecast
Minimum 3 months (25%) of Annual Operating Expenses =	\$103,554	\$168,965	\$176,448	\$192,245	\$178,865	\$180,293
Maximum 6 months (50%) of Annual Operating Expenses =	\$207,107	\$337,931	\$352,897	\$384,490	\$357,731	\$360,586
Actual/Forecasted Level of Financial Reserves :	\$380,758	\$180,573	\$170,198	\$159,122	\$180,952	\$173,259
Actual/Forecasted Level of Financial Reserves %:	92%	27%	24%	21%	25%	24%

2019 Operational Budget - Member Dues Breakdown**2018 Member Dues Breakdown**

Upper Tier Member	73,438.00	5	367,190.00
DFS	55,079.00	1	55,079.00
Lower Tier Member	36,719.00	4	146,876.00
Initiation Members	44,000.00	2	88,000.00
Associate	4,800.00	8	38,400.00
			695,545.00

2019 (Base) Member Dues Breakdown

Upper Tier Member	73,438.00	6	440,628.00
Lower Tier Member	36,719.00	4	146,876.00
Initiation Members	44,000.00	3	132,000.00
Associate	4,800.00	8	38,400.00
			757,904.00

**2019 Operational Budget - Member Dues
Breakdown - Revised****2019 Member Dues Breakdown**

Upper Tier Member	73,438	6	440,628.00
National Bank	55,079	1	55,079.00
Lower Tier Member	36,719	3	110,157.00
Initiation Members	44,000	2	88,000.00
Associate	4,800	8.5	40,800.00
			734,664.00

22 July, 2019

Stephanie Connolly
Director, Corporate Policy and Consumer Affairs and Acting Superintendent of Insurance, Yukon
Community Services
PO Box 2703, Whitehorse, Yukon Y1A 2C6
insurance.plra@gov.yk.ca <insurance.plra@gov.yk.ca>
Stephanie.Connolly@gov.yk.ca
Bradley.Rowett@gov.yk.ca;

Re: Enrolling Yukoners in Credit Protection Insurance

Dear Ms. Connolly,

I would like to thank you, and your colleague Bradley Rowett, Regulatory Affairs Officer, Government of Yukon, for the very productive conversation we had on 16 July, 2019.

Our discussion focused on resolving the current issue around certain CAFII members who were notified that “credit protection policies can no longer be sold in Yukon.” Based on our conversation, I now understand that the Yukon Government is of the view that our insurance company members who have been issued Life and Accident and Sickness insurance licenses from the Government of Yukon are authorized to underwrite creditor’s group insurance.

To confirm, creditor’s group insurance in the Yukon is underwritten by insurers under the authority of their Life license (for creditor life insurance benefits) and their Accident and Sickness license (for creditor disability, critical illness, hospitalization, and related insurance benefits). As many insurers also underwrite coverage for involuntary loss of employment (job loss) in the territory, this is done under the Life license. Specifically, the class of life insurance in the Yukon includes a promise to pay insurance money “at a set or determinable future time,” which in this case would be the time that the insured person has met the definition of job loss in the certificate of insurance. The industry position on the matter is that where no class of credit protection insurance exists in a jurisdiction (such as is currently the case in the Yukon), creditor’s group insurance is offered under the authority of existing licenses as noted above.

However, the remaining issue is that these products are often offered to customers through distributors, such as a bank or credit union branch, a call centre, or an online portal. Since customers are enrolled by these distributors, the question is whether these distributors are authorized under existing Yukon legislation to complete the enrollment process.

As a starting position, it is important to note that individuals enrolling in creditor's group insurance receive no insurance advice, and are not purchasing an "individual" insurance policy. Rather, they are being enrolled in an existing group insurance policy, and receive a certificate of insurance for their enrollment. The group insurance policy is issued by the licensed insurer to the financial institution which advances the related credit product. The terms of the coverage, including eligibility and premium rates, are negotiated between the licensed insurer and the financial institution lender. The "contract of insurance," therefore, exists between the licensed insurer and the financial institution lender.

As such, it is CAFII's view that the Yukon *Insurance Act* supports the position that persons who facilitate the enrollment of individual group members for coverage under an existing group insurance policy do not have to be licensed as agents, because the activity does not fall within the definition of "agent" under the Yukon *Insurance Act*. We note in that regard Section 233.21 of the *Insurance Act*:

Section 233(21) states:

"Every person who acts as an agent without a licence, or while their licence is suspended, is guilty of an offence." [emphasis added]

Section 1 defines "agent" as:

"...a person who, for compensation, not being a duly licensed insurance broker or not being a person acting under the authority of subsection 233(15), (16) or (17), solicits insurance on behalf of an insurer, transmits for a person other than the agent an application for or a policy of insurance to or from that insurer, or offers or assumes to act in the negotiation of the insurance or in negotiating its continuance or renewal."

Therefore, an unlicensed person's activity must not fall within the definition of "agent" to avoid violating section 233(21). It is important to consider this analysis in the context of group insurance principles. Group insurance is insurance designed to insure the collective lives of a group of persons who have some relationship to or connection with the group policyholder. It is also important to note that there is only one contract/insurance policy created in a group insurance arrangement – that being the group insurance policy between the insurer and the group policyholder. In the context of creditor's group insurance, the group policy is a contract between the insurer and the creditor (e.g. bank or credit union) or administrator (as group policyholder) covering the individual members of the group (e.g. the customers of the bank or credit union who have taken out a mortgage, line of credit, loan, or credit card).

Although the persons whose lives are insured (borrowers) under the group policy obtain rights in relation to the coverage provided under the group policy, **there is no direct contractual relationship between the insurer and the individual members of the group who are enrolled in the group policy.** The terms and conditions of the group policy are, as noted above, entirely a matter of negotiation between the two contracting parties (the insurer and the financial institution lender as group policyholder).

Applying the definition of “agent” in the context of a group insurance arrangement:

- The group insurance contract is applied for, solicited and placed, and the needs of the group are assessed, at the **insurer/group policyholder level**;
- The group policyholder negotiates the terms of the group policy with the insurer;
- Once the group policy is finalized and in effect, the group policyholder facilitates the enrollment of the individual group members for coverage under the existing contract/group policy terms. **The group policyholder does not provide advice.** However, to ensure individual members of the group are made aware of the details of their insurance coverage under the group policy, the insurer issues, for delivery by the group policyholder, to each individual group member that has opted to enroll for the insurance, documentary evidence of the details of their insurance (the certificate of insurance);
- **Therefore, at the enrolment stage, there is no solicitation or transmittal of an application, or assessment of needs, or negotiation of terms for a policy, because the group policy is already in place.**

As a result, one can reasonably conclude that the activity of facilitating enrolment of individual group members for coverage under an existing group insurance policy does not fall within the definition of “agent” under the Yukon’s *Insurance Act*; and therefore, a group policyholder is not required to be licensed to conduct such activity. I can also confirm that this interpretation is consistent with the established position of insurers in jurisdictions where no licensing or exemption regime specifically addressing creditor’s group insurance has been implemented. In those jurisdictions, the industry position is that no license is required for the distribution of creditor’s group insurance because the person involved in distribution is not “selling or soliciting a policy of insurance” but rather is offering to enroll the customer under the creditor’s group insurance policy that has already been issued to the creditor or administrator of the insurance.

Ms. Connolly, in conclusion, based on our analysis and interpretation of the Yukon *Insurance Act* we are of the view that our insurance company members who received the notice around credit protection insurance should be able to underwrite creditor’s group insurance, and that our distributor members who received the notice or which are impacted by the notice, should be able to enroll customers in creditor’s group insurance without further licensing. We respectfully request your agreement with our concluding statement on this matter and your confirmation that **underwriting and distribution of creditor’s group insurance is permitted in the Yukon so long as the insurer holds valid licenses for Life and Accident and Sickness insurance.**

Thank you again for your collaboration with us on this important file, and we very much look forward to working with you going forward.

With respect,

A handwritten signature in dark ink, reading "Keith Martin", enclosed within a large, hand-drawn circular loop.

Keith Martin, Co-Executive Director, CAFII
647.460.7725

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 Assurant, Canadian Premier Life Insurance Company, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and The Canada Life Assurance Company.



July 26, 2019

Ms. Nancy Meagher
Superintendent of Insurance, Yukon
Community Services
Government of Yukon
PO Box 2703, Whitehorse, Yukon Y1A 2C6

By email: Nancy.Meagher@gov.yk.ca, Stephanie.Connolly@gov.yk.ca and insurance.plra@gov.yk.ca.

Dear Ms. Meagher,

Re: Ensuring Continued Protection of Yukoners through Creditor's Group Insurance

I am writing on behalf of the Canadian Life and Health Insurance Association (CLHIA) with respect to your letter of June 27, 2019, received by a number of our members. Your letter was in response to the applications by the members for renewal of licenses for conducting insurance business in the Yukon, and set out that all requested classes of insurance were being renewed except for "credit protection" which does not currently exist as a class of insurance in the Yukon. We have had two helpful and productive conversations with Stephanie Connolly, Director, Corporate Policy and Consumer Affairs, and Bradley Rowett, Regulatory Affairs Officer, in which we discussed a proposed solution. The purpose of this letter is to set out that solution and to provide further information further to our most recent discussion with Ms. Connolly and Mr. Rowett, to enable the continued protection of Yukoners through creditor's group insurance.

About CLHIA

The CLHIA is a voluntary trade association that represents the collective interests of its member life and health insurers which, together account for 99% of the life and health insurance in force in Canada. Canada's life and health insurers play a key role in providing a social safety net to Canadians. We protect over 75% of Canadians through a wide variety of life, health, and pension products, including creditor's group insurance. Currently, 28 life insurance companies offer creditor's group insurance that covers millions of Canadians through a number of distribution channels, such as bank and credit union branches, auto dealers, mortgage brokers and retailers.

Canadian Life and Health Insurance Association
79 Wellington St. West, Suite 2300
P.O. Box 99, TD South Tower
Toronto, Ontario M5K 1G8
416-777-2221 www.clhia.ca

Association canadienne des compagnies d'assurances de personnes
79, rue Wellington Ouest, bureau 2300
CP 99, TD South Tower
Toronto (Ontario) M5K 1G8
416-777-2221 www.accap.ca

We appreciate the opportunity to engage in a dialogue with you and your staff on this important issue. From our recent discussion with your staff, we understand that the renewal of insurers' licenses for the "life" and "accident and sickness" classes of insurance means insurers have been authorized to continue to provide these insurance products in the Yukon. This would include insurance products that pay money toward an insured person's debts when they die, become disabled, or are diagnosed with a critical illness, which are coverages included as what is sometimes called credit protection insurance or, as commonly referred to in the industry, creditor's group insurance.

This leaves two key issues for life and health insurers in the Yukon. First, how do insurers underwrite coverage for involuntary loss of employment (job loss) in the Yukon? Second, are distributors of creditor's group insurance (banks, credit unions, auto dealers, mortgage brokers and retailers) authorized to enrol customers in creditor's group insurance policies under the existing legislative and regulatory framework in the Yukon? These issues are addressed in turn below.

How do insurers underwrite coverage for involuntary loss of employment (job loss) in creditor's group insurance in the Yukon?

It is the industry's position that where no class of creditor's group insurance exists in a jurisdiction, creditor's group insurance is underwritten under the authority of the licenses for the "life" and "accident and sickness" classes of insurance. In addition, this would extend to related insurance benefits that cover for events causing an impairment or potential impairment in the individual's income or ability to earn income, as long as it is included in a group insurance policy, alongside other life and/or accident and sickness insurance coverage.

There is legislative provision in the Yukon *Insurance Act* that supports this position. We note in this respect that section 1 of the *Insurance Act* states:

"life insurance" means insurance whereby an insurer undertakes to pay insurance money,
(a) on death,
(b) on the happening of an event or contingency dependent on human life,
(c) at a set or determinable future time, or (emphasis added)
(d) for a term dependent on human life, and, without restricting the generality of the foregoing,
includes accidental death insurance but not accident insurance.

Under job loss insurance, insurers undertake to make payments towards credit balances or debts of an individual at the time the insured individual has met the definition of job loss in the certificate of insurance – this is the "set or determinable future time" referred to in the definition.

Are distributors of creditor's group insurance (banks, credit unions, auto dealers, mortgage brokers and retailers) authorized to enrol customers in creditor's group insurance policies under the existing Yukon rules?

As indicated above, there are currently 28 life insurance companies offering creditor's group insurance in Canada, covering millions of Canadians through a number of distribution channels, including banks and credit union branches, auto dealers, mortgage brokers and retailers. For example, in the bank model, the bank is the group policyholder and negotiates the terms of the coverage, including the

premium, with the insurer. The contract of insurance exists between the insurer and the bank as the group policyholder. Individuals who enrol in these products receive a certificate of insurance for their enrollment under an existing group insurance policy. Similarly, creditor's group insurance offered through mortgage brokers, auto dealers, and others as described above are also group insurance contracts between the insurer and the mortgage broker or auto dealer plan administrator or retailer as the group policyholder, and the customer receives a certificate of insurance as evidence of their enrollment for coverage under the group policy. It is important to also note that individuals enrolling in these products at banks or credit unions, mortgage brokerages, auto dealers, and retailers do not receive general insurance advice. If an individual requests advice about their insurance needs, they can seek advice from a licensed insurance agent.

We note that section 1 of the Yukon *Insurance Act* defines "agent" as:

"....a person who, for compensation, not being a duly licensed insurance broker or not being a person acting under the authority of subsection 233(15), (16) or (17), solicits insurance on behalf of an insurer, transmits for a person other than the agent an application for or a policy of insurance to or from that insurer, or offers or assumes to act in the negotiation of the insurance or in negotiating its continuance or renewal."

Given the description of the enrollment process above, it is our view that those persons or organizations enrolling individuals in creditor's group insurance policies are not required to be licensed as an insurance agent, as they are merely enrolling individuals under a group insurance policy that is already in force. This is because there is only one contract or insurance policy offered, solicited, negotiated and transmitted and that happens between the insurer and the group policyholder. Therefore, the direct contractual relationship exists between the insurer and the group policyholder, and does not exist between the insurer and the individuals who are enrolled in the group policy. Individuals insured under the group policy are, of course, conferred rights under the group policy by applicable law (in the Yukon, this is provided in ss.106 and 202 of the *Insurance Act*); however they are not themselves sold or issued an insurance policy.

The activities of the group policyholder in enrolling individual insureds into creditor's group insurance policies do not attract the requirement to hold an insurance agent's license since they do not fall within the definition of agent in the Yukon *Insurance Act*. This position is consistent with other situations in the context of group insurance; for example, human resources staff of employers who are engaged in enrolling employees under the company's group insurance plan are not required to hold an agent's license to perform this function. This position is also consistent with the industry's view in all other jurisdictions that do not require a special *restricted* insurance agent's certificate of authority for people distributing creditor's group insurance (AB, SK, MB), or that maintain a specific exception for licensing applicable to those people (BC, QC).

Conclusion

In conclusion, based on the above noted considerations, we are seeking your confirmation that under the Yukon *Insurance Act* insurers are permitted to underwrite creditor's group insurance, including job loss coverage, under their existing life and accident and sickness insurance licenses, and that enrollment

into these products continues to be permitted to take place at banks, credit unions, mortgage brokerages, auto dealers and retailers without further requirement to be licensed.

We look forward to the opportunity to discuss this issue with you and your staff.

Yours truly,

A handwritten signature in blue ink, consisting of a stylized 'L' followed by a cursive 'D' and a horizontal line.

Lyne Duhaime
Senior Vice-President, Market Conduct Policy and Regulation



Community Services
PO Box 2703, Whitehorse, Yukon Y1A 2C6

July 31, 2019

Bulletin: Credit Protection Insurance in Yukon: insurers and intermediaries

On June 24, 2019, insurers seeking the credit protection class of licensure were notified that this was a class of insurance that the Government of Yukon (YG) is unable to licence. This bulletin outlines an interim solution for insurers and seeks to provide clarification regarding the intermediaries who distribute group credit products.

We understand credit protection insurance to cover debt or make or postpone debt payments on a person's behalf in the event of death, disability, job loss or critical illness. These are group insurance products.

While YG cannot licence for a class called "credit protection insurance", if an insurer is licensed for "life insurance", a related creditors group life insurance can be sold under this licence. Job loss insurance could be included under this same authority, given that part c of the definition of life insurance in the Yukon Insurance Act includes payment of insurance money "at a set or determinable future time."

Further, if an insurer is licensed for "accident and sickness insurance" a similar creditors group accident and sickness insurance product can be sold to address disability and critical illness components offered by credit protection insurance. This can only be on top of the baseline death coverage.

In summary, if an insurer has a licence to sell the life insurance class of insurance, they can opt to offer death and job loss related group insurance. If an insurer is licensed for accident and sickness insurance class of insurance, they can additionally opt to offer disability and critical illness related group insurance. **An insurer who is licensed for life as well as accident and sickness should be able to sell an equivalent product to credit protection insurance.**

We have also received inquiries about intermediaries who are seeking to distribute or enroll individuals into group insurance products. As a reminder of provisions in the *Insurance Act*, individuals can distribute the products under one of two possible authorities:

- 1) The individual becomes licensed as a life, accident and sickness insurance agent, or
- 2) The individual acts as a “collector of insurance premiums” and is therefore exempt from licensure under s.233(14) of the *Insurance Act*. Further restrictions to qualify for exemption include that the individual cannot solicit insurance and the individual cannot receive more than 5% of the insurance premiums collected.

Further questions can be sent to Professional Licencing and Regulatory Affairs at (867) 667-5111 or at insurance.plra@gov.yk.ca.



Nancy Meagher
Superintendent of Insurance, Yukon

Agenda Item 4(b)
August 13/19 EOC Teleconference Meeting

From: Brendan Wycks
Sent: July-31-19 11:23 AM
Subject: CAFII Alert: AMF Fines AIG \$180,000 For Non-Compliance Related To Creditor's Disability Insurance Embedded As A Benefit In Amex Bank of Canada Business Credit Cards

CAFII Board, EOC, and Other Committee Members:

The link below is to a recent posting (July 26/19) on the AMF web site (French site only) which highlights an agreement and settlement on a “creditor’s disability insurance embedded as a business credit card benefit” matter between AIG Insurance Company of Canada and the AMF, in which an administrative monetary penalty of \$180,000 has been imposed upon AIG related to its underwriting of disability coverage on business credit cards issued by Amex Bank of Canada.

<https://lautorite.qc.ca/grand-public/salle-de-presse/actualite/fiche-dactualite/une-entente-intervient-entre-lautorite-et-la-compagnie-dassurance-aig-du-canada/>

The French content on this matter from the AMF’s site is set out below, along with an English translation of this “Decision and Order for Blocking and Prohibition.”

Brendan Wycks, BA, MBA, CAE

Co-Executive Director

Canadian Association of Financial Institutions in Insurance

Montreal, July 26/19 - A settlement has been reached between the Autorité des marchés financiers and the AIG Insurance Company of Canada (AIG), under which an administrative monetary penalty of \$ 180,000 has been paid for a failure related to the distribution of a group disability insurance product for business credit card holders issued by AMEX Bank of Canada (AMEX).

AIG acknowledged that the distribution of this product did not comply with certain provisions of the Act Respecting the Distribution of Financial Products and Services (ARDFPS), in particular since it was offered automatically as a benefit associated with certain credit cards issued by AMEX. It was not possible for cardholders to decline the insurance, other than by refusing the card, and no certified representative was involved in the process to assist the credit card applicants in enrolling in the insurance coverage. This way of distributing an insurance product contravenes the sound business practices that an authorized insurer must follow.

This product has been offered in Quebec for over 24 years. The information available for the years 2012 to 2018 inclusively shows that 22,652 people were covered by this insurance in Quebec and that total premiums of approximately \$ 133,000 were collected during those years. Other than the annual fees associated with the credit card, which range from \$ 99 to \$ 499, no additional fees were charged to the insureds as premiums as they were paid by AMEX.

The settlement has no impact on the validity or the terms and conditions of the certificates of insurance already issued; and they will remain valid despite the termination of distribution of this insurance product, by 1 January 2020 at the latest.

AIG co-operated fully with the Authority in this matter and took the necessary measures to prevent a similar situation from re-occurring.

The Autorité des marchés financiers is the regulatory and supervisory body for Québec's financial sector.

Montréal, 26 juillet 2019 – Une entente est intervenue entre l'Autorité des marchés financiers et La Compagnie d'assurance AIG du Canada (AIG) en vertu de laquelle une pénalité administrative de 180 000 \$ a été payée pour un manquement lié à la distribution d'un produit d'assurance invalidité collective destiné aux détenteurs de cartes de crédit pour entreprises émises par la Banque AMEX du Canada (AMEX).

AIG a reconnu que la distribution de ce produit n'était pas conforme à certaines dispositions de la *Loi sur la distribution de produits et services financiers*, notamment puisque celui-ci était offert de manière automatique à titre d'avantage associé à certaines cartes de crédit AMEX. En effet, il n'était pas possible pour les détenteurs de cartes de refuser l'assurance autrement qu'en refusant la carte et aucun représentant certifié n'intervenait dans le processus pour les faire adhérer. Cette manière de distribuer un produit d'assurance contrevient aux saines pratiques commerciales que doit suivre un assureur autorisé.

Ce produit a été offert au Québec durant plus de 24 ans. L'information disponible pour les années 2012 à 2018 inclusivement permet de constater que 22 652 personnes ont été couvertes par cette assurance au Québec et que des primes totales d'approximativement 133 000 \$ ont été perçues durant ces années. Outre les frais annuels associés à la carte de crédit, lesquels varient entre 99 \$ et 499 \$, aucuns frais supplémentaires n'étaient exigés de l'assuré à titre de prime, celle-ci étant assumée par AMEX.

L'entente n'a pas d'impact sur la validité, les termes et les conditions des certificats d'assurance déjà émis et ceux-ci demeureront en vigueur malgré la fin de la distribution du produit d'assurance, et ce, au plus tard jusqu'au 1^{er} janvier 2020.

AIG a offert son entière collaboration à l'Autorité dans ce dossier et a pris les mesures nécessaires pour éviter qu'une situation similaire ne se reproduise.

L'Autorité des marchés financiers est l'organisme de réglementation et d'encadrement du secteur financier du Québec.

Agenda Item 4(c)
August 13/19 EOC Teleconference Meeting

From: Keith Martin <Keith.Martin@cafii.com>

Sent: August-07-19 1:59 PM

Subject: Update on CAFII Taking Over CBA Quarterly Benchmarking Study

CAFII Board Members and Surrogates (copy to EOC and Committee Members):

There have been consultations on the possibility of CAFII taking over a quarterly CBA report on credit protection insurance benchmarking, which the CBA is discontinuing.

The latest round of consultations was on whether CAFII should issue an RFP to two actuarial firms, one of which would actually conduct the research and publish the results for CAFII members, for a fee.

There were a variety of views expressed around this initiative, with some concern that the research in question was of limited value. Even if enhanced, there was a concern that the research would be of marginal relevance, and that some of the data to be collected was of a sensitive nature, such that its collection created risks. As a result, not all CAFII members were willing to participate in the project. As well, the view was expressed that if not all CAFII distributors (banks and credit unions) were willing to participate in the research, then it was not worthwhile to pursue this initiative.

These results were shared with CAFII Board Chair Nicole Benson, and it was agreed that at this time, **we should not proceed with the RFP on the CBA quarterly benchmarking report.** This item will be put on the 1 October, 2019 Board meeting agenda, for discussion and potentially to close this file.

Any questions or concerns, please let me or Brendan know.

Thank you,

Keith Martin

Co-Executive Director / Co-Directeur général

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Agenda Item 4(d)(i)
August 13/19 EOC Teleconference Meeting

From: Keith Martin <Keith.Martin@cafii.com>

Sent: August-09-19 1:11 PM

Subject: Call for Volunteers to Join EOC/CAFII Credit Card Balance Protection Insurance (CCBPI) Working Group on "Gap Analysis"

Dear EOC Member:

At the 4 June 2019 Board meeting, the Board's *in camera* session discussion on the Credit Card Balance Protection Insurance (CCBPI) Special Project concluded with a request that a Working Group of the EOC/CAFII membership develop a "gap analysis" along with ways to close any gaps that are identified. That gap analysis is to assess regulatory expectations (as expressed in the FCAC's 2018 review of Domestic Banks' Sales Practices, the AMF's Sound Commercial Practices Guideline, and CCIR/CISRO's Guidance: Conduct of Insurance Business and Fair Treatment of Customers) against both *CLHIA Guideline G7: Creditor's Group Insurance* and current industry practices -- to determine if there are gaps/areas to address or areas where the industry's standards and practices with respect to CCBPI can be improved.

We are now issuing a Call For Volunteers to join the Working Group, which is about to be formed.

If you, or a colleague, is interested in joining the CCBPI Working Group on Gap Analysis, please let Brendan and me know asap.

Meetings of the Working Group will begin next **Thursday, 15 August, 2019 from 1-2pm via teleconference**, and continue **every Thursday thereafter from 1-2pm until the work is complete**. One in-person meeting of the Working Group will be held on Thursday, 5 September, 2019.

This matter will also be on the agenda for next Tuesday's EOC meeting.

Keith Martin

Co-Executive Director / Co-Directeur général

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Financial Consumer
Agency of Canada

Agence de la consommation
en matière financière du Canada

Financial Consumer Agency of Canada

Domestic Bank Retail Sales Practices Review

March 20, 2018

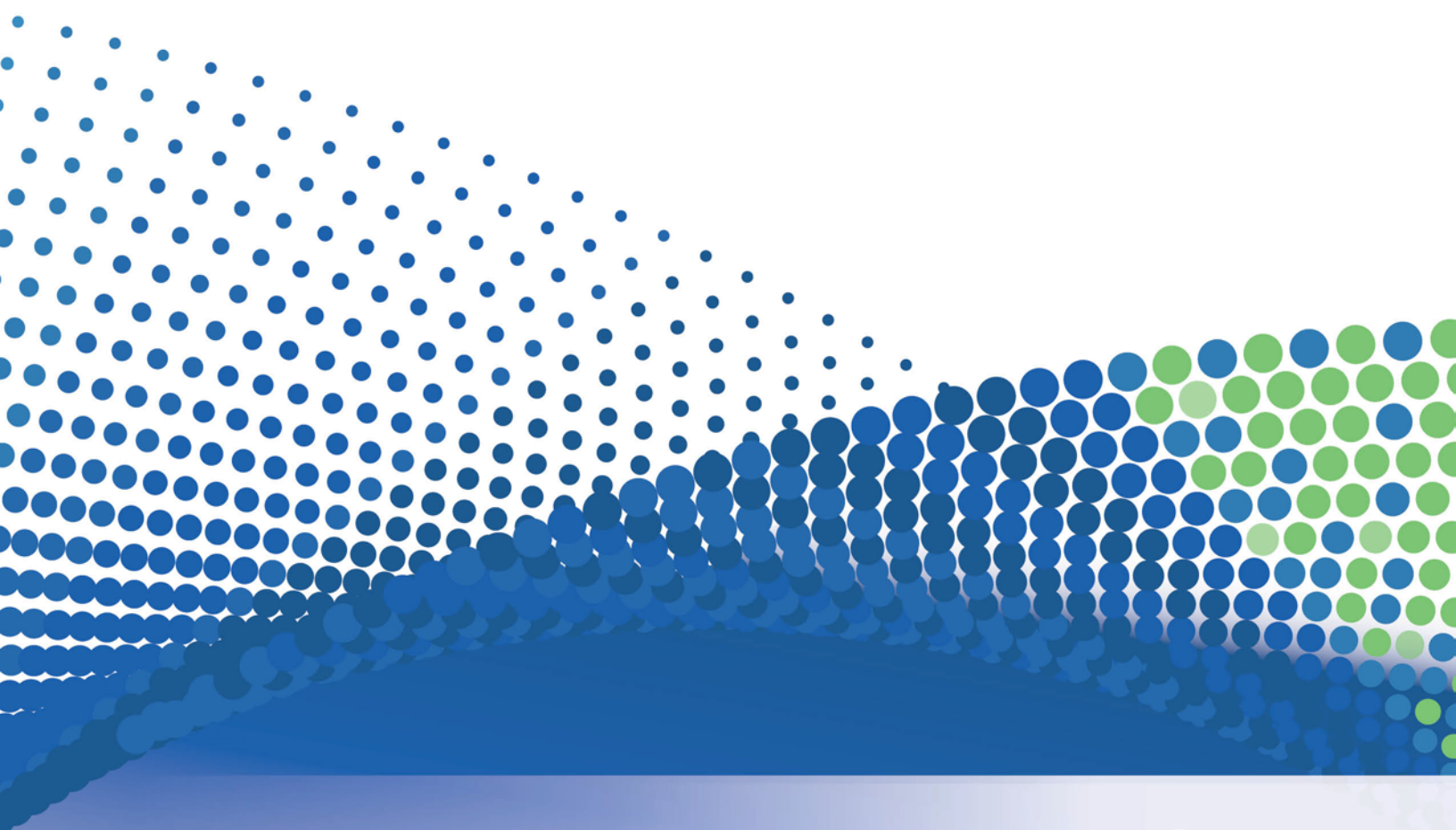


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Domestic Bank Retail Sales Practices Review

Executive summary

This report presents the findings and conclusions of the Financial Consumer Agency of Canada's (FCAC's) review of the domestic retail sales practices of Canada's six largest banks (Bank of Montreal, Bank of Nova Scotia, Canadian Imperial Bank of Commerce, National Bank of Canada, Royal Bank of Canada and Toronto–Dominion Bank), which are subject to federal consumer protection legislation overseen by FCAC.

This review focused on retail banking sales practices to identify and evaluate risks to consumers. FCAC examined the drivers of sales practices risk, assessed the effectiveness of the controls put in place by banks to mitigate these risks and recommended ways to more effectively reduce them.

Risks associated with sales practices include the potential for breaching market conduct obligations and mis-selling. Market conduct risk refers to the potential for breaching the legislative obligations, voluntary codes of conduct and public commitments that are overseen by FCAC.

FCAC defines "mis-selling" as the sale of financial products or services that are unsuitable for the consumer; sales that are made without taking reasonable account of the consumer's financial goals, needs and circumstances; and sales where consumers are provided with incomplete, unclear or misleading information. This definition of mis-selling is informed by research conducted by the U.K. Financial Conduct Authority, the Central Bank of Ireland, the G20/OECD Task Force on Financial Consumer Protection and the World Bank.

FCAC's review found that retail banking culture encourages employees to sell products and services, and rewards them for sales success. This sharp focus on sales can increase the risk of mis-selling and breaching market conduct obligations. The controls banks have put in place to monitor, identify and mitigate these risks are insufficient.

FCAC did not find widespread mis-selling during its review. Consumers carry out millions of successful transactions every day without incident and banks and their employees generally strive to comply with market conduct obligations.

Banks are in the process of enhancing their oversight and management of sales practices risk. The findings in this report reflect the status of the risks and controls at the time of the review.

This report does not address alleged breaches of market conduct obligations. These allegations are being investigated on a separate track and FCAC will take enforcement action where appropriate as outlined in its Compliance Framework.

This report was provided to the Minister of Finance to inform policy development in the context of FCAC's mandate to monitor and evaluate trends and emerging issues that may have an impact on consumers of financial products and services.

Key findings

FCAC's review resulted in five key findings:

1. **Retail banking culture is predominantly focused on selling products and services, increasing the risk that consumers' interests are not always given the appropriate priority.**

The focus on sales has been facilitated by technological innovation, which has made banking more convenient for consumers and enabled banks to transform branches into "stores" dedicated to providing advice and selling products. This shift increases the risk banks will place sales ahead of their customers' interests.

2. **Performance management programs—including financial and non-financial incentives, sales targets and scorecards—may increase the risk of mis-selling and breaching market conduct obligations.**

Bank performance management programs play a significant role in shaping the way bank employees behave toward consumers. Employees believe strong sales results provide more opportunity to earn incentives and rewards.

3. **Certain products, business practices and distribution channels present higher sales practices risk.**

The system of incentives and rewards is more developed than the controls to mitigate sales practices risk for mobile mortgage specialists, cross-selling, creditor insurance products and third-party sellers.

4. **Governance frameworks do not manage sales practices risk effectively.**

Banks generally have robust corporate governance practices. However, measures to reduce the risks associated with mis-selling and breaching of market conduct obligations should be improved.

5. **Controls to mitigate the risks associated with sales practices are underdeveloped.**

Controls to mitigate sales practices risk have not kept pace with the changing retail banking model. There are opportunities for areas such as compliance, risk management, audit and human resources to improve the oversight of sales practices.

Conclusions

During the course of the review, FCAC identified several measures that would strengthen financial consumer protection:

Enhancements to banks' management of sales practices risk

To improve the management of sales practices risk, FCAC recommends that banks:

- prioritize financial consumer protection, fairness and product suitability
- establish a formal sales practices governance framework that clearly defines roles and responsibilities to ensure all elements of sales practices risk are effectively managed, including the effective monitoring and reporting of mis-selling and market conduct obligations
- improve their oversight, management and reporting of consumer complaints

- ensure financial and non-financial incentives motivate employees to work in the interest of consumers
- ensure internal controls adequately address sales practices risk, particularly for the practices, products and channels that pose a greater risk of mis-selling and of breaching market conduct obligations
- ensure human resources and second and third lines of defence—including compliance, risk management and audit—are adequately resourced to improve the oversight of sales practices risk

Enhancements to FCAC

FCAC will implement a modernized supervision framework that will allow it to proactively ensure banks have implemented the appropriate frameworks, policies, procedures and processes to effectively mitigate the risk of mis-selling and breaching market conduct obligations. It is also increasing its resources to buttress its supervisory and enforcement functions.

FCAC will enhance its consumer education materials to raise consumer awareness about financial products and services as well as to inform consumers of their rights and responsibilities and the importance of asking the right questions. These efforts will help consumers make informed financial decisions and potentially avoid some of the risks discussed in this report.

Background

Banks are businesses subject to federal consumer protection legislation overseen by the Financial Consumer Agency of Canada (FCAC). Following the 2007–08 global financial crisis, international regulators and rule-making authorities developed guidance focused on bank culture. Sound risk cultures, reinforced by a robust “tone from the top,” are now widely considered to be critical controls in mitigating sales practices risk.

Despite the increased focus on achieving the right culture, internationally, some banks have insufficient governance frameworks and controls in place to monitor, identify and mitigate sales practices risk. An important example came in September 2016 when the U.S. Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, and the Los Angeles City Attorney fined Wells Fargo \$185 million for engaging in improper sales practices. In an effort to reach sales targets, bank employees opened more than three million fraudulent credit card and bank accounts. In the five years before the fine, Wells Fargo terminated over 5,000 employees for violating the bank’s code of conduct.

In November 2016, Canadian media reported allegations that a bank was signing up new customers without obtaining their express consent. Following its investigation, FCAC issued a notice to all banks reminding them that the express consent of consumers is to be obtained for all sales of new products and services in a manner that is clear, simple and not misleading. Banks were also reminded of their obligations to provide consumers with the required disclosure. FCAC issued a [consumer alert](#) informing consumers that banks were required to obtain their express consent before issuing new credit cards.

On February 3, 2017, FCAC sent a letter to the industry to reinforce and clarify its expectations regarding express consent. Subsequently, in March 2017, FCAC published compliance bulletin [B-5 Consent for new products or services](#) to reiterate its expectations.¹

In late-February and March 2017, media reports alleged that Canadian banks were using high-pressure tactics and questionable practices to sell a broad range of products and services, citing information received from current and former bank employees. Subsequently, FCAC announced it would conduct an industry review of the business practices related to the sale of products and services by federally regulated financial institutions. FCAC conducted its review from May 2017 through to the end of November 2017, concurrently but separately from a review undertaken by the Office of the Superintendent of Financial Institutions.

Review approach

Objective

FCAC examined the drivers of sales practices risk, including banks' sales targets and incentive programs. It also evaluated the governance frameworks and controls put in place by banks to mitigate this risk.

The review focused on two categories of sales practices risk: the potential for breaches of market conduct obligations and mis-selling. FCAC defines mis-selling as sales of financial products or services that are unsuitable for the consumer; sales that are made without taking reasonable account of the consumer's financial goals, needs and circumstances; and sales where consumers are provided with incomplete, unclear or misleading information.

Methodology and scope

The review examined retail banking distribution channels where there is interaction between consumers and bank employees or third-party contractors, whether in person or over the phone. These included the branch channel, the call centre channel, specialist channels² and the third-party sellers' channel.

FCAC reviewed more than 4,500 complaints to gain a better understanding of the issues consumers experience when acquiring bank products and services.³ Over 100,000 pages of bank documents were examined, including those related to training, performance and sales management, compliance, risk management and internal audit. These documents helped identify the drivers of sales practices risk and assess the controls and governance frameworks established to mitigate such risks.

Between May and November 2017, FCAC interviewed more than 400 employees of the six largest banks, including board chairs and directors, senior management, middle management and front-line customer service representatives. In addition, it interviewed over 200 employees in 30 branches. The interviews

¹ FCAC compliance bulletins are intended to guide banks' actions by describing how the Agency views the requirements of legislation, regulations and codes of conduct or public commitments.

² Specialist channels include mobile mortgage specialists and investment specialists. Employees in specialist channels usually concentrate on one type of product, such as mortgages or investments, but may also sell other complementary products such as creditor insurance or guaranteed investment certificates.

³ The complaints included those reported to FCAC by 16 banks and direct consumer complaints to FCAC. The complaints reviewed date from April 2015 to May 2017.

helped FCAC validate and challenge information obtained during the document review. The interviews also helped inform the assessment of bank sales culture and how it shapes banks' sales practices.

Findings

The review focused on retail banking sales practices to identify and evaluate risks to consumers. FCAC examined the drivers of sales practices risk, assessed the effectiveness of the controls put in place by banks to mitigate these risks and recommended ways to more effectively reduce them. FCAC did not find widespread mis-selling during its review.

Banks are in the process of improving their management of sales practices risk. The findings in this report reflect the status of the risks and controls at the time of the review.

FCAC's review resulted in five key findings:

1. Retail banking culture is predominantly focused on selling products and services, increasing the risk that consumers' interests are not always given the appropriate priority.
2. Performance management programs—including financial and non-financial incentives, sales targets and scorecards—may increase the risk of mis-selling and breaching market conduct obligations.
3. Certain products, business practices and distribution channels present higher sales practices risk.
4. Governance frameworks do not manage sales practices risk effectively.
5. Controls to mitigate the risks associated with sales practices are underdeveloped.

1. Sales culture

Retail banking culture is predominantly focused on selling products and services, increasing the risk that consumers' interests are not always given the appropriate priority.

Culture can be defined as the collection of values and beliefs that reflects the underlying mindset of an organization. FCAC found that retail banking culture is focused on selling products and services. While retail banking places value on customer service and community engagement, their retail culture is increasingly sales oriented for reasons explored in this review. Consequently, this may give rise to banks placing their sales interests and targets ahead of their customers' interests.

Technological advances over the last 20 years have led to important changes in the behaviours of financial consumers and the sales practices of banks. Consumers now largely prefer to transact online and use mobile applications and automated teller machines (ATMs). Yet despite the increased prevalence of digital sales, the main conduits for driving sales growth and increasing market share continue to be the branch channels, call centres and specialist channels. Today, consumers primarily interact with bank employees when they acquire new products, seek advice, make inquiries, file complaints and conduct more complex financial transactions. Technology has also made it possible for

banks to target product and service offerings to individual customers based on the data they compile about them.

As a result, branch and call centre channels have shifted their focus from processing transactions to selling products and services, providing financial advice and sales-related customer service. Today, most branch employees are either directly involved in selling financial products and services to consumers or have a responsibility to identify sales opportunities and refer consumers to branch employees who are dedicated to sales. Increasingly, call centre employees are required to sell banking products and services in addition to their role of providing customer service.

In recent years, banks have developed specialist channels that play an increasingly important role in the sale of financial services and products to consumers. Employees in specialist channels typically concentrate on one product, such as mortgages or investments, and operate outside the branch environment. Banks also engage the services of third parties to market and sell specific products, such as credit cards. Third-party arrangements are popular as they allow banks to reach consumers in places where they would not typically bank, such as airport kiosks and sporting events.

The shift away from in-person transaction/service models has changed the culture of retail banking. FCAC found that banks expect front-line, customer-facing roles in branches, call centres and specialist channels to sell products and services to consumers. Some employees informed FCAC that they attribute significant importance to “winning,” defined as closing a big sale or replacing the business of a competitor.

Employees who do not meet their sales targets receive coaching, additional training and other forms of support. In general, banks do not terminate employees who fail to reach sales targets. However, front-line employees who stay on and move up tend to be those who thrive in a workplace culture focused on sales.

Furthermore, the lack of transparency about sales targets and commissions makes it difficult for consumers to determine in whose interest bank employees are acting when one product is recommended over another.

More recently, banks’ focus has started to shift from sales results to customer satisfaction and loyalty measures. For example, some banks have complemented sales-volume targets with activity-based targets that reward employees for performing activities that promote long-term relationships with consumers, such as offering financial plans. They have also expanded their use of customer satisfaction surveys to motivate employees to provide good service. These new measures are welcome and may motivate employees to gain a greater understanding of consumer needs and financial goals.

Nonetheless, the movement toward more customer-centric sales practices continues to be intended primarily to help employees identify sales opportunities and to promote long-term relationships with consumers that may lead to additional sales down the road. It is too early to assess whether the increased focus on customer satisfaction and loyalty will sufficiently mitigate the risk of mis-selling and breaching market conduct obligations.

In summary, sales-driven cultures have the potential to increase the risk of mis-selling. The importance employees place on reaching sales targets and qualifying for incentives may lead them to prioritize sales

over consumers' interests, which, in turn, may jeopardize banks' adherence to their market conduct obligations.

2. Performance management

Performance management programs—including financial and non-financial incentives, sales targets and scorecards—may increase the risk of mis-selling and breaching market conduct obligations.

Bank performance management programs—which include financial and non-financial incentives, sales targets and scorecards—play a significant role in influencing employee behaviour and shaping corporate culture. The review found that employees' behaviour toward consumers was influenced more by financial and non-financial incentives than by the communications they receive from senior management ("tone from the top") advocating putting the customer first, selling the right way and acting in the interests of their customer.

Financial incentives

Most bank employees are remunerated through a combination of fixed base salary and variable incentive pay. For the majority of front-line employees, the base salary comprises the bulk of their compensation, with variable pay representing only a small percentage. Variable pay is based on individual performance, team performance and bank results.

In interviews, banks stressed their view that front-line employees have little to gain from mis-selling in order to achieve sales results, as the variable compensation and annual bonuses at stake are relatively small. However, FCAC found that most front-line employees nonetheless consider their variable compensation important.

Managers, on the other hand, earn significantly higher base salaries, and the variable portion of a manager's compensation tends to make up a larger proportion of their overall compensation package. Additionally, the compensation of certain groups of front-line employees, such as mobile mortgage specialists, consists of 100 percent variable pay with no base salary. As will be explained in more detail later in this report, compensation programs with variable pay as a significant component can lead to mis-selling because employees may look to increase sales to maximize their commissions or rewards.

Non-financial incentives

Non-financial incentives are used to motivate employees to reach promotional campaign objectives and annual sales targets. Banks use a variety of non-financial incentives, such as small-value gift cards, peer recognition forums, all-expenses-paid trips and holidays, career development opportunities and promotions. The review found that employees are motivated to achieve strong sales results in part because they believe doing so provides more opportunity for non-financial incentives.

Regional vice-presidents, branch managers and front-line employees informed FCAC that strong sales results are a key consideration for promotion. Branch managers further advised that, since achieving

sales results is fundamental to the performance objectives for more senior positions, they were unlikely to consider promoting staff who did not achieve satisfactory sales results. In their view, strong sales results tend to be an indicator of an employee's potential to fill more senior roles. Bank employees consider promotions key to earning significantly more annual and variable compensation.

Non-financial reward programs generally are subject to limited oversight in comparison with variable compensation programs. When properly designed, non-financial incentives can promote good sales practices and behaviours. The review identified opportunities for banks to significantly enhance the design, monitoring and oversight of non-financial rewards programs.

Sales targets

Banks employ different types of sales targets to motivate employees to sell. Ambitious and product-specific targets can increase the risk of mis-selling significantly. For example, offering employees financial compensation to sell a large number of travel rewards credit cards within a specific time period may lead employees to sell products without making a reasonable effort to determine whether the products are consistent with the consumer's financial needs, goals or circumstances.

Banks track the proportion of employees who fall short, reach or exceed sales targets and use the data to calibrate the targets for the next calendar year. FCAC found that most banks strive to calibrate the sales targets so that approximately two-thirds of front-line employees will reach them. On occasion, some banks have adjusted targets mid-year, usually to take into account external factors such as regional economic events or natural disasters.

As part of the shift toward more customer-centric strategies, a number of banks have introduced, or are testing, activity-based targets to complement sales targets. This can mitigate the risk of mis-selling, as employees are recognized for sales-related activities even in circumstances where consumers choose not to purchase any products or services. In these cases, however, employees are still required to complete a certain number of sales-related tasks, such as reaching targets for telephone calls and meetings with customers.

Some banks have taken steps to integrate more team-based sales targets, which may mitigate the risk of mis-selling by reducing the pressure on individual employees to sell products and services. On the other hand, team-based targets can put additional pressure on top performers to contribute more to help the branch reach its goals. Team-based sales targets can also put pressure on more customer-service oriented roles to contribute to the branch's overall sales goals.

Currently, banks tend to assign greater value to more profitable and complex financial products and services, which may lead to mis-selling and poor consumer outcomes. For example, if the sale of premium travel rewards credit cards garners more weight toward the achievement of sales targets than low-fee and low-interest credit cards do, employees would likely be more motivated to sell the premium cards, perhaps even at the expense of consumers' interests. Product-neutral sales targets could greatly mitigate the risk of mis-selling financial products and services to consumers.

Scorecards

Banks use scorecards to manage performance and inform the calculation of variable compensation. Scorecards comprise variables used to evaluate employee performance based on the roles and

responsibilities associated with each position. Variables are weighted, with strategic priorities assigned the highest values.

In recent years, banks have placed greater emphasis on customer satisfaction when assessing employee performance. This shift toward customer satisfaction in retail banking has encouraged the development of new metrics for front-line employees. For example, front-line employee scorecards may include metrics such as:

- 40 percent for customer satisfaction
- 40 percent for sales targets
- 10 percent for compliance
- 10 percent for referring customers to advisors

Banks point to balanced scorecards as a key control to mitigate the risk of mis-selling and breaching market conduct obligations. In practice, however, the metrics used to assess an employee's sales results tend to be significantly more robust than those used to assess other areas of performance.

FCAC found that many employees felt they had greater control over their sales results than over customer satisfaction results, even when both results carried an equal weighting on their scorecards. For instance, customer satisfaction is measured by a net promoter score (NPS) survey, which asks customers whether they would recommend the bank to others based on their recent in-branch or call centre experience. Consumers are randomly selected for surveys, but only a small number complete the survey on a quarterly or annual basis for any given employee. Moreover, consumers may use surveys to express their dissatisfaction with bank practices that are beyond the control of front-line employees.

3. Higher risk sales channels, practices and products

Certain banking products, business practices and distribution channels present higher sales practices risk.

FCAC identified a higher risk of mis-selling and breaching market conduct obligations in areas involving mobile mortgage specialists, cross-selling, creditor insurance products and third-party sellers. The risks associated with these products, business practices and distribution channels are driven by sales-focused cultures and the performance management programs outlined earlier in this report. In general, the controls in place do not adequately mitigate the elevated risks associated with sales practices.

A) Mobile mortgage specialists

Mobile mortgage specialists (MMS or specialists) sell mortgages independently from the branch channel, going out in the community to meet clients and business contacts. This mobility, coupled with 100-percent variable pay, presents a higher risk to consumers, particularly given that controls are underdeveloped and levels of bank supervision are less intense. The proportion of mortgages sold through the MMS channel varies significantly across the six large banks. In some instances, banks sell upwards of 90 percent of their mortgages through this channel.

Variable pay compensation model

Each of the six large banks uses a 100-percent variable pay model to compensate their MMS. This means MMS are paid straight commission and do not earn a base salary. Commissions are calculated mainly by multiplying the dollar value of all mortgages sold—known as mortgage volume—by a commission rate expressed in basis points. For example, 85 basis points of compensation for a mortgage of \$500,000 would result in a commission of \$4,250.

In addition to mortgage volume, compensation rates for MMS may be influenced by several factors, including:

- mortgage types
- term lengths
- interest rates
- cross-selling of other products as part of the mortgage sale

Most banks also set individual volume and cross-selling targets for their MMS and pay higher commission rates for sales that exceed targets. For example, banks may raise the commission rate by 10 basis points when MMS reach 105 percent of their quarterly volume target of \$10 million.

Consumer risks associated with the MMS compensation model

Variable pay compensation models may discourage MMS from making reasonable efforts to assess and take into account a consumer's needs and financial goals. The main risk to consumers in this compensation model is mis-selling. For example, the compensation model may encourage specialists to recommend mortgage products that earn higher commissions even if they are not the best option for the consumer. When commission rates vary with term lengths, interest rates and mortgage type, MMS may be motivated to sell mortgages that yield higher commissions without adequate regard for the consumer's needs.

The opportunity to earn higher commissions for reaching mortgage volume targets may also lead specialists to recommend larger mortgages to consumers. Furthermore, MMS may encourage consumers to acquire a mortgage sooner than they were intending, rather than encouraging them to save for a larger down payment.

Specialists can also earn higher commissions by meeting cross-selling targets. In most cases, banks expect MMS to sell creditor insurance products such as life, critical illness or disability insurance to as many as one in three mortgage borrowers. The risks associated with cross-selling and creditor insurance are discussed later in the report.

Controls and oversight of MMS sales practices

Banks generally impose fewer controls and exercise less-intensive oversight on the sales practices of MMS compared with other bank sales roles. The result can be an increase in sales practices risk. For example, branches and call centres use balanced scorecards to assess employee performance not only on sales results, but also on other criteria such as customer satisfaction survey results. However, balanced scorecards are not widely used to determine the variable pay of MMS and, when they are, the scorecards are much less balanced and more heavily weighted toward sales.

Most banks use, albeit to a limited extent, compensation penalties to retroactively claw back commissions earned by MMS if certain events occur. For example, commissions are clawed back if the

mortgage paperwork is incomplete or if the number of defaulting mortgages is too high. Presently, claw backs are primarily used as a control to mitigate credit risk. However, FCAC found limited evidence of claw backs being used to mitigate the sales practices risk associated with MMS during the review.

Direct oversight of MMS sales practices is underdeveloped. As mentioned, given the mobile nature of this role, MMS often operate outside the branch channel. They are expected to spend their time in the community developing business relationships with real estate agents, developers and others from whom they can earn mortgage referrals. This limits opportunities for direct supervision, observation of sales practices and coaching by managers.

In addition, the managers responsible for overseeing MMS often have a vested interest in promoting mortgage sales volume growth. A significant portion of a manager's compensation may be directly tied to the volume of mortgages sold by the specialists they supervise. The scorecards of MMS managers are heavily weighted toward sales.

The competitive market for the services of high-performing MMS can make it more difficult for banks to enforce codes of conduct and take disciplinary action. During the review, FCAC learned there have been cases of MMS leaving their employer before the bank could complete its investigation or take disciplinary action.

B) Cross-selling

Cross-selling is the sale of additional products and services to existing customers by leveraging the relationship. Banks use this sales method to sell more products and increase their market share. Typically, consumers who are using one or two products are targeted and are provided a range of offers. Cross-selling performance is tracked with statistical metrics such as "share of wallet," which allow banks to see how successful they are at turning one-product consumers into multi-product consumers.

There are benefits associated with this practice. Consumers can be made aware of useful products and services. However, cross-selling may also result in the sale of unwanted or unsuitable products or services, particularly when bank employees are responding to sales targets and not making a reasonable effort to assess consumer needs.

Leads-based cross-selling

A common form of cross-selling is a leads- or prompts-based model. When a consumer visits a branch or contacts a call centre, the bank employee's computer screen may highlight as many as 10 leads for that customer. These leads tend to be generated by algorithms, prompting the employee to offer a range of products and services that the consumer does not currently have with the bank, such as:

- travel rewards credit cards
- unsecured personal lines of credit
- credit limit increases
- additional services tied to products currently used, such as overdraft protection or creditor insurance
- other means of accessing their existing services, such as online and mobile banking applications

Consumer risks associated with cross-selling

Banks' heightened focus on cross-selling may increase the risk that they will fail to obtain consumers' express consent. For example, presenting consumers with a large number of different product offers

while managing service times increases the risk that bank employees will feel rushed and not communicate in a manner that is clear, simple and not misleading when obtaining a consumer's consent. In other words, cross-selling increases the risk that employees will not take the time to explain important terms, fees and conditions related to the products they are offering. As a result, consumers may not be adequately informed about the products or services they are purchasing.

Cross-selling may also increase the risk of mis-selling, as the sales model may encourage bank employees to offer consumers products without taking into account consumers' financial goals, needs and circumstances. Customer service representatives and sales staff are generally required to offer products they see in the computer-generated leads while also managing their service times. For example, a consumer may visit a branch to cash a cheque and be presented with offers for travel rewards credit cards and credit card balance protection insurance. Because bank employees often have to reach targets for computer-generated leads, cross-selling strategies can discourage employees from identifying consumers' needs and goals and recommending suitable products.

Controls for cross-selling risk

Presently, banks mitigate the risk of mis-selling associated with cross-selling through:

- scripts and conversational cues used by employees to guide offers to consumers
- supervision by branch managers
- quality assurance reviews in the phone channel
- cultural values reflected in bank codes of conduct
- the "tone from the top" set in communications from senior management

Controls to prevent failure to obtain express consent

FCAC found that banks generally have controls in place to ensure that a consumer's consent is obtained when new products and services are sold. However, FCAC also found that controls were not adequate to ensure that the written or verbal communication used to obtain consumer consent is clear, simple and not misleading.

It is important to note that most banks sell a number of products and services (e.g., credit limit increases on personal lines of credit, deposit account plan changes) by obtaining the verbal consent of consumers. Reliance on verbal consent can increase the risk that consumers are sold products for which they did not provide their express consent.

The controls in place to ensure banks obtain consumers' consent through communication that is clear, simple and not misleading are typically weaker in the branch channel when compared to call centre operations. For both channels, employees are provided with conversation cues and scripts, which are intended to ensure that the most important terms, fees and conditions are disclosed to consumers before obtaining their consent. In branches, managers and customer service supervisors are responsible for ensuring that employees read the scripts and cues. However, FCAC found that branch managers and supervisors are not well positioned to ensure that express consent is always obtained in the prescribed manner. For a more detailed explanation, see the "Controls" section.

Banks record most conversations between consumers and call centre employees, which allows them to review transactions to verify whether employees are following the scripts and properly obtaining the consent of consumers. However, the review revealed that banks examine only a relatively small number

of calls—too few, in fact, to provide a high level of confidence that individual call centre employees are in compliance with policies and procedures related to obtaining consent.

In most cases, call centre employees who take 60 to 80 calls per day have only a small number of calls per month reviewed for quality assurance purposes, such as adherence to scripts and compliance with market conduct obligations. Moreover, in general, the calls reviewed are randomly selected and not chosen based on risk factors. For example, banks do not review a higher percentage of calls where credit card balance protection insurance was sold to consumers, even if these calls may represent a greater risk in terms of sales practices.

Performance management

Compensation, employee scorecards and other forms of performance management tend not to effectively mitigate the risks associated with cross-selling. In some cases, banks assess employees against ambitious, product-specific and individualized cross-selling targets. This can increase the risk of mis-selling and breaching market conduct obligations.

As discussed earlier, introducing activity-based targets, team-based sales targets and product-neutral financial compensation could help mitigate the risks associated with mis-selling. A number of banks have introduced activity-based targets, compensating employees who offer products or have conversations with consumers even when no sales result. FCAC found that the majority of banks do not have team-based sales targets and there has been only limited implementation of product-neutral compensation.

Data analytics

Most banks are working to implement new technologies to improve controls related to cross-selling and reduce the risk of mis-selling. For example, data analytics can be used to detect unusually high rates of unused credit cards or product cancellations, which may indicate a pattern of mis-selling.

Data analytics could be used to discourage mis-selling by enabling banks to claw back employee compensation in situations where products are sold to consumers who do not use them. This technology could generate reports to support the oversight of employee sales practices by supervisors and branch managers. While banks indicated they planned to increase their investment in data analytics, the technology is still underdeveloped as a control for risks related to sales practices, especially when compared with the maturity of the technology supporting marketing strategies.

C) Creditor insurance

The purpose of creditor insurance is to pay off outstanding credit balances or to make set monthly payments against debts if certain triggering events occur, such as job loss, serious illness or death. In the large majority of cases, consumers can acquire creditor insurance products only from the bank that sold them the credit product. Consumers who wish to purchase credit card balance protection insurance can do so only through the bank that originally issued the credit card.

Similar to most insurance policies, creditor insurance coverage is subject to exclusions, such as employment status and health conditions. At the time of purchase, the underwriting is performed by assessing answers to a handful of broadly worded yes-or-no questions. Depending on how consumers answer these questions, creditor insurance may be granted in a matter of minutes.

Credit insurance products usually offer a 30-day first-look period during which consumers are fully refunded any premiums paid if they choose to cancel the coverage. This feature is described in a variety of ways, such as a “trial period” or “free look.” However, it is important to highlight that banks are not required to ask consumers to reconfirm their consent for acquisition of the product after the initial 30-day period.

Consumer risks associated with creditor insurance

There is a risk that consumers and front-line staff may not adequately understand creditor insurance, the exclusions to the coverage or the claims adjudication process. Bank employees may not provide certain details because of an inadequate understanding of the product, in the interest of closing a sale or in response to time constraints. For example, bank employees may sell creditor insurance to post-secondary students to go along with a personal line of credit but neglect to inform them that they need to work a minimum number of hours for the coverage to be in force.

Bank employees are often encouraged to cross-sell, bundle and generally apply more pressure when selling creditor insurance than other banking products and services. Employees can mistakenly or deliberately imply that creditor insurance is sold as part of the credit product or that credit approval is contingent on the purchase of creditor insurance. For example, front-line employees may sell creditor insurance by advising consumers that “the credit card comes with balance protection,” which may give consumers the impression that creditor insurance is a card feature, as opposed to what it really is: a separate and optional product.

Banks set product-specific sales targets for creditor insurance. Employees are expected to reach insurance penetration targets, such as selling creditor insurance with 30 percent of credit products sold. Product-specific targets increase the likelihood that sales staff may push a specific product to meet their target, even when the product does not meet the needs of the consumer. Failure to meet a target may lead to reduced variable compensation or negatively impact their eligibility for non-financial rewards.

Bank employees may try to persuade consumers to purchase creditor insurance by failing to provide clear information about the 30-day first-look feature. For example, when consumers ask questions about coverage exclusions, bank employees may encourage them to purchase the product on a trial basis in order to obtain an information package, even though the information is available without purchase. During the review, FCAC found that some consumers forget to cancel the product and incur premium payments.

The industry describes creditor insurance as a “sold” product rather than a “bought” product. This means consumers rarely inquire about creditor insurance, initiate its purchase on their own or educate themselves about its features. Instead, banks rely on employees to offer the product to consumers. Consumers often depend on the information provided by bank employees when deciding whether to purchase creditor insurance.

Controls for creditor insurance sales practices

Banks use scripts and cues, training and claw backs to mitigate the risk of mis-selling creditor insurance and to promote compliance with market conduct obligations. In general, FCAC found that the controls are underdeveloped, particularly in light of the characteristics of creditor insurance and the risks associated with prevailing sales practices.

Scripts and cues

Banks rely on scripts and conversation cues to make sure employees communicate key information to consumers, including the terms and conditions of creditor insurance products. In addition, scripts and cues are used to mitigate the risk of employees applying undue pressure when selling creditor insurance and to ensure employees communicate in a manner that is clear, simple and not misleading when obtaining the consent of a consumer. Employees are expected to use and follow the scripts, which are designed to present information in a logical manner.

However, banks do not have adequate controls in place to ensure employees follow scripts, clearly explain terms and conditions, and avoid using undue sales pressure. Oversight is greater in call centres where calls are recorded, but only a very small number are reviewed for compliance with the bank's code of conduct and market conduct obligations. In the branch environment, banks largely rely on branch managers, assistants and supervisors to prevent mis-selling.

Training

Banks use training to mitigate the risk of employees mis-selling creditor insurance and to prevent breaches of market conduct obligations. The training is intended to supplement scripts and cues, ensuring employees are in a position to adequately answer consumer questions about creditor insurance.

Training on creditor insurance is covered by a [voluntary code of conduct](#) adopted by the banks. All code signatories commit to training employees and to taking measures to ensure that the products are sold by knowledgeable staff.

The review revealed that bank employees are not always adequately informed or knowledgeable about creditor insurance products. For example, during FCAC branch visits, employees provided inaccurate and incomplete information about the benefits, coverage and exclusions associated with creditor insurance when answering questions about how they sell the product. FCAC is of the view that there is room to strengthen the training of front-line staff.

Claw backs

Some banks claw back sales commissions when consumers cancel creditor insurance products within 90 days of sale. This measure reduces the risk of mis-selling by encouraging employees to make a reasonable effort to assess consumers' needs when selling creditor insurance. FCAC found that claw backs are more widely employed to control the mis-selling of creditor insurance than they are for other banking products or services.

Banks gather some data on cancellation rates, but it may not necessarily reflect instances of mis-selling as consumers may cancel the insurance for other reasons. Further analysis of cancellations by banks would enable the data to be used to monitor, identify and address sales practices risk.

D) Third-party sellers

In an effort to reach consumers outside the branch environment, most banks have outsourced the sale of certain products, such as credit cards, to third parties. Third-party sellers are required to comply with federal financial consumer legislation when they market bank products and services. Banks are responsible for ensuring the compliance of third-party sellers. In practice, the third-party sales model, along with the limited oversight exercised by banks, lead to an increased risk of mis-selling.

Third-party sales models

Third-party sellers and their sales staff are often limited to selling one product or one type of product, such as travel rewards credit cards at airport kiosks or creditor insurance in outbound call centres. Consequently, their sales targets tend to be product specific. Contracts between banks and third-party sellers may also set specific and ambitious targets, such as requiring the third-party seller to sell thousands of credit cards per month.

Third-party sellers typically divide sales targets among sales staff and locations. Sales staff are often required to sell a minimum number of products per shift or hours worked. In addition to a base salary or hourly wage, third-party sales staff may receive commissions based on the number of units sold. Even when their employees are compensated without regard to volume or units sold, third-party sellers may be compensated by banks on a per-unit basis, which could lead the third-party seller to increase the sales pressure on their staff.

Consumer risks associated with third-party sales

Third-party sales pose several risks to consumers. First, ambitious and product-specific sales targets may encourage third-party sales staff to use high-pressure tactics to sell credit products to consumers. For example, FCAC reviewed complaints where consumers alleged that third-party sales staff ignored their objections or failed to obtain a clear “yes.”

Second, third parties may not make reasonable efforts to assess the suitability of a financial product or service for consumers based on their needs. As third parties typically are contracted to sell one or two banking products and services, they may be less motivated to identify consumer needs and financial goals. The limited number of products offered by third-party sellers also means they are not well equipped to offer alternate products or types of products.

Third, the circumstances under which third parties interact with consumers can affect the way consumer consent is obtained. Third-party sellers typically encounter consumers in locations such as grocery stores, airport terminals, gas stations and coffee shops. Under these circumstances, consumers are not actively seeking bank products and may not be prepared to make important financial decisions. These environments can be more conducive to mis-selling given that consumers are often busy and distracted.

Finally, third-party sellers may add to consumer confusion by offering rewards, gifts and prizes in exchange for a consumer’s signature on an application. Third-party sellers may not always make it clear to consumers that they are completing a credit application or entering into an agreement in exchange for a gift or prize. Some sellers have been known to describe the agreements as surveys.

Controls over third-party sellers

Bank oversight of third-party sellers is significantly weaker than that which banks exercise over their branch and call centre operations. Banks rely heavily on their cultural values and managerial oversight to prevent mis-selling and ensure compliance with market conduct obligations in their branches and call centres. These tools are less effective for the oversight of the sales practices of third-party sellers.

When banks outsource sales to third parties, they rely on the third parties for most aspects of control and oversight. For example, third parties are typically responsible for the day to day management of the sales locations, establishing culture and tone, hiring and training staff, and ensuring staff do not mis-sell or breach market conduct obligations. In some cases, third parties perform their own quality assurance,

call monitoring and investigations of potential breaches of market conduct obligations in response to consumer complaints and report their findings to banks. In general, banks rely on the third-party sellers to manage sales practices risk.

Some banks are currently rethinking their use of third-party sellers and have taken steps to enhance their oversight. Banks employ data analytics to monitor and compare third-party activity with their own sales data. For example, banks monitor early cancellation rates as an indicator of low quality sales. Banks have also begun requiring third-party sellers to use customer satisfaction surveys. It is important to note that banks generally can terminate their contracts with third-party sellers if they fail to meet contractual obligations.

In conclusion, and notwithstanding recent efforts, bank oversight of third-party sellers remains underdeveloped and weaker than the oversight exercised over their own retail sales operations. Considering the elevated risk posed by third-party sellers, banks would benefit from buttressing their oversight of third-party sellers.

4. Governance of sales practices

Bank governance frameworks do not manage sales practices risk effectively.

The quality of bank corporate governance practices is an important factor in maintaining consumer and market confidence. Media reports alleging high-pressure sales practices in Canada provided the impetus for FCAC to review bank corporate governance structures in the area of sales practices and consumer protection.

The *G20/OECD Principles of Corporate Governance* state:

“Corporate governance involves a set of relationships between a company’s management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined.”⁴

Corporate governance frameworks provide the structure to assign roles, responsibilities and accountabilities in the furtherance of corporate objectives and performance monitoring.

FCAC’s review identified opportunities to strengthen bank governance of sales practices going forward:

- develop governance frameworks that specifically address the management of sales practices risk
- establish clear mandates, roles and responsibilities for oversight of sales practices
- set clear expectations for reporting on sales practices risk to allow for a more informed and holistic perspective of the risks

⁴ OECD (2015), *G20/OECD Principles of Corporate Governance*, OECD Publishing, Paris.
<http://dx.doi.org/10.1787/9789264236882-en>, p. 9.

- facilitate more effective oversight of bank controls with respect to sales practices and market conduct obligations

Governance frameworks

FCAC found that, compared with the management of other forms of risk, bank governance frameworks do not adequately address the management of sales practices risk. As a result, banks lack a consolidated and holistic view of the risks associated with sales practices. Boards, senior management and control functions are limited in their ability to identify, measure, monitor and address risks related to mis-selling, poor consumer outcomes and breaches of market conduct obligations. Some banks, however, have begun to develop and implement frameworks to manage sales practices risk, but this work is in its early stages.

Mandates

There is no specific board committee mandated to oversee sales practices. Board oversight of financial consumer protection is dispersed among a number of committees. The absence of clear roles and responsibilities to oversee sales practices and consumer protection has hindered the ability of boards to adequately oversee and challenge senior management with respect to these matters.

Reports

FCAC has determined that the sales practices-related reports submitted to boards are largely inadequate. In general, boards do not receive comprehensive data or root-cause analyses of sales practices risk, such as complaints, disciplinary actions, terminations and exit interviews. For example, each bank's internal ombudsman's annual report to the board on consumer complaints provides only a high-level summary of the small number of consumer complaints that reach the ombudsman level. As the reports contain little explanation or root-cause analysis of potential issues, it may be difficult for boards to monitor and challenge the action plans proposed to address the consumer complaints.

Because of the limited information provided, boards are less likely to be informed of employee issues related to sales practices. During the interviews conducted for this report, board members expressed surprise at the allegations in the media that were made by current and former employees about high-pressure sales practices and mis-selling. This suggests that the channels established for employees to escalate concerns with regards to sales practices and other issues may not be functioning as well as intended. Employees who feel their issues will not be heard or dealt with may choose to take their concerns to the media.

Oversight of controls

Boards oversee and monitor the effectiveness of banks' internal control systems. They perform this role by challenging and advising on the soundness of these systems. Internal control systems provide the rules, policies and procedures, and organizational structures that support the achievement of banks' objectives.

During the review, boards expressed a high degree of confidence in their banks' management of sales practices risk. However, the controls in place to mitigate the risks associated with sales practices were found to be underdeveloped in comparison with other areas, such as credit risk.

5. Controls for sales practices

Controls to mitigate the risks associated with sales practices are underdeveloped.

In general, banks rely on organizational culture, human resources and the three-lines-of-defence model to mitigate sales practices risk. The three-lines-of-defence model comprises operational management, compliance and risk management, and internal audit.

Bank controls to mitigate the risk of mis-selling and breaching market conduct obligations have not kept pace with the shift toward a significantly greater focus on sales and advice in branch and call centre operations. The controls in place to manage the risks associated with sales practices are less developed than those in place to manage other forms of risk. Underdeveloped controls may result in a failure to detect and prevent non-compliance or mis-selling.

Organizational culture as a control

Banks cite organizational culture as a key control for mitigating the risks associated with sales practices. They are confident that the importance of integrity and appropriate behaviour has been communicated successfully to bank staff. They rely on strong employee and customer satisfaction scores and relatively low incidences of code of conduct violations to illustrate the soundness of their sales culture.

Banks also point to on-boarding, training and codes of conduct as being among the supports shaping cultures that mitigate the risks associated with sales practices. However, FCAC's review found that the organizational cultures promoted by banks lack the maturity to be effective tools in detecting and reducing the risk of mis-selling and breaching market conduct obligations.

The measures banks use to assess their cultures are not designed to assess sales practices risk. For example, employee surveys tend to exclude important questions, such as whether employees are feeling pressure to reach sales targets. Similarly, customer satisfaction survey scores are not designed to measure whether consumers feel the products and services they purchased were suitable.

FCAC found that communications from senior management about integrity and "selling the right way" do not always cascade down to the front line in a consistent manner. Senior management teams' attempt to ingrain messages such as "putting the customer first" and "customer-centric sales." However, while customer-facing employees generally are aware of the messaging about the importance of customer satisfaction and "doing the right thing," they are not always clear on how this messaging applies in the context of sales practices.

Although the tone from the top consistently focuses on the consumer, the review found that middle management is in a much stronger position to shape the sales culture in branches and call centres with daily sales meetings, morning huddles, coaching, leaderboards highlighting sales achievers, promotions and recognition, and non-financial incentive programs. Following its discussions with front-line staff, FCAC found that the messaging from middle management to front-line staff is not always consistent with the tone from the top. Some employees relayed experiences of working for ambitious middle managers who were rewarded for cultivating an aggressive sales culture focused on results and volume rather than on customer service or customer satisfaction.

First line of defence: Operational management

Branch channel

Primary responsibility for sales conduct in the branch channel rests with branch managers, while in call centre environments, it rests primarily with team leaders who are supported by a quality assurance process. These managers and leaders monitor the sales practices of front-line employees. The involvement of senior management and head office control functions (such as compliance) for this channel tends to be limited.

Branch channel managers have complex and wide-ranging responsibilities. They run the day-to-day operations, including security matters, staffing and coaching. They ensure that sales targets, both for the individuals and the branch as a whole, are met while ensuring a high level of customer service.

In addition, branch managers play a pivotal role in the internal communications of branch offices, exercising a high degree of influence with front-line employees. Depending on how managers communicate, they may exercise undue pressure on front-line employees to meet specific sales revenue targets or exceed growth expectations. During interviews, some employees disclosed feeling pressured to sell or witnessing mis-selling while working for other banks or at different branches of their current employer.

FCAC has concerns regarding the tools and resources available to branch managers to manage sales practices risk in their branches. Although branch managers informed FCAC that they can detect mis-selling and breaches of market conduct obligations, the Agency observed that branch managers have limited line of sight into interactions between consumers and employees, particularly in comparison with the telephone channel, where all interactions are recorded.

Branch managers receive limited reports for areas other than sales results and customer satisfaction surveys. In general, they receive insufficient reporting on areas that could help detect mis-selling and market conduct breaches, such as consumer complaints. For example, banks have not made adequate investments in data analytics tools to help business lines identify low rates of product use or high rates of product cancellation, which may indicate a pattern of mis-selling.

Moreover, branch managers are afforded a large degree of discretion in how they respond to mis-selling. Most mis-selling issues are identified and addressed by managers, giving rise to the possibility of similar problems being treated differently depending on the manager and the employee involved. And while branch managers may be required to seek the advice of human resources in cases of mis-selling, most are managed by the employee's direct supervisor through informal coaching.

Telephone channel

Team leaders and quality assurance are key controls for sales practices risk in the telephone channel. Team leaders listen to calls in real time and review a sample of the calls taken by each employee every month to inform coaching and performance management.

Banks record most calls in and out of their call centres, but only a small number of calls are reviewed for quality assurance purposes, such as to verify whether employees are following sales scripts and complying with market conduct obligations. For example, FCAC found that in bank call centres where employees take 1,400 calls per month, generally up to 4 calls are reviewed for quality assurance

purposes. The recordings are archived, which means banks can choose to review a larger number of calls if further investigation into employee conduct is necessary.

FCAC found opportunities to improve quality assurance in call centres to better detect and prevent mis-selling and breaches of market conduct obligations. Banks should review a higher number and larger proportion of calls for quality assurance. Implementing voice analytic technology could reduce the costs associated with reviewing more calls. In addition, call selection should be risk-based instead of random. When sales practices issues are identified during call reviews, banks should perform significantly more root-cause analyses. These analyses should not be restricted to individual employees but should encompass the work environment and the sales culture.

Consumer complaints

Consumer complaints have great potential to provide insight into the consumer experience. Banks are required to have an escalation process in place to handle these complaints. Effectively managing and monitoring consumer complaints is an important component of the first line of defence. Weaknesses in policies, procedures and systems for handling complaints limit the ability of banks to adequately monitor, identify and report complaints to management, boards and FCAC.

Line of sight

Currently, banks resolve approximately 90 to 95 percent of consumer complaints at the first point of contact as part of providing good customer service. However, complaints resolved at this level are generally not logged into a central database because of technological constraints or inadequate policies and procedures. This process weakens a bank's line of sight into consumer complaints and issues and reduces the opportunity to identify trends.

Most banks recognize the need to improve their line of sight to these complaints. They are exploring solutions to enhance the data received from employees who routinely handle and resolve complaints.

Escalation and reporting

With 90 to 95 percent of consumer complaints resolved at the first point of contact, consumers escalate only a small percentage of complaints beyond that point, in part because the escalation process is often complicated and cumbersome. Even when escalated, a complaint may be returned to the first point of contact for resolution and not logged in a manner that would allow for trend analysis.

Moreover, there are limited resources in place to monitor escalated complaints and ensure they are classified correctly. As a result, it is difficult to interpret the meaning of the small number of escalated complaints and to assess whether they are representative of the broader consumer experience. Boards and senior management only receive reports on escalated complaints, and the small numbers may give them a false sense of confidence about consumers' experiences with sales practices.

Banks are required to report escalated complaints to FCAC. The weakness noted above with escalated complaints also limits FCAC's ability to use the information in monitoring sales practices risk.

Investigation

The Agency found numerous instances of inadequate bank investigations of consumer complaints, particularly when those complaints had been resolved at the first point of contact. Investigations are performed only to the extent needed to resolve a complaint and banks make little effort to identify root causes. For example, if a consumer complains about undisclosed service charges, the employee may

reverse the fee to please the customer but not investigate to identify whether there were any breaches of disclosure obligations.

When banks do not investigate the root causes of complaints, it may result in a failure to identify and address sales practices risk.

Second line of defence: Compliance and risk management

Banks have established risk management and compliance functions to ensure that the first line of defence is properly designed, in place and operating as intended. The second line of defence includes a risk management function that monitors the implementation of effective risk management practices by operational management and a compliance function that monitors bank compliance with applicable laws and regulations.

Compliance and risk management oversight of consumer protection in retail banking is underdeveloped in comparison with the level of oversight afforded to other areas of the bank, such as the sale of investment products. Risk management and compliance staff monitor bank adherence to market conduct obligations. However, compliance and risk management do not adequately monitor mis-selling or the risk of poor consumer outcomes related to sales practices in retail banking.

Risk management and compliance track fines and other regulatory activity that may indicate the level of risk associated with breaching market conduct obligations. In the past, this risk has been deemed low; therefore, it has been subject to less rigorous oversight. In response to reports about Wells Fargo and allegations in Canadian media, banks elevated the risk rating associated with the obligations related to obtaining express consent.

Banks have undergone rapid growth, but their investment in control functions does not appear to have always kept pace. Understaffing and underinvestment in technology and systems hinder the compliance and risk management functions' ability to monitor sales practices risk effectively. For example, this scarcity of resources can limit the capacity to identify and respond to new regulatory requirements, review new products and business strategies, and supervise the efforts of business lines to adhere to market conduct obligations.

In general, compliance reports to boards lack adequate detail on sales practices risk. More specifically, these reports tend to lack root-cause analyses of trends and issues. They also tend not to include the status of action plans related to sales practices. Risk management reports do not adequately capture the key risks associated with sales practices, such as mis-selling and breaching market conduct obligations.

Third line of defence: Internal audit

Internal audit provides independent assurance to the board's audit committee and to senior management of the quality and effectiveness of a bank's overall internal controls, risk management and governance framework. Support for this assurance should include internal audit's assessment of the key controls and processes within the business units and support functions as they relate to retail sales practices.

While banks cite culture as a key control for risks related to sales practices, FCAC did not find evidence that internal audit has assessed the degree to which culture mitigates sales practices risk. Considering the role of internal audit, some banks have acknowledged the opportunity to have internal audit review culture.

Some market conduct obligations are included in internal audit's coverage of retail banking, but the related risks have been considered low and audits have been infrequent and lacking in rigour. Similar to the second line of defence, internal audit increased the risk rating for sales practices risk in response to Wells Fargo and allegations in Canadian media. However, gaps remain in the audit coverage of banks' market conduct obligations. For instance, FCAC found that internal audit does not review the controls in place to ensure the communication to obtain consent is clear, simple and not misleading.

In general, sales practices have not been identified as a separate audit unit by internal audit. Following media reports raising concerns about sales practices, the internal audit functions at Canadian banks examined past audits to identify elements that touched on sales practices. It is important to note, however, that these audits were not focused on sales practices and did not examine sales practices risk in sufficient detail.

Human resources as a control function

Bank human resources departments do not adequately leverage the tools and data available that could provide insight into sales practices, such as surveys on employee engagement, exit interviews, attrition, turnover rates and employee conduct monitoring.

FCAC found that employee onboarding and training do not adequately address risks associated with market conduct obligations or mis-selling. Some banks recognize there are opportunities to improve the consistency of the disciplinary process when issues related to sales practices are identified. Human resources reporting to senior management and boards lacks the detail and context necessary to support the oversight of sales practices.

FCAC also concluded that banks lack the personnel, technology and operational support required to enable human resources to monitor and reduce the risks associated with sales practices.

Conclusions and a look forward

The findings of this review are well summarized by the following statement from the *OECD/G20 High-Level Principles on Financial Consumer Protection*:

“Rapid financial market development and innovation, unregulated or inadequately regulated and/or supervised financial services providers, and misaligned incentives for financial services providers can increase the risk that consumers face fraud, abuse and misconduct.”⁵

FCAC found that retail banking culture is focused on sales. Bank performance management programs, in particular the financial compensation and non-financial incentives provided to employees, play an important role in supporting this culture. This environment increases the potential for mis-selling products and services that may be incompatible with consumer needs and financial situations, as well as breaching market conduct obligations. These risks are particularly prevalent in the cases of mobile mortgage specialists, third-party sales channels, and in practices and products such as cross-selling and creditor insurance.

⁵ OECD (2011), *OECD/G20 High-Level Principles on Financial Consumer Protection*, <https://www.oecd.org/daf/fin/financial-markets/48892010.pdf>, p. 4.

FCAC found that governance frameworks and control mechanisms do not effectively manage or mitigate the risks inherent to cultures that are so heavily anchored in sales. Operational management, compliance and risk management, internal audit and human resources lack the frameworks needed to adequately address sales practices risk. Robust governance frameworks that provide greater oversight by boards and senior management would strengthen the ability of banks to manage the risks related to sales practices.

In the course of the review, FCAC identified several measures that would strengthen financial consumer protection and result in closer alignment with OECD/G20 principles.

Enhancements to banks' management of sales practices risk

To improve bank management of sales practices risk, FCAC recommends that banks:

- prioritize financial consumer protection, fairness and product suitability
- establish a formal sales practices governance framework that clearly defines roles and responsibilities to ensure all elements of sales practices risk are effectively managed, including the effective monitoring and reporting of mis-selling and market conduct obligations
- improve their oversight, management and reporting of consumer complaints
- ensure financial and non-financial compensation strategies motivate employees to work in the interest of consumers
- ensure internal controls adequately address sales practices risk, particularly for the practices, products and channels that pose a greater risk of mis-selling and breaching market conduct obligations
- ensure human resources and second and third lines of defence—including compliance, risk management and audit—are resourced adequately to improve their oversight of sales practices risk

Enhancements to FCAC

FCAC will implement a modernized supervision framework that will allow it to proactively ensure banks have implemented the appropriate frameworks, policies, procedures and processes to effectively mitigate the risk of mis-selling and breaching market conduct obligations.

FCAC will increase the resources devoted to its supervisory and enforcement functions.

FCAC will enhance its consumer education materials to raise consumer awareness about financial products and services, and to inform consumers of their rights and responsibilities and of the importance of asking their banks the right questions, particularly when purchasing financial products. These efforts will help consumers make informed financial decisions and potentially avoid harm.



**AUTORITÉ
DES MARCHÉS
FINANCIERS**

SOUND COMMERCIAL PRACTICES GUIDELINE

JUNE 2013

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Preamble

Under the laws of their respective activities¹, financial institutions must adhere to sound commercial practices, including properly informing persons being offered a product or service² and acting fairly in dealings with them.

Under this guideline, the AMF communicates its expectations regarding expected results in matter of fair treatment of consumers. The AMF provide financial institutions with the necessary latitude to determine the requisite strategies, policies and procedures in order to facilitate achieving such results and to apply them based on the nature, size and complexity of their activities.

AMF Notes:

The AMF considers governance, integrated risk management and compliance (GRC) as the foundation stones for a financial institution's sound commercial practices and, consequently, as the basis for the commercial practices framework provided by the AMF.

This guideline is part of this approach and sets out the AMF's expectations regarding the fair treatment of consumers³ of financial products and services, a sound commercial practice expected from financial institutions.

¹ *An Act respecting insurance*, R.S.Q., c. A-32, s. 222.2;
An Act respecting financial services cooperatives, R.S.Q., c. C-67.3, s. 66.1;
An Act respecting trust companies and savings companies, R.S.Q., c. S-29.01, s. 177.3.

² The generic term "product" used in this guideline refers both to financial products and financial services.

³ The generic term "consumer" used in this guideline refers both to consumers of financial products and users of financial services.

Introduction

The rapid growth of financial markets and technologies, the increasing complexity of financial products and the greater transfer of risks to consumers are among the factors that have contributed to the increased risk that they falling victim to careless practices, abuse or fraud.

The supervision conducted and the framework developed for financial institutions' commercial practices are intended to protect consumers against the inherent risks in these products and foster consumer confidence in Québec's financial system.

Otherwise, a number of factors have contributed to creating a higher-risk environment for financial institutions, including the globalization of financial markets, the deregulation of financial product offerings, increased reliance on financial engineering, changes in information technologies and matters of ethics, integrity and competence.

The AMF's oversight and prudential monitoring are intended to foster the solvency of financial institutions and, ultimately, maintain the stability of Québec's financial system so as to protect the interests of consumers. It is with this in mind that the AMF will ensure that the risks resulting from commercial practices are taken into consideration by institutions in their integrated risk management.

The combination of these two roles, together with the macroprudential oversight of systemic risk and the AMF's role in disseminating financial education throughout Québec, are intended to identify and mitigate the risks that threaten financial stability and public confidence, prevent negative impacts on consumers, encourage market discipline and make Québec's financial system more resilient and stable.

In this context and pursuant to the authority conferred upon the AMF under the various statutes⁴ it administers, it is issuing this guideline to inform financial institutions of its expectations. Thereby, the AMF's intent is to ensure that the fair treatment of consumers constitutes a key component of each institution's corporate culture.

⁴ *An Act respecting insurance*, R.S.Q., c. A-32, ss. 325.0.1 and 325.0.2;
An Act respecting financial services cooperatives, R.S.Q., c. C-67.3, s. 565;
An Act respecting trust companies and savings companies, R.S.Q., c. S-29.01, s. 314.1.

Scope

This guideline is intended for insurers of persons (life and health), damage insurers, holding companies controlled by an insurer, mutual insurance associations, financial services cooperatives as well as trust and savings companies, which are governed by the following statutes:

- *An Act respecting insurance*, R.S.Q., c. A-32
- *An Act respecting financial services cooperatives*, R.S.Q., c. C-67.3
- *An Act respecting trust companies and savings companies*, R.S.Q., c. S-29.01.

This guideline applies to financial institutions operating independently as well as to financial institutions operating as part of a financial group.⁵ As regards financial services cooperatives and mutual insurance associations that are members of a federation, the standards or policies adopted by the federation should be consistent with—and even converge on—the expected results regarding the fair treatment of consumers set out in this guideline.

The generic terms “financial institution” and “institution” refer to all entities covered⁶ by the scope of this guideline.

⁵ For purposes of this guideline, “financial group” refers to any group of legal persons composed of a parent company (financial institution or holding company) and legal persons affiliated therewith.

⁶ This guideline does not apply to insurers that are engaged only in reinsurance.

Implementation

This guideline express the expectations of the AMF dated June 13, 2013.

With respect to the legal requirement of institutions to adhere to sound commercial practices, the AMF expects each institution to comply with this requirement by developing strategies, policies and procedures commensurate with its nature, size, complexity and risk profile, and implement upon its publication in the AMF's Bulletin of June 13, 2013.

Where an institution has already implemented such a framework, the AMF may verify whether this framework enables the institution to satisfy the requirements prescribed by law.

This guideline will be updated in response to developments with respect to commercial practices and the fair treatment of consumers and in light of the AMF's observations in the course of its supervision of financial institutions, complaint data collected and investigations or surveys carried out among industry participants and consumers.

Concepts addressed in this guideline

Commercial practices

Commercial practices encompass the conduct of an institution towards its clients or any other market participant with an interest in the institution (e.g., shareholders, partners, counterparties, market analysts and regulatory bodies). Having sound commercial practices means notably acting fairly and responsibly.

The commercial practices' results that the AMF expects are expressed as follows:

- fair treatment of consumers is a core component of governance and corporate culture of financial institution;
- design and marketing of new products take into account the needs of the various target consumer groups;
- consumers have information allowing them to be properly informed and make enlightened decisions regarding products, before, during and after the purchase thereof;
- incentives do not affect the fair treatment of consumers;
- product advertising is accurate, clear and not misleading;
- claims are examined diligently and settled fairly, using a procedure that is simple and accessible to claimants;
- complaints are examined diligently and fairly, using a procedure that is simple and accessible to consumers;
- protection of the confidentiality of personal information policy adopted by a financial institution ensure compliance with the provisions of *An Act respecting the protection of personal information in the private sector*⁷ and reflect best practices in this area.

⁷ *An Act respecting the protection of personal information in the private sector*, R.S.Q., c. P-39.1

Fair treatment of consumers

Fair treatment of consumers is an integral part of sound commercial practices and a fundamental issue that impacts the reputation of every financial institution and consumer confidence in the financial system. It involves the institution's conduct at each stage of the life cycle of a product, from the moment product-related obligations arise until they expire.

Fair treatment of consumers is based on the core principles and guidance published by a variety of international bodies⁸ to guide countries in bettering consumer protection across all financial services sectors. For the purpose of this guideline, the core principles and guidance considered can be summarized as follows:

- consumers are confident when dealing with a financial institution that makes the fair treatment of consumers a core component of its governance and corporate culture;
- the design and marketing of new products take into account the needs of the various target consumer groups;
- consumers have information allowing them to be properly informed and make enlightened decisions regarding products, before, during and after the purchase thereof; and
- the performance of the products and related services available to consumers are consistent with the institution's statements. When consumers want to switch products, change institution, or file a complaint or claim, procedures in place within institution facilitate such operations.

Governance and corporate culture

Corporate culture develops from a combination of values. These values⁹ and the extent to which they are integrated in an organization's corporate culture are essential components of its governance system. They guide the conduct of persons within the organization.

It is the duty of the board of directors to define the corporate culture and the duty of senior management to promote it, in particular, by incorporating its values into a code, so that all staff are fully aware of the standards of conduct expected of them.

⁸ Including the principles on financial consumer protection developed jointly by the Organisation for Economic Co-operation and Development and the Financial Stability Board, which oversees the International Association of Insurance Supervisors, the Basel Committee on Banking Supervision and the International Organization of Securities Commissions. The other organizations concerned, such as the World Bank and the International Monetary Fund, must also report on their progress in implementing these principles.

⁹ For example: Honesty, integrity, independent thought, openness, transparency and trust.

Empowerment of stakeholders

In the provision of products and services, the institution shall take, upon first contact with the consumer, a commitment to him and hold it to the extinction of all its obligations, regardless of whether the network offer is or not independent of the institution. In this regard, the institution should adopt a conduct that ensures the fair treatment of consumers at all stages of their contractual relationship.

Accordingly, the institution should ensure compliance process control upon the supply of products and services (choice of intermediaries, contractual agreements, monitoring service delivery, etc.).

Governance and corporate culture

<p>The AMF expects that the fair treatment of consumers is a core component of governance and corporate culture of financial institution.</p>

Incorporating a fair treatment of consumers culture at each stage of the life cycle of a product, from its design to after-sales services and from the moment obligations arise until they expire, requires the involvement of all the institution's levels and processes, from strategic planning to decision-making and from governance structures to operations.

The AMF expects fair treatment of consumers to be implemented in every area of a financial institution's operations by concerted action, a firm commitment and strong leadership at decision-making levels.

Among the best practices identified by the AMF, institutions can refer to the following:

- the development of objectives, strategies and initiatives in line with the institution's fair treatment of consumers vision and values;
- the appointment of a senior officer in charge of ensuring the development, implementation and enforcement of fair treatment of consumers-related operational policies and practices;
- a compensation program that is consistent with the institution's fair treatment of consumers-related objectives and expected results;
- codes of ethics that maintain and reinforce a fair treatment of consumers culture, place a value on responsible conduct and compliance with internal and external obligations, and allow the institution to maintain high standards of ethics, integrity and competence;
- mechanisms and controls to identify and deal with any departure from the institution's strategies, policies and procedures, any conflicts of interest or any other situation likely to interfere with fair treatment of consumers;
- generation of management information that makes it possible:
 - to assess the institution's performance with respect to fair treatment of consumers;
 - to react, in a timely manner, to changes or risks likely to have a negative impact on the institution's clients; and
 - to prove that fair treatment of consumers forms part of the institution's corporate culture.

Lastly, the AMF believes that public disclosure of comprehensive information regarding an institution's initiatives, assessment tools and results pertaining to fair treatment of consumers could motivate the institution, and the industry in general, to achieve or improve fair treatment of consumers results, in addition to encouraging better market discipline.

Design¹⁰ and marketing of products

The AMF expects that the design and marketing of new products take into account the needs of the various target consumer groups.

With the development of complex products, sometimes high-risk, or that may difficult to understand, a weakness in the design and marketing process can increase the likelihood of inappropriate choices of consumers.

In particular, the AMF expects that institutions:

- design and market products with long life cycles in the market;
- identify consumer groups for whom products are likely to be suitable, while access to consumers for whom products are likely to be unsuitable should be limited; and
- use distribution methods tailored to the products and target consumers, that is, methods taking into account the need for advice and disclosure and what potential impact the product can have on consumers' financial situations.

Among the best practices identified by the AMF, institutions can refer to the following:

- having a formal process for approving new products;¹¹
- using of appropriate information to assess the needs of the various consumer groups;
- making an evaluation of the risks inherent in new products, in light of changes in the environment¹² that could harm consumers;
- proceeding to the assessment of new products and related disclosure documents by competent individuals from the relevant departments in the institution;¹³
- training the sales force to ensure it is knowledgeable about the institution's products, the disclosure documents and the target markets;

¹⁰ Including the selection of third-party products.

¹¹ Including material changes to existing products likely to have an impact on clients.

¹² For example: economic, legal and market environment.

¹³ For example: Compliance, integrated risk management, finance, sales, taxation and actuarial.

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- developing outsourcing agreements that do not hinder the quality of services or jeopardize the institution's ability to fulfill its fair treatment of consumers-related obligations;¹⁴
 - monitoring of products after their launching to ensure that they do, in fact, meet the needs of the initial target consumers and that any necessary changes are made; and
 - making the assessment of the distribution methods used, particularly in terms of fair treatment of consumers.

¹⁴ *Autorité des marchés financiers*, Outsourcing Risk Management Guideline, December 2010.

Incentives management

The AMF expects that incentives do not affect the fair treatment of consumers.

The term "incentive" refers to a broad sense. It is for example fees, commissions, premiums and bonuses in compensation programs, and other benefits (sales contests, promotions, privileges, gifts).

In particular, the AMF expects that:

- consumers to be confident that products advised truly meet their needs;
- incentive do not interfere with the obligation of the institution or any intermediary between the institution and the client to act fairly when dealing with consumers.

Among the best practices identified by the AMF, institutions can refer to the following:

- performance criteria related to variable compensation that are clearly defined and measurable;
- institution adopts incentives that are not likely to affect the obligations of a representative to the detriment of his client;
- institution develops incentives to avoid conflicts of interest, for example, in light of the individual in question and his role within the institution;¹⁵
- institution promotes the development of incentives based on the fair treatment of consumers, in contrast, an incentive-oriented only towards the sale of specific products may affect the fair treatment of consumers;
- incentives paid take into account in particular the fair treatment of consumers-based performance of sales staff and sales managers;
- the prohibition of certain types of high-risk incentives, such as incentives based solely on sales volumes or incentives to stimulate the sale of investment products that present a risk for consumers;

¹⁵ For example: The sales manager with respect to his sales staff, staff in charge of examining claims or staff in charge of examining complaints.

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- maintaining a register of incentives, which describes the terms and conditions including incentives, duration, products, services and persons covered by these incentives;
 - frequent reassessment of the risks inherent in the incentives forming part of the compensation structure, in light of factors such as the product and method of distribution, so as to ensure the effectiveness of controls set up by the institution.

Disclosure to consumers

The AMF expects that consumers have information allowing them to be properly informed and make enlightened decisions regarding products, before, during and after the purchase thereof.

Disclosure before or at the time a product is purchased

The AMF expects financial institution to implement appropriate disclosure system that allow consumer to make an enlightened decision and also be a source of information on which representatives can rely in order to provide advice, when required. The level of product information depends on the type and complexity of the product.

In particular, the AMF expects the disclosure to consumers:

- clearly identify the institution and provide its contact information;
- clearly identify the product and set out its main features;¹⁶
- clearly identify the risks associated to the product;
- clearly identify any right of termination or resolution;
- be drafted in clear and plain language and in a manner that is not misleading;
- be presented in a format that is easy to read and understand;¹⁷
- be up to date and available, in a timely manner, on paper or any other durable medium;
- disclose any situation that could potentially place the institution in a conflict of interest.

Among the best practices identified by the AMF, institution may submit information relating to a product testing with target consumers in order to ensure that the information is intelligible and suits their needs.

¹⁶ For example: Conditions, exclusions, restrictions, fees, as well as interest rate fluctuations. When granting credit, this could include factors taken into account when assessing the borrower's ability to repay the loan. When dealing with bundled products, the consumer should be able to understand the various components.

¹⁷ In certain cases, the AMF may prescribe formats allowing consumers to compare similar competing products and services. For example: AMF's Guideline on Individual Variable Insurance Contracts Relating to Segregated Funds, January 2011.

Disclosure after a product is purchased

The AMF expects that the disclosure system established by the institution allows consumers to determine whether the product continues to suit their needs and expectations. This system should include the disclosure of information on:

- after-sales transactions;
- performance;
- contract amendments during the term of the contract;
- if applicable, the rights and obligations of consumers in connection with the changes;
- event of the substitution or replacement of a product;
- event portfolio transfers;
- changes in the environment, such as legislative amendments that have an impact on the products they hold; and
- organizational or operational changes involving the institution that have an impact on clients, products or related services.

When consumers wish to replace or substitute a product or change suppliers, the AMF expects that the procedures in place within the institution facilitate such operations.

Product advertising

The AMF expects that product advertising is accurate, clear and not misleading.

In particular, the AMF expects that:

- the name of the institution is clearly indicated on all material in accordance with legal requirements;
- complete address of the institution are given;
- advertising is tailored to the target consumer group;
- written advertising is presented in a format that is easy to read and understand;
- messages sent electronically are visible and remain accessible for a reasonable period of time;
- if applicable, the source of any statistics used is identified;
- testimonials used are authentic and whether the institution pays for a testimony, a statement is made.

Among the best practices identified by the AMF, institutions can refer to the following:

- prior to being disseminated, advertising material regarding the institution's products is reviewed independently of the person that prepared or designed it for the institution; and
- any product advertising that is misleading, unclear or inaccurate is immediately modified or withdrawn.

Claims examination and settlement¹⁸

<p>The AMF expects that claims are examined diligently and settled fairly, using a procedure that is simple and accessible to claimants.</p>
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The claims examination and settlement process are key indicators for assessing an institution's performance regarding the fair treatment of consumers.

In particular, the AMF expects that:

- consumers are aware of the existence of the claims examination and settlement service and the contact information for accessing the service;
- claimants are aware of the main steps of the claims examination process and the anticipated time frame;
- claimants are informed, on a timely basis, of his rights and obligations;
- claimants are provided with a clear and careful explanation of the determining factors of the assessment and the reasons for the total or partial rejection of a claim, where applicable. If a claim cannot be examined within the anticipated time frame, the claimants are informed of the cause of the delay and the moment when the examination will be completed; and

Among the best practices identified by the AMF, institutions can ensure that inappropriate behaviour by staff in charge of the claims examination and settlement process are identified and appropriate measures taken.

¹⁸ Applicable only to the insurance sector.

Complaint examination and dispute resolution

The AMF expects that complaints are examined diligently and fairly, using a procedure that is simple and accessible to consumers.

Pursuant to the provisions in the laws administered by the AMF,¹⁹ institutions²⁰ are required to comply with complaint examination obligations. For more information on these obligations, please visit the AMF website at <http://www.lautorite.qc.ca/en/complaint-examination.html>.

The complaint examination and dispute resolution process are key indicators for assessing an institution's performance regarding the fair treatment of consumers. The AMF expects that consumers know about the existence of a complaints examination and dispute resolution service and the contact information for accessing the service.

Among the best practices identified by the AMF, institutions can refer to the following:

- common underlying causes of complaints are identified and appropriate measures taken to eliminate or reduce them; and
- inappropriate behaviour by staff in charge of the complaint examination and dispute resolution process are identified and appropriate measures taken.

¹⁹ *An Act respecting insurance*, R.S.Q., c. A-32, ss. 285.29 to 285.36;
An Act respecting financial services cooperatives, R.S.Q., c. C-67.3, ss. 131.1 to 131.7;
An Act respecting trust companies and savings companies, R.S.Q., c. S-29.01, ss. 153.1 to 153.7.

²⁰ Except holding companies controlled by an insurer.

Protection of personal information

The AMF expects that protection of the confidentiality of personal information policy adopted by a financial institution ensure compliance with the provisions of *An Act respecting the protection of personal information in the private sector*²¹ and reflect best practices in this area.

The theft, loss or inappropriate use of personal information²² obtained from consumers represents a risk to consumers and a threat to the reputation of institutions.

The protection of personal information is a key issue for a financial institution. The sustainability of its operations depends, among other public confidence in this regard. Consumers expect that their information remains confidential and be handled accordingly.

In particular, the AMF expects that:

- consumers are notified, on a timely basis, of any breach in confidentiality liable to jeopardize their interests or rights;
- institution inform AMF of any violation of the protection of personal information liable to jeopardize the interests or rights of consumers and the institution's reputation;
- responsible individuals within the institution are informed of any breach in confidentiality on a timely basis.

²¹ *An Act respecting the protection of personal information in the private sector*, R.S.Q., c. P-39.1

²² The concept of "personal information" is defined in section 2 of *An Act respecting the protection of personal information in the private sector*, R.S.Q., c. P-39.1.

Supervision of commercial practices

To foster the establishment of sound commercial practices within financial institutions, the AMF, acting within the scope of its supervisory activities, intends to assess the extent to which financial institutions are achieving the expected results set forth in this guideline in light of the specific attributes of each institution. To do so, the AMF will use the traditional supervisory tools provided for in its supervisory framework.²³ Moreover, the AMF intends to review its disclosure standards and use other supervisory tools.²⁴ All of this will allow the AMF to be proactive in identifying risks related to inadequate practices liable to interfere with the fair treatment of consumers.

The degree of supervision of a given institution's commercial practices will depend, among other things, on the level of risk it faces and risk it represents for consumers, any other market participants and for Québec's financial system.

Consequently, the AMF will examine the effectiveness and relevance of the strategies, policies and procedures adopted by financial institutions as well as the quality of the oversight and control exercised by them in light of their results with respect to the fair treatment of consumers.

²³ *Financial Institutions Supervisory Framework*, Superintendence of Solvency, October 2011.

²⁴ For example: Investigations or surveys carried out among industry participants and consumers.



Guideline G7 CREDITOR'S GROUP INSURANCE

This Guideline has been approved by the Board of Directors of the Canadian Life and Health Insurance Association Inc. (CLHIA). Member Companies are expected to adopt this CLHIA Guideline having regard to the company's structure, products and business processes, including distribution channels. Member Companies are urged to incorporate this Guideline into the company's ongoing compliance program.

Guideline G7

CREDITOR'S GROUP INSURANCE

1. PURPOSE

This Guideline protects the interests of Debtors by promoting consistent practices for insurers and by providing operating and disclosure standards for the transaction of Creditor's Group Insurance.

2. SCOPE

This Guideline applies to all member companies with respect to Creditor's Group Insurance. This Guideline does not override any responsibility established by legislation. In the event of any conflict between the provisions of this Guideline and any applicable law, the law takes precedence over the Guideline to the extent of the conflict.

3. GENERAL PRINCIPLES

Customer-focused approach

Insurers should promote a culture of treating customers fairly. The principle includes promoting outcomes such as:

- providing consumers with accurate and sufficient information before, during and after the sale;
- avoiding the risk of sales which are not appropriate to the customer's situation;
- handling claims in a timely and fair manner; and
- dealing with customer complaints and disputes in a timely and fair manner.

Clear disclosure

Information should be communicated clearly, regardless of the medium of communication (e.g., face-to-face, telephone, direct mail, electronic).

Insurer accountability

Where an insurer uses a third party to perform specific functions, the insurer retains ultimate responsibility and, accordingly, must use contractual or other means to ensure that the third party is performing those functions and to require behavior from the third party that is consistent with this Guideline.

4. DEFINITIONS

In this Guideline,

"Application" means the process by which a Debtor enrolls for insurance or for the reinstatement of insurance coverage, and includes documents used in that process.

"Certificate" means a document provided to the Debtor that sets out the particulars of the insurance.

"Consumer Premium" means the amount that a Debtor is charged for the cost of Creditor's Group Insurance. It may not exceed that portion of the total Group Policyholder Premium attributable to the Debtor. A Consumer Premium exists when:

- (a) an identifiable charge for insurance is levied upon the Debtor, or disclosed to the Debtor in the credit or other instrument which sets out the financial elements of the Credit Transaction; or
- (b) there is a differential in any finance, interest, service or other charge made to Debtors depending only on whether they are insured or not.

"Creditor" means:

- (a) a lender of money;
- (b) a vendor or lessor of goods, services, property, rights or privileges, for which payment is arranged through a Credit Transaction; or
- (c) any successor to the right, title or interest of any such lender, vendor, or lessor.

"Creditor's Group Insurance" means insurance effected by or on behalf of Creditors in respect of the lives or well being or both of Debtors and other persons essential to the ability of the Debtors to meet their obligation to the Creditor, whereby they are insured individually under a single contract.

"Credit Transaction" means any of the following:

- (a) a loan;
- (b) an agreement to lend money;
- (c) an agreement that a Debtor will pay later for goods, services or properties purchased or leased.

"Day" means a calendar day.

"Debtor" means:

- (a) a borrower of money, co-borrower, guarantor, endorser or the spouse of any of these persons; or
- (b) a purchaser or lessee of goods, services, property, rights or privileges, for which payment is arranged through a Credit Transaction.

"Group Policyholder Premium" means the amount an insurer charges for Creditor's Group Insurance. It includes:

- (a) any sum paid to the group policyholder for collection of Consumer Premiums; and
- (b) any reimbursement of expenses incurred by the group policyholder in connection with the administration of Creditor's Group Insurance.

"Indebtedness" means, at any point in time, the amount then owing by a Debtor to a Creditor in connection with a Credit Transaction, and may include any incidental expenses and related fees, interest and penalties.

5. AMOUNT OF CREDITOR'S GROUP INSURANCE

- (1) Insurance under a contract of Creditor's Group Insurance must be related to a specific contract of Indebtedness between the Creditor and a Debtor and must not provide for an amount of insurance that exceeds the Indebtedness.
- (2) Notwithstanding subsection (1), where a debt is in respect of a small business or a farm, fishery or ranch, a contract of Creditor's Group Insurance may provide for an amount of insurance equal to all or part of the amount of the credit limit of a line of credit.

For the purpose of this section, "line of credit" means a commitment on the part of a Creditor to lend to a Debtor, without a predetermined repayment schedule, one or more amounts, where the aggregate amount outstanding does not exceed a predetermined credit limit, which limit does not exceed the reasonable credit needs of the Debtor.

6. DURATION OF CREDITOR'S GROUP INSURANCE

- (1) If a contract of Creditor's Group Insurance, under which a Consumer Premium is levied to the Debtor, does not require the Debtor to submit evidence of insurability, then subject to the terms of the Application, the insurance starts on the later of the dates when:
 - (a) the Debtor completes the Application; and
 - (b) the Debtor enters into a Credit Transaction.
- (2) Where evidence of insurability is required, the terms upon which the insurance will start should be communicated to the Debtor at the time of Application.
- (3) Where the insurance is for an existing Indebtedness, a description of the date on which the insurance will start should be communicated to the Debtor at the time of Application.
- (4) If the Indebtedness is paid out early, and if the Consumer Premium had been paid in a single sum, the term of such insurance shall not extend more than 15 Days beyond the scheduled maturity date of the

Indebtedness except when extended without additional cost to the Debtor; but the term of such insurance may be less than the term of the Credit Transaction to provide modified or partial coverage, or extend beyond the maturity date to provide coverage for delinquencies, extensions or other repayment variations.

- (5) Except where the insurance is portable (whether between Creditors and/or between Credit Transactions with the same Creditor), if the Indebtedness is discharged due to renewal or refinancing before the scheduled maturity date, the insurance in force ends. Unless specifically required in a group policy or Certificate, the individual Debtor's consent is not required to end their insurance in this case.

7. CANCELLATION OR NON-RENEWAL

If a contract of Creditor's Group Insurance is cancelled by the insurer or is terminated or not renewed by the group policyholder (e.g., the Creditor):

- (1) if the Consumer Premium has been paid in a single sum, the Debtor continues to be covered with respect to the outstanding debt obligation as if the contract of Creditor's Group Insurance were still in force; or
- (2) if the Consumer Premium is payable in instalments or if the contract insured a revolving credit obligation, the insurer must ensure that at least 30 Days notice of the end of the insurance is given to the Debtor.

8. CHANGE OF INSURER

- (1) A Debtor should be protected from loss of insurance caused solely by the group policyholder changing insurers. This does not apply to any changes in the insurance or benefits that result from plan design changes reflected in the replacing contract made at the request or with the agreement of the group policyholder.
- (2) No Debtor who is receiving benefits under the terminating contract may receive duplicate benefits under the replacing contract.

9. DISCLOSURE TO DEBTOR: DURING APPLICATION

- (1) This section applies only when there is a Consumer Premium.
- (2) Application for enrolment under a contract of Creditor's Group Insurance may be made at the same time that the Credit Transaction is being negotiated or entered into, or afterwards. Application for enrolment may be made in person, by telephone, by mail, electronically or by other means. These disclosure practices apply in all situations.
- (3) The Creditor's Group Insurance enrollment must be clearly distinct from the Credit Transaction, either through a separate Application for insurance or by other means that separates the transactions.

- (4) The Application must clearly identify the Debtor(s) for whom insurance is being sought and, for each such person, indicate the insurance being applied for.
- (5) A copy of the Application or confirmation of the Application, as the case may be, shall be delivered to the Debtor at the time of the Application or in a timely manner thereafter and, subsequently, upon request.
- (6) The following information must be provided to the Debtor at the time of Application:
 - (a) the insurance coverage provided by the product (e.g. life insurance, disability insurance, critical illness insurance);
 - (b) a statement about who is eligible to apply for the insurance;
 - (c) a statement that the insurance is voluntary;
 - (d) a statement that the Debtor has a specified period of time, to be not less than 20 Days, after receipt of the Certificate described in section 10, to review the insurance during which time the insurance can be cancelled for a full refund;
 - (e) a statement that the insurance can be cancelled by the Debtor at any time;
 - (f) if applicable, a statement that there are terms and conditions which might limit or exclude coverage, and clear disclosure of significant exclusions, restrictions and limitations such as, but not limited to, pre-existing conditions and consequences of misrepresentation;
 - (g) either:
 - (i) the amount of the Consumer Premium; or
 - (ii) a description of the basis for determining the Consumer Premium in sufficient detail to enable the Debtor to calculate it;
 - (h) if applicable, a statement that the insurance is subject to acceptance of the Application by the insurer, and setting out:
 - (i) any further steps the Debtor(s) must take;
 - (ii) the insurer's obligation to notify the Debtor(s) if the insurance is declined; and,
 - (iii) the terms upon which the insurance starts, if the Application is accepted;

- (i) the name of the insurer and instructions as to how to contact the insurer to obtain further information or clarification; and
 - (j) the circumstances under which the insurance ends.
- (7) In some situations, the Debtor may initiate changes in the financing or other terms and conditions of a credit arrangement (e.g. refinancing) that could result in the need to apply for new insurance. In such situations, it should be disclosed to the Debtor that the financing change may affect or end their insurance, and that the Debtor should check their existing certificate for details on the impact of the change.

10. DISCLOSURE TO DEBTOR: CERTIFICATES

- (1) All Creditor's Group Insurance must be evidenced by a Certificate which the insurer must issue for delivery to the Debtor.
- (2) The Certificate must be sent to the insured Debtor within 20 Days of when the insurance comes into force.
- (3) Each Certificate must set forth:
 - (a) the name and address in Canada of the insurer and sufficient identification of the contract of Creditor's Group Insurance;
 - (b) the Debtor(s), as named in the Application, or a description of the individuals eligible for insurance in sufficient detail to enable the applicant to determine whether he or she is covered;
 - (c) a description of the insurance coverage, including the amount, duration, and all conditions involving eligibility, exclusions, restrictions and limitations (information about exclusions, restrictions and limitations such as, but not limited to, pre-existing conditions and the consequences of misrepresentation should be clearly described and appear in such a manner that their fact and import are apparent.);
 - (d) a statement that the insurance is voluntary, if applicable;
 - (e) if applicable, either:
 - (i) the amount of the Consumer Premium; or
 - (ii) a description of the basis for determining the Consumer Premium in sufficient detail to enable the Debtor to calculate it;
 - (f) the circumstances under which the insurance starts;
 - (g) the impact of changes in the credit arrangements on the insurance and the circumstances under which the insurance ends;

- (h) the procedures to be followed in making a claim, including:
 - (i) to whom and where claims should be made; and
 - (ii) the time limit within which a claim must be made or within which a notice or proof of claim must be submitted;
- (i) a statement that the benefits will be paid to the Creditor to reduce or extinguish the unpaid Indebtedness;
- (j) a description of when the duration of the insurance may be less than the term or amortization period of the loan, or when the amount of insurance may be less than the Indebtedness, where such is the case;
- (k) where and from whom more detailed information such as benefits, exclusions, restrictions and limitations including pre-existing conditions or other provisions relevant to the Debtor may be obtained;
- (l) how to find information about the insurer's complaint process; and
- (m) a description of the circumstances under which the Debtor is eligible for a refund (e.g. if the Indebtedness is paid off early), the method by which refunds are calculated and how to apply for a refund.

11. TRAINING AND MONITORING

- (1) The insurer must establish reasonable procedures to train those offering its insurance products. In the event that the insurer contracts with a third party distributor and does not provide training directly, it must use contractual or other means to require the distributor to establish reasonable procedures for training.
- (2) Training must include information about:
 - (a) the insurance;
 - (b) eligibility, exclusions, restrictions and limitations including pre-existing conditions;
 - (c) the potential impact of changes in the credit arrangements on any existing insurance;
 - (d) the Application and enrolment process;
 - (e) the role of those handling the enrolments, including their obligations and limitations;
 - (f) the claims submission process;

- (g) complaint procedures; and
 - (h) details of the services available to the Debtor from the insurer.
- (3) The insurer must establish reasonable procedures to monitor the activities of those handling enrolments. In the event that the insurer uses a third party distributor, it must use contractual or other means to require the distributor to establish reasonable procedures for monitoring the activities of those handling enrolments.

12. REFUNDS

- (1) Where the insurance has been cancelled, or where the Application has been declined, the insurer is responsible for ensuring that any refunds owed to Debtor(s) be made promptly.
- (2) Calculations are to be based on the Consumer Premium paid by the Debtor and on the method described in the Certificate [c.f. section 10(3)(m)].

13. CLAIMS

- (1) The insurer is responsible for ensuring that all claims are settled in a timely manner and in accordance with the terms of the contract of Creditor's Group Insurance.
- (2) An insurer may designate a third-party representative to settle claims on its behalf, and, if so, that representative must act in accordance with section 13(1).
- (3) The insurer must maintain, or cause to be maintained, adequate claims files, which must be retained for a reasonable period of time.

14. COMPLAINTS

Insurers must have policies and processes in place to handle complaints in a timely and fair manner.



GUIDANCE CONDUCT OF INSURANCE BUSINESS AND FAIR TREATMENT OF CUSTOMERS

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Definitions

In this guidance, the following terms are used as defined below:

“Insurer” includes the various entities registered to do insurance business within any jurisdiction.

“Intermediary” is given a broad meaning. It encompasses individual agents, brokers and representatives (“representatives”) as well as the business entities that are authorized to distribute insurance products and services, including managing general agencies, third party administrators and national accounts, as the case may be.

In Canada, Intermediaries that are subject to licensing and supervision can vary from jurisdiction to jurisdiction. This guidance applies to all Intermediaries that are authorized to do business within any jurisdiction, whether licensed, registered or exempted from registration.

“Consumer” includes all actual and potential customers for insurance products.

“Customer” refers to policyholder (which, as the case may be, includes certificate holder) or prospective policyholder with whom an Insurer or an Intermediary interacts, and includes, where relevant, other beneficiaries and claimants with a legitimate interest in the policy.

Preamble

In Canada, the conduct of business in insurance is the exclusive authority of the provinces and territories. Each jurisdiction has its own regulatory approach for the conduct of business, based on its unique culture, traditions and legal regime.

However, despite these differences, regulators within each jurisdiction share a common set of expectations pertaining to the conduct of business to ensure the fair treatment of Customers. In that context, regulators are encouraged to have harmonised frameworks across the country in accordance with this guidance.

This guidance sets out the Canadian Council of Insurance Regulators (“CCIR”) and the Canadian Insurance Services Regulatory Organizations (“CISRO”) members’ vision, including their expectations (to the extent of their respective authority) relating to conduct of insurance business and fair treatment of Customers.

CCIR and CISRO provide this guidance to further support Insurers and Intermediaries in achieving fair treatment of Customers while complying with existing laws and regulations. It also aims at strengthening public trust and Consumer confidence, minimizing reputational risks and unsustainable business models.

This guidance is based on Insurance Core Principles of the International Association of Insurance Supervisors (“IAIS”).¹

Expectations for the conduct of insurance business may differ depending on the nature of the Customer with whom industry participants interact, the type of insurance provided and the distribution strategy.

This guidance provides Insurers and Intermediaries with the necessary latitude to determine the requisite strategies, policies, processes, procedures and controls that apply to the offer of insurance products and services to Customers based on the nature, size and complexity of their activities, while taking into account representatives’ regulatory obligations in order to facilitate achieving Customers outcomes reflected in this guidance.

Supervision of the Conduct of Business of Insurance

Through CCIR, all jurisdictions have a framework for information sharing and cooperative market conduct supervision to address conduct of business issues arising across jurisdictions (Framework for Cooperative Market Conduct Supervision). As part of their supervision, regulators adopt a risk-based approach in assessing conduct of business.

In assessing conduct of business in insurance, regulatory authorities consider industry-wide as well as Insurer/Intermediary-specific activities against the Customer outcomes. Effective assessment of the quality of conduct of business in insurance requires, to a large extent, supervisory consideration of strategies, policies, processes, procedures and controls that apply to the offer of insurance products and services to Customers, which

¹ International Association of Insurance Supervisors. *Insurance Core Principles, ICP 19*, updated November 2017. <https://www.iaisweb.org/page/supervisory-material/icp-on-line-tool>

are more easily assessed through supervision of Insurers and Intermediaries. Thus, regulatory authorities monitor whether such policies and procedures are adhered to.

Effective assessment of the quality of conduct of business of Insurers and Intermediaries also requires supervisory considerations of the Customer outcomes that are being achieved industry-wide as well as Insurer/Intermediary specific.

Scope

In order to promote the fair treatment of Customers to insurance industry participants, this guidance applies to Insurers and Intermediaries. It does not apply to Insurers only engaged in reinsurance.

The Insurer is responsible for fair treatment of Customers throughout the life-cycle of the insurance product, as it is the Insurer that is the ultimate risk carrier. In the provision of products and services, Insurers should, upon first contact with Customers, make a commitment to them and hold it throughout the life-cycle of the product, regardless of the distribution channel used by the Insurer.

Intermediaries typically play a significant role in insurance distribution, but may also be involved in other areas. Their interactions with both Customers and Insurers give them a key role, and their conduct in performing the services in which they are involved is critical in building and justifying public trust and confidence in the insurance sector.

The Insurer's ultimate responsibility does not absolve Intermediaries of their own responsibilities for which they are accountable. Treating Customers fairly is a shared responsibility when Insurers and Intermediaries are both involved.

Representatives must respect their regulatory obligations as well as the codes of conduct/ethics of Insurers and of the business entities through which they act. They must maintain an appropriate level of professional knowledge and experience, integrity and competence. All those involved, from Insurers to Intermediaries, should collaborate to achieve fair treatment of Customers.

1. Conduct of Business²

In the field of insurance, conduct of business encompasses industry-wide as well as Insurer/Intermediary specific activities with Customers.

Sound conduct of business includes treating Customers fairly throughout the life-cycle of the insurance product. This cycle begins with product design and continues until all obligations under the contract are fulfilled.

In their conduct of the business of insurance, Insurers and Intermediaries are expected to:

- act with due skill, care and diligence when dealing with Customers;
- maintain good and sound relationships between themselves and with the regulatory authorities;
- establish and implement policies and procedures on fair treatment of Customers, as integral parts of their business culture;
- act in compliance with the laws, regulations and guidelines to which they are subject;
- promote products and services in a clear, fair and not misleading manner;
- provide Customers with timely, clear and adequate pre-contractual and contractual information;
- take into account a Customer's disclosed circumstances when that Customer receives advice and before concluding insurance contracts;
- avoid or properly manage any potential conflicts of interest before concluding an insurance contract;
- handle complaints in a timely and fair manner;
- have and utilize appropriate policies and procedures for the protection and use of Customer information; and
- have contractual arrangements between each other, that ensure fair treatment of Customers.

Moreover, Insurers are expected to:

- take into account the interests of the targeted Consumers groups when developing and distributing insurance products;
- service policies appropriately throughout the life-cycle of the product;
- disclose information on any contractual changes occurring during the lifecycle of the contract to the policyholder;

² Where an Insurer or an Intermediary are part of an insurance group, the application of appropriate policies and procedures on conduct of business should be consistent across the group, recognizing local specificities, and should result in fair treatment of Customers on a group-wide basis.

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- disclose relevant information depending on the type of insurance product to the policyholder;
 - handle claims in a timely and fair manner.

Although ongoing policy servicing is traditionally seen as primarily the responsibility of the Insurer, Intermediaries are often involved, particularly where there is an ongoing relationship between the Customer and the Intermediary. In such a case, the Insurer remains ultimately responsible for servicing policies throughout their life-cycle, and ensuring that Intermediaries have appropriate policies and procedures in place in respect of the policy servicing activities performed on the Insurer's behalf.

2. Fair Treatment of Customers

Fair treatment of Customers encompasses concepts such as ethical behavior, acting in good faith and the prohibition of abusive practices.

Ensuring fair treatment of Customers encompasses achieving outcomes such as:

- developing, marketing and selling products³ in a way that puts Customers' interests ahead of their own;
- providing Customers with accurate, clear, not misleading and sufficient information before, during and after the point of sale, which will allow them to make informed decisions;
- minimizing the risk of sales which are not appropriate to the Customers' needs;
- ensuring that any advice given is relevant;
- dealing with Customer claims, complaints and disputes in a fair and timely manner;
- protecting the privacy of Customer information.

³ Including renewals.

3. Business Culture

Business culture is at the heart of improved market conduct outcomes in matters of fair treatment of Customers. The “tone from the top” has the greatest impact on business culture. Business culture refers to the common values (e.g., ethics and integrity) and standards that define an Insurer or an Intermediary and influence the mindset, conduct and actions of everyone as well as all aspects of decision-making, from strategic decisions to those made by Customer-facing employees on a daily basis.

Establishing a Customer-centric culture creates an environment that fosters Consumer confidence and long-term Customer relationships, rather than focusing on short-term financial goals that could cause serious harm to Customers and damage the reputation of the Insurer or the Intermediary.

A business culture that seeks to achieve meaningful results, particularly regarding the fair treatment of Customers, should help meet the following objectives:

- Understand the importance of placing clients at the center of all concerns: strategic decisions, daily conduct and results clearly demonstrate that Customers and market integrity are real priorities.
- Recognize the risks that could hinder the achievement of expected results regarding the fair treatment of Customers as well as the means to mitigate such risks.
- Understand the importance of reporting the achievement of expected results at all levels, using indicators in terms of fair treatment of Customers that are measured, monitored and driven by a cycle of continuous improvement.

4. Relationships between Insurers and Intermediaries

In managing their relationships with Intermediaries, Insurers are expected to:

- have effective systems and controls in place and communicate clear strategies for selecting and managing arrangements with Intermediaries as part of their overall distribution plan;
- conduct due diligence in the selection of Intermediaries to assess, amongst other things, that they are authorized and have the appropriate knowledge and ability to conduct insurance business and have appropriate governance policies and procedures with respect to fair treatment of Customers;
- have written agreements in place established in respect of their business dealings with each other, to clarify their respective roles and facilitate the achievement of expected outcomes in matters of fair treatment of Customers;
- manage contracts, once in place, to ensure that Intermediaries continue to be authorized and remain suitable to do business with them and comply with the conditions of their contract;
- be satisfied that the involved Intermediaries are providing information to Customers in such a manner that will assist them in making an informed decision; and
- analyze complaints concerning Intermediaries in respect of products distributed by Intermediaries on their behalf, enabling them to assess the complete Customer experience and identify any issues to be addressed.

5. Relationships with Regulatory Authorities

With regard to regulatory authorities, Insurers and Intermediaries are expected to:

- make available their strategies, policies and procedures dealing with the fair treatment of Customers;
- promptly advise regulatory authorities if they are likely to sustain serious harm due to a major operational incident that could jeopardize the interests or rights of Customers and the Insurer or the Intermediary's reputation.

Moreover, Insurers are expected to communicate and report to the regulatory authorities any Intermediary with whom they have transacted that may be unsuitable or not duly authorized, which could result in impairing the fair treatment of Customers.

This may include:

- identifying whether some Intermediaries or particular issues are subject to regular or frequent complaints; and
- reporting to the regulator recurring issues relevant to the regulator's assessment of the Intermediaries concerned.

6. Customer outcomes and expectations

This section outlines twelve Customer' outcomes that CCIR and CISRO expect to be achieved by Insurers and Intermediaries, as the case may be, and expectations for achieving those outcomes.

6.1 Governance and Business Culture

CCIR and CISRO expect fair treatment of Customers to be a core component of the governance and business culture of Insurers and Intermediaries.

Incorporating a fair treatment of Customers culture requires the involvement of all organizational levels and processes, from strategic planning to decision-making and governance structures to operations. In so doing, Insurers and Intermediaries aim at striking balance between the obligations of all involved, including representatives.

Expectations to achieve this outcome (Insurers and Intermediaries)

Overall responsibility for fair treatment of Customers is at the level of the board and/or senior management, who design, approve, implement and monitor adherence to policies and procedures aimed at ensuring that Customers are treated fairly.

Management information includes the most useful information and indicators to allow the board and senior management to:

- assess the organizational performance with respect to fair treatment of Customers;
- react, in a timely manner, to changes or risks likely to have a negative impact on their Customers; and
- demonstrate that fair treatment of Customers is part of their business culture.

Mechanisms and controls are established to identify and deal with any departure from the organizational strategies, policies and procedures, any conflicts of interest or any other situation likely to interfere with the fair treatment of Customers.

Appropriate measures are taken to ensure that employees and representatives meet high standards of ethics and integrity, beginning at recruitment.

Relevant staff is trained to deliver appropriate outcomes in terms of fair treatment of Customers.

Remuneration, reward strategies and evaluation of performance take into account the contribution made to achieving outcomes in terms of fair treatment of Customers.

6.2 Conflicts of Interest

CCIR and CISRO expect that any potential or actual conflicts of interest be avoided or properly managed and not affect the fair treatment of Customers.

In their dealings either with each other or with Customers, Insurers and Intermediaries may encounter conflicts of interest. As Intermediaries interact with both Customers and Insurers, they may be more likely to encounter potential or actual conflicts of interests. Where conflicting interests compete with duties of care owed to Customers, they may create risks that Insurers, Intermediaries or any person acting on their behalf will not act to support the fair treatment of Customers.

Examples of conflicts of interest that may arise:

- from compensation structures, performance targets or performance management criteria;
- from inducements as benefits offered to an Insurer or Intermediary or any person acting on its behalf, incentivizing that firm/person to adopt a particular course of action;
- where relationships with an Insurer or Intermediary other than the Customer influences the advice given to the Customer;
- where the Intermediary or Insurer owes a duty to two or more Customers in respect of the same or related matters or has interest in the outcome of a service or a transaction carried out on behalf of a Customer or has significant influence over the Customer's decision.

These situations may encourage behaviors that result in unsuitable sales, have a detrimental impact on the quality of the service provided or otherwise breach the Insurer's or Intermediary's obligations towards the Customer. They may also affect the independence of advice given by Intermediaries.

This is a matter, therefore, of ensuring that each situation is assessed from a broad perspective, accounting for interactions between all involved, from Insurers to Intermediaries, in order to obtain a sustainable system, as a whole, that will deal appropriately with conflicts of interests.

Expectations to achieve this outcome (Insurers and Intermediaries)

- Take all reasonable steps to identify and avoid or manage conflicts of interest and communicate these through appropriate policies and procedures.
- Place a Customer's interests ahead of their own.
- Ensure that, when relying on disclosure for managing conflicts of interest, it is used appropriately and does not put an unreasonable onus on the Customer, especially if the Customer does not fully understand the conflict or its implications.

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- Where conflicts of interest cannot be managed satisfactorily, this results in the Insurer or Intermediary declining to act.

6.3 Outsourcing

CCIR and CISRO expect that functions related to conduct of insurance business outsourced to service providers do not hinder the quality of services or jeopardize the Insurer's or the Intermediary's ability to achieve fair treatment of Customers.

Outsourcing is defined as delegating to a service provider, over a defined period, the performance and management of a function, activity or process, that is or could be undertaken internally by the Insurer or the Intermediary itself.

When functions related to the conduct of business of an Insurer or an Intermediary (such as those in the chain of designing, soliciting, selling insurance products or policy servicing) are delegated to a service provider, the service provider is to carry out these tasks in compliance with the laws, regulations and guidelines applicable to the Insurer's or Intermediary's activities⁴.

Expectations to achieve this outcome (Insurers and Intermediaries)

- Retain full and ultimate responsibility for outsourced functions and, consequently, monitor them accordingly.
- Only deal with service providers having high ethical and professional standards and whose policies, procedures and processes are expected to result in fair treatment of Customer outcomes.
- Maintain appropriate controls over outsourced functions.
- Develop outsourcing agreements which do not hinder the quality of services or jeopardize their ability to fulfill fair treatment of Customers-related obligations.
- Ensure that the firms to which they outsource functions have adequate policies and procedures in place ensuring compliance with legislation relating to privacy protection.
- Provide training to service providers, when appropriate, to ensure fair treatment of Customers.
- Re-assess their existing arrangements upon renewal, to ensure that they contribute to the achievement of fair Customers outcomes.

Expectations to achieve this outcome (Insurers)

- When Insurers outsource some of their functions to Intermediaries (e.g., managing general agencies, third party administrators, national accounts), they are expected

⁴ Functions that are not related to conduct of insurance business, such as car repairs, are not considered outsourced functions, although they can negatively impact the fair treatment of Customers. Hence, Insurers and Intermediaries are expected to deal only with service providers having high ethical and professional standards and whose policies, procedures and processes are expected to result in fair treatment of Customer outcomes.

to manage these outsourcing arrangements as described under the section “Relationships between Insurers and Intermediaries”.

6.4 Design of Insurance Product

CCIR and CISRO expect that the design of a new insurance product or significant adaptations made to an existing product take into account the interests of the target Consumers' group.

With the development of complex products that are sometimes difficult to understand, any weakness in the design or the related disclosure documents can increase the likelihood of inappropriate choices from Consumers.

Expectations to achieve this outcome (Insurers)

- Development of products includes the use of adequate information to assess the needs of different Consumer groups.
- Product development process (including a product originating from a third-party administrator) provides for a thorough assessment of the main characteristics of a new product and of the related disclosure documents by every appropriate department of the Insurer.
- Policies, procedures and controls put in place enable the Insurer to:
 - offer a product that delivers the reasonably expected benefits;
 - target the Consumers for whom the product is likely to be appropriate, while preventing or limiting inappropriate sales;
 - assess the risks resulting from the product by considering, among other things, changes associated with the environment or stemming from the Insurer's policies that could harm Customers; and
 - monitor a product after its launch to ensure it still meets the needs of target Customers and, as the case may be, take the necessary remedial action.
- Provide relevant information and training to Intermediaries to ensure they understand the target market, such as information related to the target market itself, as well as the characteristics of the product. Collaboration between all those involved, from Insurers to Intermediaries, is a key factor in achieving fair treatment of Customers.
- Retain oversight of, and remain accountable for, the development of its products whenever product development is undertaken by an Intermediary on its behalf.

Expectations to achieve this outcome (Intermediaries)

- Provide information to the Insurer on the types of Customers to whom the product is sold and whether the product meets the needs of the target market, enabling the Insurer to assess whether its target market is appropriate and to revise the product, when needed.

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- When undertaking product development on behalf of an Insurer, take Customers' interests into account in performing this work.

6.5 Distribution Strategies

CCIR and CISRO expect that distribution strategies are tailored to the product, consider the interests of the targeted Consumer groups and result in consistent Consumer protections independently of the distribution model chosen.

Insurers are accountable for distribution strategies and ultimately responsible for oversight aspects pertaining to the distribution of their products. However, the Insurer's ultimate responsibility does not absolve Intermediaries of their own responsibilities for which they are accountable.

Distribution strategies have evolved as well as the digital needs of Customers and CCIR and CISRO consider that this evolutionary process to continue and expect that the Customers' needs be fulfilled regardless of the distribution model or the medium used.

Expectations to achieve this outcome (Insurers)

- Development of distribution strategies includes the use of adequate information to assess the needs of different Consumer groups.
- Policies, procedures and controls put in place ensure that distribution models are appropriate for the product, particularly in light of the legislation in force and whether or not advice should be provided.
- Assess the performance of the various models of distribution used, particularly in terms of fair treatment of Customers and, if necessary, take the necessary remedial action.

Expectations to achieve this outcome (Intermediaries)

- Provide information to the Insurer, particularly in terms of fair treatment of Customers to enable the Insurer to revise its distribution strategy, when needed.

6.6 Disclosure to Customer

CCIR and CISRO expect that a Customer is given appropriate information to make an informed decision before entering into a contract.
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Insurers and Intermediaries ensure that Customers are appropriately informed about a product, before and at the point of sale, to enable them to make an informed decision about the proposed product.

The information provided should be sufficient to enable Customers to understand the characteristics of the product they are buying and help them to understand whether and how it may meet their needs. To this end, the level of information required will vary according to the knowledge and experience of a typical Customer for the product in question and the product's overall complexity.

Whatever distribution model and medium used to make the disclosure, Insurers and Intermediaries ensure they provide an equivalent level of protection to Customers.

Expectations to achieve this outcome (Insurers and Intermediaries)

CCIR and CISRO expect the disclosure to Customers to:

- be up to date and provided in a clear, fair and not misleading way, using plain language wherever possible;
- be accessible in written format, on paper or another durable medium, including electronic mediums;
- focus on the quality rather than the quantity of information;
- identify the Insurer and provide its contact information;
- include information on key features (for example, conditions, exclusions, restrictions and fees) particularly with respect to the conclusion or performance of the insurance contract, including any adverse effect on the benefit payable under that contract;
- clearly identify the rights and obligations of the Customer, including the rights to cancel, to claim benefits and to complain; and
- make the information on their policies and procedures on claims and complaints publicly available.

Expectations to achieve this outcome (Intermediaries)

- disclose the types of business for which they are authorized.
- disclose the services provided, including whether they offer products from a full range of Insurers, from a limited range or from an exclusive Insurer.
- clarify their relationship with the Insurers with whom they contract.

6.7 Product Promotion

CCIR and CISRO expect that product promotional material is accurate, clear, not misleading and consistent with the result reasonably expected to be achieved by the Customer of the product.
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The Insurer is responsible for providing promotional material that is accurate, clear and not misleading not only to Customers but also to Intermediaries who may rely on such information. To this end, the Insurer ensures that any promotional material regarding its products is reviewed by independent functions prior to being disseminated. Any promotional material designed by Intermediaries follows the same principles.

If an Insurer or Intermediary becomes aware that the promotional material is not accurate and clear or is misleading, it informs the party responsible for designing the material, whether Insurer or Intermediary, and has the material withdrawn. In cases where the Insurer or Intermediary knows that Customers are relying on any materially inaccurate or misleading information, they notify such Customers and correct the information as soon as reasonably practicable.

Expectations to achieve this outcome (Insurers and Intermediaries)

To promote products in a fair manner, the information provided:

- is easily understandable;
- is consistent with the coverage offered;
- accurately identifies the Insurer;
- states prominently the basis for any claimed benefits and any significant limitations;
- does not hide, diminish or obscure important statements or warnings.

6.8 Advice

CCIR and CISRO expect that, when provision of advice is required by law before concluding the contract, Customers receive relevant advice, taking into account the Customer's disclosed circumstances.

Advice goes beyond the provision of product information and relates specifically to the provision of a personalized recommendation on a product in relation to the disclosed needs of the Customer.

Insurers and Intermediaries are committed to delivery of relevant advice, communicated in a clear and accurate manner that is comprehensible to the Customer. Minimizing the risk of inappropriate sales is a core priority. Independent of the distribution model or the medium used, it is made clear to the Customer whether advice is being provided or not.

Expectations to achieve this outcome (Insurers and Intermediaries)

Before giving advice, appropriate information should be sought from Customers for assessing their insurance objectives and needs. This information may differ depending on the type and the complexity of the product and, as the case may be, include information on the Customer's:

- financial knowledge and experience;
- needs, priorities and circumstances;
- ability to afford the product; and
- risk profile.

The basis on which a recommendation is made is explained and documented, particularly in the case of complex products and products with an investment element. Where advice is provided, this is communicated to the Customer in written format, on paper or in a durable and accessible medium, and a record kept in a "client file".

Insurers and Intermediaries review the "client files" of those under their responsibility to exercise control after the fact on the quality of the advice given, take any necessary remedial measures with respect to the delivery of advice and, if applicable, are in a position to examine fairly any complaints submitted to them.

In cases where provision of advice required by law can be waived by the Customer, the Insurer or Intermediary retains an acknowledgment by the Customer to this effect.

To ensure the delivery of quality advice, Insurers and Intermediaries establish ongoing training programs that allow the persons giving advice to maintain an appropriate level of knowledge about:

- their industry segment;

-
- the characteristics and risks of the products and services and their related documentation; and
 - the applicable legal and regulatory requirements.

6.9 Disclosure to Policyholder

CCIR and CISRO expect that policyholders are provided information which allows them to make informed decisions throughout the lifetime of their contracts.
--

CCIR expects that the disclosure processes established by Insurers allow policyholders to determine whether the product continues to suit their needs and expectations and, as the case may be, remind them in a timely manner of options that can be exercised from time to time.

Where there are changes in terms and conditions, the Insurer notifies the policyholder of their rights and obligations regarding such changes and obtains the policyholder's consent as appropriate.

Expectations to achieve this outcome (Insurers)

The disclosure processes include the disclosure of information:

- on the Insurer:
 - any change in the name of the Insurer, its legal form or the address of its head office and any other offices as appropriate;
 - any acquisition by another entity resulting in organizational changes as far as the policyholder is concerned;
 - where applicable, information on a portfolio transfer (including policyholders' rights in this regard).
- on terms and conditions:
 - evidence of cover (including policy inclusions and exclusions) promptly after inception of a policy; and
 - changes in policy terms and conditions or amendments to the legislation applicable to the policy.
 - in the case of switching between products or early cancellation of a policy.

6.10 Claims Handling and Settlement

CCIR and CISRO expect claims to be examined diligently and fairly settled, using a simple and accessible procedure.

The claims examination and settlement processes are key indicators for assessing an Insurer's performance regarding the fair treatment of Customers. Sometimes, Intermediaries serve as an initial contact for claimants, which may be in the common interest of the policyholder, Intermediary and Insurer.

Expectations to achieve this outcome (Insurers)

- Maintain written documentation on their claims handling procedures, which include all steps from the claim being made up to and including settlement. Such documentation may include expected timeframes for these steps, which might be extended in exceptional cases.
- Claimants are informed about procedures, formalities and common timeframes for claims settlement.
- Claimants are given information about the status of their claim in a timely and fair manner.
- Claim-determinative factors such as depreciations, discounting or negligence, if applicable, are illustrated and explained in understandable language to claimants. The same applies when claims are denied in whole or in part.
- Dispute resolution procedures follow a balanced and impartial approach, bearing in mind the legitimate interests of all parties involved. Procedures avoid being overly complicated, such as having burdensome paperwork requirements.
- Mechanisms are in place to review claims disputes within the Insurer to promote fair play and objectivity in the decisions.

6.11 Complaints Handling and Dispute Resolution

CCIR and CISRO expect complaints to be examined diligently and fairly, using a simple and accessible procedure.

The complaint examination and dispute resolution processes are key indicators for assessing organizational performance regarding the fair treatment of Customers.

A complaint can be defined as an expression of dissatisfaction about the service or product provided by an Insurer or Intermediary. It may involve, but is differentiated from, a claim (unless relating to the administration of the claim process) and does not include a simple request for information.

Expectations to achieve this outcome (Insurers and Intermediaries)

- Establish policies and procedures to deal with received complaints in a fair manner. These include keeping a record of each complaint and the measures taken for its resolution.
- Respond to complaints without unnecessary delay; complainants are kept informed about the handling of their complaints.
- Analyze the complaints received to identify trends and recurring risks. Analysis of what leads to individual complaints can help them to identify and to correct common root causes.
- Provide clear, transparent and easy to understand information about independent dispute resolution processes.

6.12 Protection of Personal Information

CCIR and CISRO expect protection of confidentiality of personal information policies and procedures adopted by Insurers or Intermediaries to ensure compliance with legislation relating to privacy protection and to reflect best practices in this area.
--

Theft, loss or inappropriate use of personal information obtained from Customers represents a risk to Customers and a threat to the Insurer or the Intermediary's reputation.

The protection of personal information is a key issue for Insurers and Intermediaries. The sustainability of their operations depends, among other things, on public confidence in this regard. Customers expect their information to remain confidential and to be handled accordingly.

Expectations to achieve this outcome (Insurers and Intermediaries)

- Provide their Customers with a level of comfort regarding the security of their personal information.
- Have sufficient safeguards in place to protect the privacy of personal information on Customers.
- Have appropriate policies and procedures in place to ensure that the board and senior management are aware of the challenges pertaining to the protection of Customers' personal information and to demonstrate that privacy protection is part of their business culture.

July 29, 2019

Ms. Judith Robertson
Commissioner-Designate, Financial Consumer Agency of Canada (FCAC)
427 Laurier Avenue West, 6th Floor
Ottawa ON K1R 5C7
judith.robertson@fsrao.ca

Dear Ms. Robertson:

The Canadian Association of Financial Institutions in Insurance (CAFII) extends hearty congratulations on your recent appointment as Commissioner of Financial Consumer Agency of Canada (FCAC) and best wishes for much success in that critically important regulator CEO role.

We applaud Finance Minister Morneau's selection decision, as your strong background as a Commissioner/Board member with financial services regulatory organizations coupled with your extensive private sector leadership experience constitute an ideal background for leading the FCAC through the vitally important next phase in its mandate as regulator of federally regulated financial institutions (FRFIs).

The FCAC is a key regulator for CAFII because many of our members are distributors of creditor's group insurance and travel insurance as "Authorized Insurance Products" – through banks and federally incorporated credit unions – under the federal Bank Act and the related Insurance Business (Banks and Bank Holding Companies) Regulations (IBBRs).

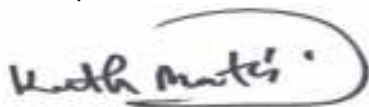
Our Association has therefore had regular liaison and dialogue with the FCAC over the years, including those meetings set out in Appendix A to this letter for your information.

In that connection, a secondary purpose of this letter is to advise that CAFII would like to arrange a get-acquainted and dialogue meeting with you and other FCAC staff executives, as appropriate, sometime this Fall after you have had time to settle into your new role as Commissioner.

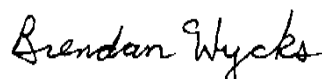
Given that the Minister's announcement of your appointment indicated that your start date as Commissioner would be 19 August, 2019, we will therefore follow-up with your office in late September, with a view to arranging a meeting with you and key team members sometime in October or November at the Agency's Ottawa office. We would like to secure a meeting of approximately 90 minutes duration. In that meeting, in addition to getting more fully acquainted and having an update dialogue on regulatory matters of mutual interest, CAFII would like to make a brief overview presentation on the Authorized Insurance Products which our members offer to consumers, and also share the results of recent research conducted by Pollara Strategic Insights (which is also FSRA's polling/survey research provider) on consumers' experiences and satisfaction with credit protection insurance and travel health insurance.

We look forward to meeting with you in your new leadership role as Commissioner of the Financial Consumer Agency of Canada.

Sincerely,



Keith Martin, Co-Executive Director, CAFII
647.460.7725



Brendan Wycks, Co-Executive Director, CAFII
647.218.8243

Appendix A

Recent CAFII Meetings and Interactions With Financial Consumer Agency of Canada (FCAC)

As At July 2019

- January 2011: CAFII presentation to FCAC staff on “Fundamentals of Creditor’s Group Insurance” at FCAC office in Ottawa.
- January 9, 2014: Get re-acquainted/refresh meeting between FCAC Consumer Education Officers Michael Olson and Karen Morgan and CAFII representatives Brendan Wycks, Executive Director, and Moira Gill, Executive Operations Committee member from TD Insurance, at FCAC office in Ottawa
- February 28, 2014: CAFII makes response submission on FCAC consultation on proposed development and implementation of a comprehensive financial consumer code
- June 10, 2014: CAFII Reception event with Brigitte Goulard, FCAC Deputy Commissioner, as guest speaker, at One King West Hotel, Toronto
- February 10, 2015: CAFII Annual Members’ Luncheon with Jane Rooney, Canada’s National Financial Literacy Leader at FCAC, as guest speaker, at Arcadian Loft, Toronto
- May 1, 2015: CAFII Executive Director Brendan Wycks introduces himself to FCAC Commissioner Lucie Tedesco, and they have a get acquainted chat following her FCAC Update presentation at CLHIA Compliance and Consumer Complaints Conference in Quebec City
- June 12, 2018: CAFII purchases a table for Economic Club of Canada luncheon with Lucie Tedesco, FCAC Commissioner, as guest speaker, at Royal York Hotel, Toronto. CAFII Co-Executive Directors Brendan Wycks and Keith Martin chat with Lucie Tedesco and Brigitte Goulard, Deputy Commissioner, following Ms. Tedesco’s presentation focused on the May 2018 FCAC “Domestic Bank Retail Sales Practices Review” Report
- September 14, 2018: FCAC Presentation and Dialogue Meeting (focused on CAFII-relevant insights arising from the May 2018 FCAC “Domestic Bank Retail Sales Practices Review” Report) between Brigitte Goulard, Deputy Commissioner, and CAFII Board of Directors and Executive Operations Committee members, at CIBC Insurance, Toronto
- March/April 2019: CAFII makes response submissions on FCAC’s proposed “Credit or Loan Insurance” and “Credit Card Balance Insurance” consumer education materials (website content)

Appendix B

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 Assurant, Canadian Premier Life Insurance Company, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and The Canada Life Assurance Company.

Agenda Item 4(i)(1)
August 13/19 EOC Teleconference Meeting

From: Keith Martin <Keith.Martin@cafii.com>

Sent: August-06-19 12:13 PM

Subject: CAFII Alert: Australian Securities and Investments Commission (ASIC) Publishes Critical Report on Credit Protection Insurance

CAFII Board, EOC, and Committee Members:

Background

Attached is the recently-released, July 2019 final report of the Australian Securities and Investments Commission (ASIC) on credit protection insurance (called consumer credit insurance in Australia), the tone of which is readily apparent from the title of the report: "Consumer credit insurance: Poor value products and harmful sales practices."

The major areas that ASIC found concerns with were the products' loss ratio, pressure selling, poor product design, and challenges in making claims. We will put the report on the agenda of future EOC and Board meetings to discuss its findings, and to identify the best strategy for responding to questions about the report in a Canadian context.

Highlights of the Report

The report states that Australian credit protection insurance is a poor value product:

For **CCI sold with credit cards**, consumers were paid only **11 cents in claims** for every dollar they paid in premiums (and the more cover types in the policy, the lower its claims ratio). For **all CCI sold**, this increased to only **19 cents in claims** paid. (Page 3.)

Another area of concern was denial of claims:

For the financial years 2011–18, we found that one in five (20.03%) claims made on a CCI policy were either declined by the insurer or withdrawn. This ranged between 15.6% to 33.6%: see Table 4.

Many insurers also did not accurately and reliably record the number of (and reasons for) withdrawn claims or claims that did not proceed.

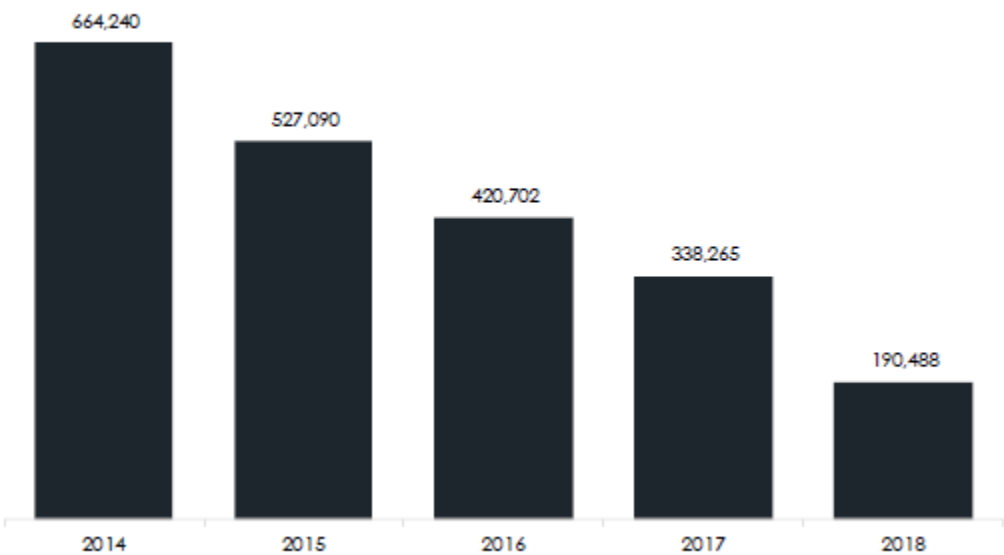
The higher declined/withdrawn claim rates indicate that:

- › there are systemic issues in how the product was sold, including the sale to consumers who were ineligible to claim;
- › consumers do not understand (or were misled about) the features, limits and exclusions of the policy;
- › policy exclusions are too onerous; or

› policies may not have been suitable for the consumer’s individual circumstances.
(Page 12.)

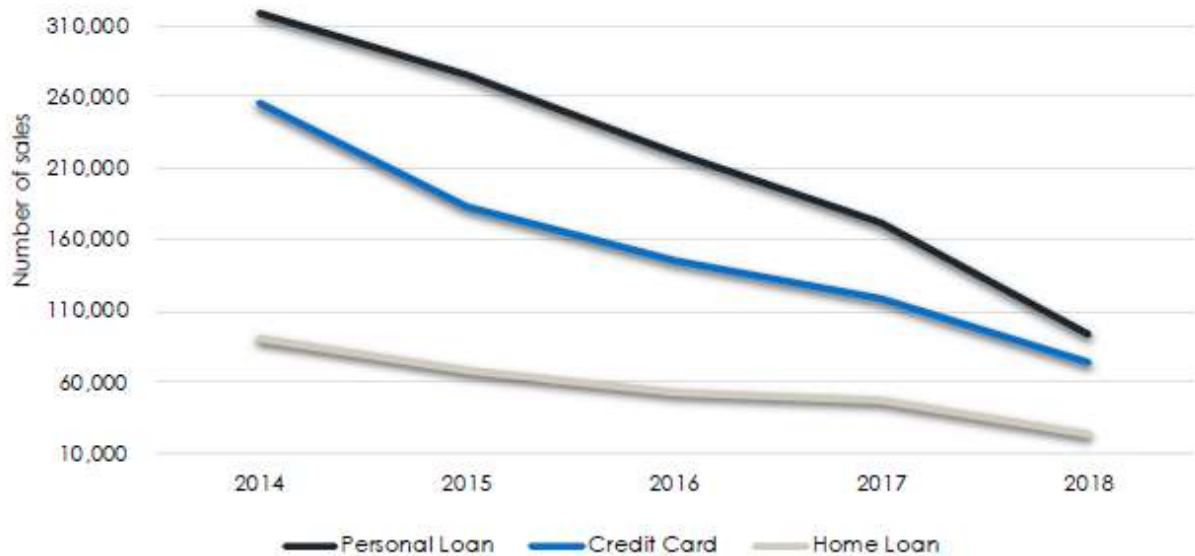
The report also finds that during the period it covers, sales of credit protection insurance declined significantly, with 7 of 8 lenders no longer selling credit card credit protection insurance, and with sales in branches having declined precipitously. The extent of the exit of lenders from selling credit protection insurance is revealed by the following Figures, including Figure 3 which shows the collapse of sales through the branch channel:

Figure 1: Decrease in total CCI sales by year (2014–18)



(Page 7.)

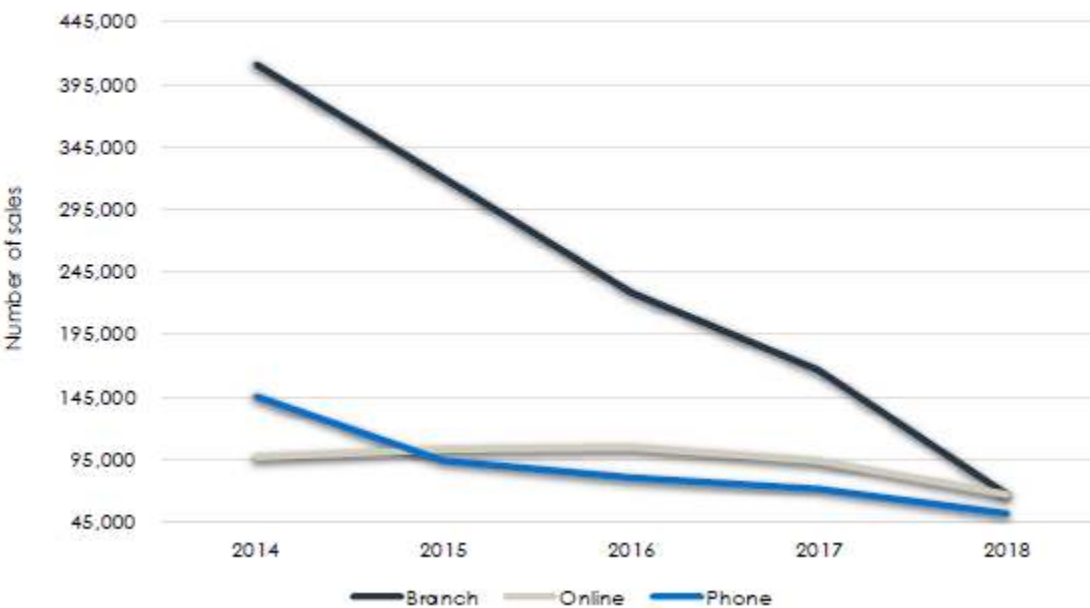
Figure 2: Decrease in total CCI sales by product (2014–18)



Note: For the data shown in this figure, see Table 6 (accessible version).

(Page 7.)

Figure 3: Decrease in total CCI sales by channel (2014–18)



(Page 8.)

Pressure on the industry will also increase due to planned enforcement actions from ASIC. For one, sales of credit protection insurance will no longer be allowed at the time the credit instrument is sold:

...the Banking Code of Practice now has a four-day deferred sales period for CCI sold with credit cards and personal loans in branch or over the phone, effective 1 July 2019. (Page 6.)

As well, ASIC has also begun efforts to remediate funds to over 300,000 consumers, with an anticipated refund to consumers of \$100 million:

ASIC has commenced enforcement investigations into a number of entities that have been involved in mis-selling CCI to consumers. We are also requiring lenders to remediate over 300,000 affected consumers with over \$100 million to ensure that consumers who have not been treated fairly are appropriately remediated. (Page 2.)

Australian Media Articles on the Report

Following is a sample of Australian media articles on the report:

<https://www.insurancebusinessmag.com/au/news/breaking-news/asic-threatens-to-take-action-over-systemic-failings-and-misconduct-in-the-cci-market-172457.aspx>

<https://www.abc.net.au/news/2019-07-11/asic-report-slams-consumer-credit-insurance/11298732>

<https://www.smh.com.au/business/banking-and-finance/banks-blasted-over-worthless-insurance-as-watchdog-flags-compo-court-cases-20190711-p5266f.html>

Keith Martin

Co-Executive Director / Co-Directeur général

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www.cafii.com



Making Insurance Simple and Accessible for Canadians

Rendre l'assurance simple et accessible pour les Canadiens



ASIC
Australian Securities &
Investments Commission



Consumer credit insurance: Poor value products and harmful sales practices

Report 622 | July 2019

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About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents: consultation papers, regulatory guides, information sheets and reports.

Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations. Examples in this report are purely for illustration; they are not exhaustive and are not intended to impose or imply particular rules or requirements.

About this report

2	Consumer credit insurance (CCI) provides cover for consumers if they are unable to meet their minimum loan repayments due to unemployment, sickness or injury or to pay the outstanding loan balance upon death.
3	
5	CCI is optional and usually sold by lenders to consumers with a credit card, personal loan or home loan.
7	
10	ASIC has long been concerned about sales practices for CCI, which have resulted in poor outcomes for consumers. We reviewed the sale of CCI by lenders, for the period 2011 to 2018, and found that CCI sales practices and product design are still delivering poor outcomes for consumers.
13	
17	
19	
20	This report confirms the standards we expect of lenders who sell CCI and insurers who design the products and handle claims. ASIC expects lenders and insurers to meet these standards or cease selling CCI until they do. New products must meet the standards before being sold.
21	

ASIC has commenced enforcement investigations into a number of entities that have been involved in mis-selling CCI to consumers. We are also requiring lenders to remediate over 300,000 affected consumers with over \$100 million to ensure that consumers who have not been treated fairly are appropriately remediated. ASIC will provide a further update on this program later in the year.

Our expectations in this report are supported by the recommendations in the Final Report of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Financial Services Royal Commission): see Recommendations 4.1, 4.3, 4.7 and 4.8.

ASIC's work on CCI—At a glance



Finding: CCI is poor value for money

- › For **CCI sold with credit cards**, consumers were paid only **11 cents in claims** for every dollar they paid in premiums (and the more cover types in the policy, the lower its claims ratio).
- › For **all CCI sold**, this increased to only **19 cents in claims** paid.



Finding: CCI sales practices cause consumer harm

- › CCI was sold to consumers who were **ineligible to claim** or **unlikely to benefit or need cover**.
- › Sales staff used **pressure selling** and other **unfair sales practices**.
- › Consumers were given **non-compliant personal advice** to buy unsuitable policies.
- › Consumers were charged CCI premiums with **no current loan**.
- › Many lenders did not have consumer-focused processes to help **consumers in hardship** who had a CCI policy to lodge a claim.



Finding: Lenders are exiting the CCI market

- › During ASIC's work on CCI, **7 of 8 lenders** have stopped selling CCI with credit cards, **5 of 9 lenders** have stopped sales with personal loans, and **4 of 9 lenders** have stopped sales with home loans.



ASIC's expectations: Meet our standards

- › ASIC expects lenders and insurers to meet the **standards** on page 4 of this report or **cease selling CCI** until they do.



ASIC action: Enforcement investigations

- › ASIC is investigating **sales of CCI that did not comply with the law** before the recent strengthening of ASIC's powers and penalties.
- › **For future conduct**, we will use our enhanced powers and penalties, including the **product intervention power** where there is a risk of significant consumer detriment, and **civil penalties** for breaches of the duty to do all things necessary to ensure that financial services are provided efficiently, honestly and fairly.



ASIC action: Consumer remediation and improved product value and sales practices

- › ASIC is requiring lenders to undertake **large-scale remediations** with **over \$100 million** expected to be paid to **300,000+ consumers**. The consumers' best interests must underpin every decision and action of the lender in undertaking the remediation.
- › We will assess changes to product value and sales practices, using the full range of our powers if we do not see improvements.

ASIC's expectations

We expect all lenders who sell CCI, and insurers who design and price the products and handle claims, to meet the following standards or cease selling CCI until they do. New entrants to the market should also design their products and sales processes so they meet these standards as soon as they start business. There is a risk of significant consumer detriment where these standards are not met. Where this occurs ASIC will consider enforcement action or intervening using our product intervention power.

Improved product design and value

- › CCI products should be unbundled so that consumers can select cover they are eligible to use and that meets their needs.
- › Claims ratios must be significantly increased from the current poor levels of 19 cents in the dollar, so CCI provides real consumer value.
- › Lenders should assess product value including claims ratios of new and existing products before deciding to sell CCI.
- › Benefits should reflect the needs of consumers (e.g. payments for periods of unemployment rather than arbitrary limits).

Compliance and monitoring

- › Lenders should refrain from selling CCI unless they can demonstrate compliance with these standards and the 10 recommendations in [REP 256](#) for the sale of all CCI products through all channels.
- › Where these standards have not been met, lenders should conduct a complete, thorough and robust review to assess any consumer harm, and identify and remediate affected consumers in a timely manner.

Improved sales practices

- › Outbound unsolicited phone sales of CCI should cease.
- › Lenders should use 'hard filters' for key eligibility criteria for online sales and 'knock-out' questions in scripts for phone and branch sales to prevent the sale of CCI to consumers who are ineligible to claim on any primary cover.
- › Lenders should take into account information they have about the consumer to ensure consumers are not being sold a CCI policy where they are ineligible to claim (this does not have to mean that personal financial advice is being provided).
- › Lenders should obtain and record positive, clear and informed consent before discussing the sale of CCI with a consumer.
- › Lenders should, within a short timeframe, incorporate a four-day deferred sales model for all CCI products across all channels, with the deferral period starting the day after the consumer is told their loan is approved.

Improved post-sales conduct

- › Lenders and insurers should not charge premiums for CCI where primary benefits are no longer available under the policy (i.e. the loan has been repaid).
- › Lenders and insurers should give consumers appropriate annual communication about the price, limits and exclusions of the policy and remind them to lodge a claim if they had a claimable event in the last 12 months.
- › Lenders and insurers should, every two years, contact consumers with CCI on a credit card (or other revolving lines of credit) about whether they want to keep their policy or cancel their cover.
- › Lenders should notify a consumer with a CCI policy who applies for changes to their loan contract due to financial hardship that they have a CCI policy and provide or transfer their claim details to the insurer for assessment.
- › Insurers should accurately and reliably record the number of (and reasons for) withdrawn claims and claims that did not proceed.

Background to our review

How CCI works

Consumer credit insurance (CCI) sold with credit cards, personal loans and home loans provides cover for consumers if they are unable to meet their minimum monthly loan repayments due to unemployment, sickness or injury (under the terms of the policy) or to pay the outstanding loan balance upon death. CCI is optional and usually sold at the time the consumer applies for the loan.

The CCI premium and the amount and length of cover are tied to the loan, with each policy having different features, limits and exclusions. Any claim payout varies greatly between policies depending on these features, limits and exclusions. For example, a claim for involuntary unemployment under a policy will pay the minimum monthly loan repayment each month from the date of unemployment but the claim payments may be capped at a specified (monthly and overall) limit amount and payments will only be available for a limited period of time.

ASIC's previous work on CCI

In October 2011, ASIC issued [Report 256](#) *Consumer credit insurance: A review of sales practices by authorised deposit-taking institutions* (REP 256), which made 10 recommendations to raise industry standards and reduce the risk that CCI may be mis-sold to consumers.

During 2015 and 2016, ASIC reviewed the sale of add-on insurance (including CCI) through car dealerships. We found that consumers were being sold expensive, poor value products that provided very little or no

benefit, and a sales environment with pressure selling, very high commissions and conflicts of interests.

Note: See [Report 470](#) *Buying add-on insurance in car yards: Why it can be hard to say no* (REP 470), [Report 471](#) *The sale of life insurance through car dealers: Taking consumers for a ride* (REP 471) and [Report 492](#) *A market that is failing consumers: The sale of add-on insurance through car dealers* (REP 492).

In August 2017, ASIC formed a CCI working group with industry to help respond to these concerns and improve outcomes for consumers. As a result, the Banking Code of Practice now has a four-day deferred sales period for CCI sold with credit cards and personal loans in branch or over the phone, effective 1 July 2019.

ASIC continues to be concerned about the sale and design of CCI. Some of our concerns include:

- › the sale of CCI to consumers who did not meet, or were unlikely to meet, the employment eligibility criteria under the policy when they were sold the policy (for instance, because they did not work the required minimum number of hours per week or were in casual or temporary employment) and would be unable to claim under the policy; and
- › consumers being charged for more cover than they needed under the policy, including premiums and cover based on the (higher) loan amount applied for rather than the amount the consumer borrowed.

Note: See [Media release 15-318MR](#) *Westpac to refund premiums for unwanted insurance cover*, 29 October 2015; [Media release 17-268MR](#) *Commonwealth Bank to refund over \$10 million for mis-sold consumer credit insurance*, 14 August 2017; and [Media release 17-457MR](#) *Latitude Insurance refunds almost \$1.1 million for poor consumer credit insurance sales and claims handling*, 21 December 2017.

What we did in this review

In December 2017 we required 11 lenders to undertake an independent review of their CCI sales practices for the five-year period from January 2013 to December 2017 (independent review).

The purpose of our review was to:

- › test whether the 10 recommendations in [REP 256](#) had been implemented and were working effectively;
- › review a sample of CCI sales over the period across all products and distribution channels (except CCI sold through car dealers, which was reviewed in REP 492) to identify any non-compliant sales and ensure CCI had not been sold to consumers who were unlikely to meet the employment eligibility criteria and would be unable to claim;
- › analyse complaints, sales and claims information to identify systemic concerns, poor value products and poor consumer outcomes; and
- › address additional concerns about CCI sales practices across all products and distribution channels.

These independent reviews revealed a range of problems (as highlighted in this report) and resulted in breach reports being lodged with ASIC.

ASIC also collected and reviewed data from lenders and insurers for the financial years 2011–2018 to help inform our work, including declined and withdrawn claims. We calculated claims ratios based on the data provided.

Note: When ASIC conducted a final factual accuracy review, one entity identified an error in the data provided to ASIC. For a range of reasons, including materiality, this data has not been changed in this report and does not change the report's findings or recommendations.

Table 1 lists the lenders and insurers covered by our review. For a full summary showing the links between lenders and insurers, see Appendix 1.

Table 1: Lenders and insurers covered by our review

Lenders	Insurers
› Australia and New Zealand Banking Group Limited (ANZ)	› AAI Limited (AAI)
› Australian Central Credit Union Ltd (People's Choice Credit Union)	› AIA Australia Limited (AIA)
› Bank of Queensland Limited (BoQ)	› Asteron Life & Superannuation Limited (Asteron Life)
› Bendigo and Adelaide Bank Limited (Bendigo)	› Credicorp Insurance Pty Ltd (Credicorp)
› Citigroup Pty Limited (Citigroup)	› Great Lakes Insurance SE (Great Lakes)
› Commonwealth Bank of Australia - Retail Banking Services and Bankwest (CBA)	› Hallmark General Insurance Company Ltd (Hallmark General)
› Credit Union Australia Limited (CUA)	› Hallmark Life Insurance Company Ltd (Hallmark Life)
› Latitude Finance Australia and Latitude Personal Finance Pty Ltd (Latitude)	› Insurance Australia Limited (IAL)
› National Australia Bank Limited (NAB)	› MetLife Insurance Limited (MetLife)
› Suncorp-Metway Limited (Suncorp)	› MLC Limited (MLC)
› Westpac Banking Corporation (Westpac)	› MTA Insurance Pty Ltd (MTAI)
	› OnePath General Insurance Pty Limited (OnePath General)
	› OnePath Life Limited (OnePath Life)
	› QBE Insurance (Australia) Limited (QBE)
	› St Andrew's Insurance (Australia) Pty Ltd (St Andrew's)
	› St Andrew's Life Insurance (Australia) Pty Ltd (St Andrew's Life)
	› St. George Life Limited (St. George Life)
	› Swann Insurance (Aust) Pty Ltd (Swann)
	› The Colonial Mutual Life Assurance Society Limited (CMLA)
	› Westpac General Insurance Limited (Westpac General)
	› Westpac Life Insurance Services Limited (Westpac Life)

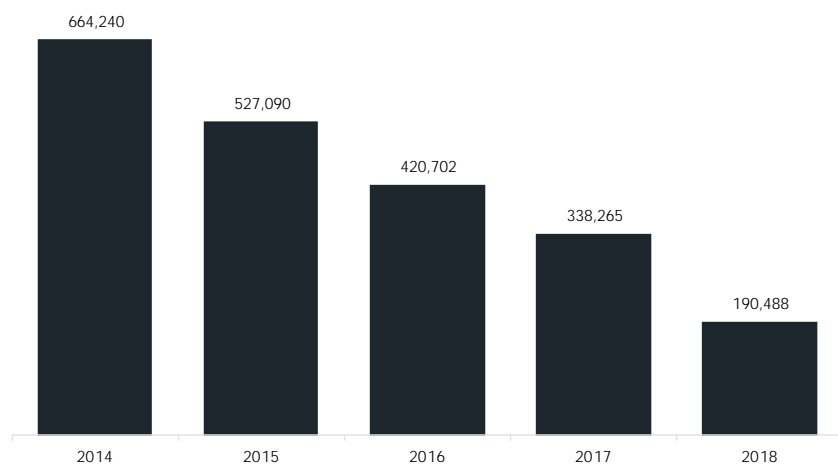
Note: All lenders reviewed for REP 256 were included in this review except HSBC Bank Australia Limited as it had withdrawn all sales of CCI by October 2013. During the time of our review, Asteron Life was known as Suncorp Life & Superannuation Limited. IAL, trading as CGU Insurance, provided CCI life insurance cover through group life insurance policies issued by AMP Life Limited.

Changes to the CCI market during the course of ASIC's work

Market changes

From 2014 to 2018, total sales of all CCI products by the 11 lenders in our review decreased by 71% (from 664,240 to 190,488 sales): see Figure 1.

Figure 1: Decrease in total CCI sales by year (2014–18)

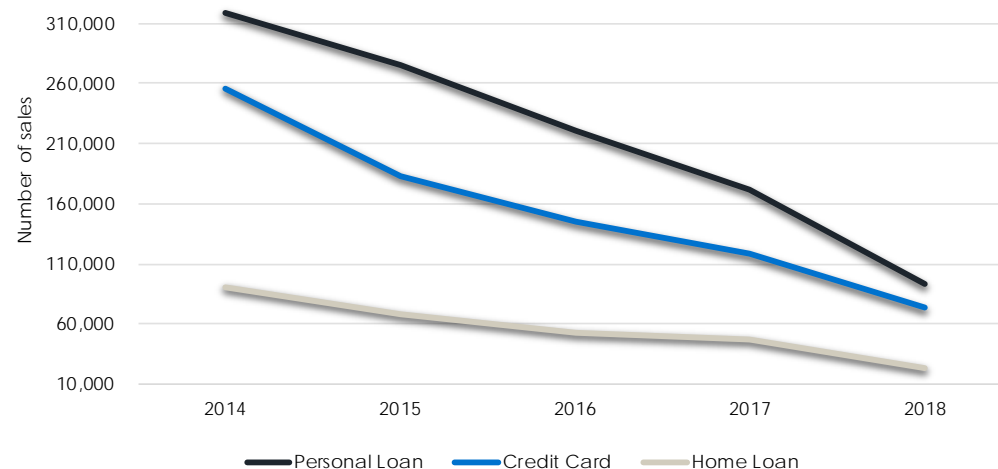


Note: For the data shown in this figure, see Table 5 (accessible version).

The decrease in sales was consistent across all products:

- › for personal loan CCI, a decrease of 71% (from 318,551 to 93,161 sales);
- › for credit card CCI, a decrease of 71% (from 255,216 to 74,186 sales); and
- › for home loan CCI, a decrease of 74% (from 90,249 to 23,073 sales); see Figure 2.

Figure 2: Decrease in total CCI sales by product (2014–18)

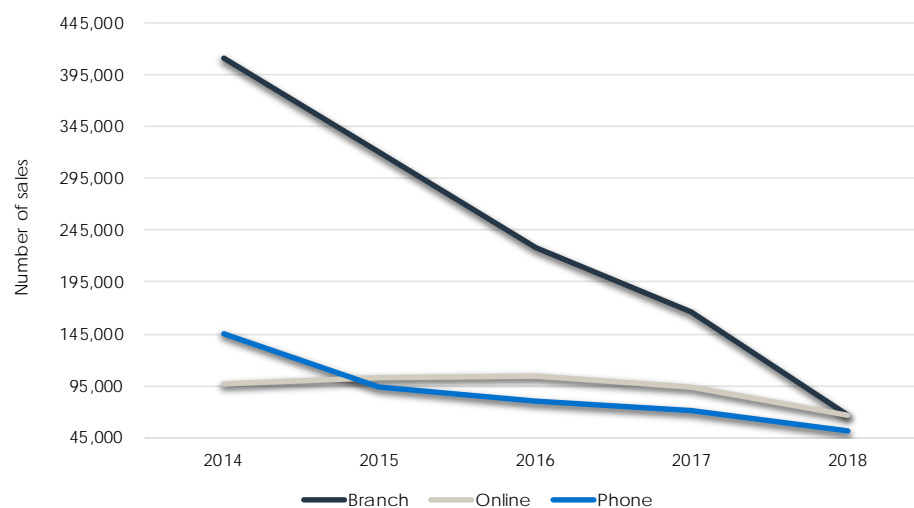


Note: For the data shown in this figure, see Table 6 (accessible version).

During this period, sales of CCI decreased across all sales channels with some variation:

- › branch sales decreased by 84% (from 411,605 sales to 66,306 sales);
- › phone sales decreased by 64% (from 145,656 sales to 51,904 sales); and
- › online sales decreased by 30% (from 96,358 sales to 66,981 sales); see Figure 3.

Figure 3: Decrease in total CCI sales by channel (2014–18)



Note: For the data shown in this figure, see Table 7 (accessible version).

Some lenders stopped selling CCI for some or all products: see Table 2.

Table 2: Changes to CCI sales for products by lender (2014–19)

Lender	Credit card	Personal loan	Home loan
ANZ	Ceased	Ceased	Selling
Bendigo	Ceased	Ceased	Ceased
BoQ	Not sold	Selling	Selling
CBA	Ceased	Ceased	Selling
Citigroup	Ceased	Not sold	Not sold
CUA	Not sold	Selling	Selling
Latitude	Selling	Selling	Not sold

Lender	Credit card	Personal loan	Home loan
NAB	Ceased	Ceased	Ceased
People's Choice	Not sold	Not sold	Selling
Suncorp	Ceased	Ceased	Ceased
Westpac	Ceased	Ceased	Ceased

Note: While CBA is selling CCI with home loans, Bankwest (a division of CBA) has ceased selling all forms of CCI.

ASIC investigations, consumer remediation and changes to practices

ASIC action

Our review of CCI sales, informed by the independent reviews, has identified consumer harm, the need for consumer remediation and improved practices in the following situations:

- › consumers being sold CCI when they were ineligible to claim;
- › pressure selling and unfair sales practices;
- › inappropriate personal advice provided to consumers to buy unsuitable policies;
- › consumers incorrectly charged for CCI; and
- › deficient hardship processes and procedures.

Where significant, lenders have lodged breach reports about the misconduct. ASIC has commenced enforcement investigations into the sales practices of a number of entities where we are concerned there have been breaches of the law.

Remediation program for affected consumers

We are requiring all lenders in this review to undertake a large-scale remediation program to address consumer harm (expected to involve over 300,000 affected consumers paid over \$100 million).

We have been actively involved to help ensure that the lenders' remediation programs follow these principles:

- › lenders conduct a complete, thorough and robust review of the harm to identify the number and nature of affected consumers and the total amount of remediation (with interest);
- › consumers are remediated in a fair, timely and transparent manner to put them back in the position they would have been in had the mis-selling not occurred (but timeliness must not compromise the program's quality);
- › consumers are pro-actively remediated (and where there is good reason for the consumer to take some action for remediation, the 'call to action' should not be onerous nor influence them to take an action that does not align with their best interests);
- › communication with consumers should use multiple channels, be informed by awareness of consumer behaviour, and focus on the right 'call to action' and/or messaging to achieve high response rates and good consumer outcomes;

- › where consumers have active bank accounts, remediation should be processed automatically to that bank account;
- › where consumers have inactive accounts, they should be given the option of nominating an alternative bank account;
- › if a cheque is issued, the consumer should receive follow-up communication to ensure the cheque is deposited;
- › lenders continually monitor outcome metrics of the remediation to track progress and identify and fix areas of the remediation that need improvement; and
- › lenders follow [Regulatory Guide 256](#) *Client review and remediation conducted by advice licensees* (RG 256).

Changes to practices

We required the 11 lenders to change their practices to implement the recommendations made in the independent reviews, including improvements to the sales systems and practices and monitoring and supervision. Some of these recommendations have already been implemented. Lenders must ensure that the remaining recommendations are implemented and working effectively. We plan to collect data to measure improvements and will use the full range of our regulatory powers if consumer outcomes have not improved.

Poor product design and value lead to poor outcomes

CCI is poor value, especially with credit cards

For the financial years 2011–18, we found that for CCI sold with credit cards, consumers received only 11 cents in paid claims for every dollar paid in premiums. Across all CCI products, 19 cents was paid to consumers as a proportion of the insurance premium (claims ratio).

Claims ratios focus on the consumer experience of paying premiums and receiving paid claims. Separately, we compared loss ratios (a different metric to the claims ratio) for four different insurance products for this period. Loss ratios take into account the expenses and claims reserves of the insurer.

APRA's Quarterly General Insurance Statistics for the financial years 2011–18 show the following loss ratios:

- › 24 cents for CCI;
- › 47 cents for travel insurance;
- › 59 cents for home and contents insurance; and
- › 89 cents for domestic motor insurance: see Figure 4.

This comparison illustrates that CCI, with the lowest ratio of losses to gains, is likely to be the most profitable general insurance product for insurers.

As noted earlier, CCI sold with credit cards is consistently the poorest value for money for consumers compared to other CCI products.

For the financial years 2011–18, CCI with credit cards earned insurers the most in premiums (\$1.78 billion) but paid out the least in claims (\$0.2 billion). This means that for every dollar that consumers paid in CCI premiums, they received on average only 11 cents back in paid claims: see Figure 5.

Figure 4: Comparison of loss ratio by general insurance product (FY 2011–18)

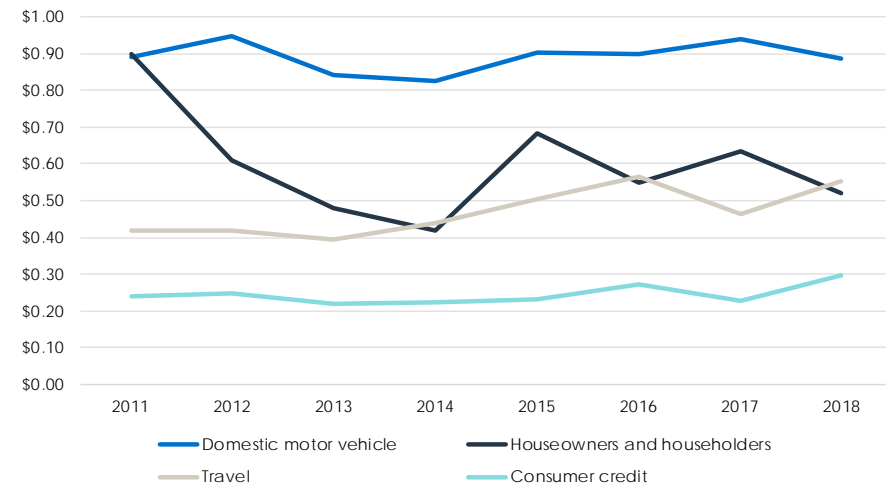
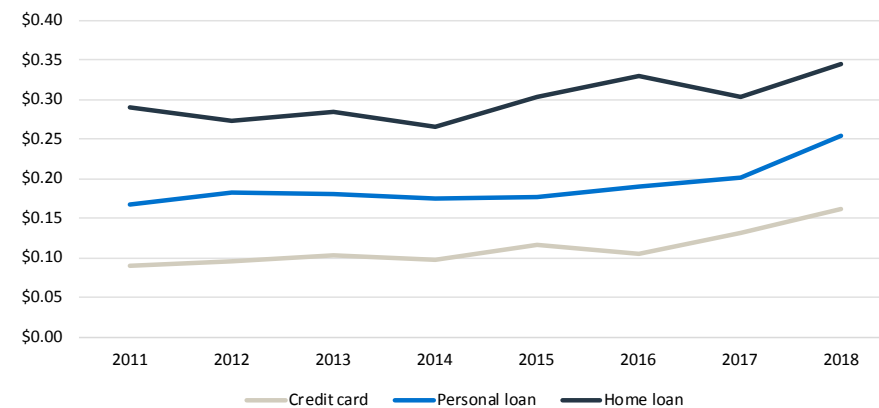


Figure 5: Claims ratio by CCI product type (FY 2011–18)



Note: For the data shown in these figures, see Table 8 and Table 9 (accessible version).

Table 3 shows the CCI claims ratio in cents for the lenders in our review. The five lowest claims ratios for each product are:

- › *for credit cards*: Suncorp, Citigroup, ANZ, Latitude and Westpac (each had a claims ratio less than 12 cents);
- › *for personal loans*: Suncorp, BoQ, CUA, Bendigo and ANZ (each had a claims ratio less than 14 cents); and
- › *for home loans*: NAB, BoQ, CBA, Westpac and Bendigo (each had a claims ratio less than 31 cents).

Table 3: Claims ratio (in cents) for lenders by CCI product (FY 2011–18)

Lender	Credit card	Personal loan	Home loan
Suncorp	3.86	11.22	32.67
Citigroup	4.80	n/a	n/a
ANZ	6.90	13.88	41.15
Latitude	9.76	21.35	n/a
Westpac	11.76	20.30	29.89
NAB	14.22	29.17	23.02
CBA	16.00	14.89	28.08
People's Choice	29.40	18.10	31.56
Bendigo	32.31	13.50	30.60
BoQ	n/a	11.77	24.90
CUA	n/a	12.32	31.43

Note: The claims ratio data contains claims and premium data for policies sold during and prior to ASIC's review.

Bundled cover in credit card CCI means lower value

Compared to CCI sold with personal and home loans, CCI sold with credit cards tended to contain more types of cover per policy and those cover types were 'bundled' together, meaning they could not be bought separately. For example, one credit card CCI product contained bundled cover for temporary disability, permanent disability, terminal illness, death, and involuntary unemployment.

Based on data from lenders, the more cover types bundled in a CCI policy sold with credit cards, the lower its claims ratio, as the bundled policy was more likely to contain cover an individual consumer was less likely to need.

Changes in product design can improve value

We expect lenders and insurers to sell products with significantly higher claims ratios by:

- › making changes to price and product design;
- › unbundling cover for products so that consumers can choose the cover they need;
- › communicating with consumers regularly to remind them of their cover and their ability to claim; and
- › having processes and systems to ensure that CCI is delivering value.

We will continue to collect data from lenders and insurers on actual claims ratios for their CCI products and plan to publish this data. We consider this will encourage lenders and insurers to make substantial improvements to the price of, and cover provided by, these products, to deliver improved value.

If claims ratios do not improve, we will consider using our product intervention power to limit the sale of CCI products to specific classes of consumers. When the design and distribution obligations take effect, we will act where we have concerns about the sale of products to consumers who do not meet the lender's or insurer's own target market criteria for the product.

Higher rates of declined/withdrawn claims raise concerns about the way in which CCI is sold

One of the value measures of insurance is the ability for a consumer to successfully claim on the policy when they need it.

For the financial years 2011–18, we found that one in five (20.03%) claims made on a CCI policy were either declined by the insurer or withdrawn. This ranged between 15.6% to 33.6%: see Table 4.

Many insurers also did not accurately and reliably record the number of (and reasons for) withdrawn claims or claims that did not proceed.

The higher declined/withdrawn claim rates indicate that:

- › there are systemic issues in how the product was sold, including the sale to consumers who were ineligible to claim;
- › consumers do not understand (or were misled about) the features, limits and exclusions of the policy;
- › policy exclusions are too onerous; or
- › policies may not have been suitable for the consumer's individual circumstances.

Table 4: Combined declined and withdrawn claim rates (FY 2011–18)

Lender	Credit card	Personal loan	Home loan	All CCI
Citigroup	33.6%	n/a	n/a	33.6%
CBA	28.3%	33.5%	24.4%	30.1%
Suncorp	29.2%	28.5%	34.0%	29.1%
CUA	n/a	24.4%	13.4%	20.2%
NAB	20.1%	20.9%	10.9%	19.4%
Bendigo	21.6%	19.6%	15.0%	17.7%
BoQ	n/a	20.7%	16.0%	17.7%
ANZ	27.3%	13.8%	14.6%	17.3%
People's Choice	14.5%	0.0%	17.0%	16.8%
Westpac	17.4%	15.5%	28.1%	16.8%
Latitude	14.4%	21.5%	n/a	15.6%

Note: The declined and withdrawn claim rates contain claims data for policies sold during and prior to ASIC's review.

Sales practices must change

Our review of 11 lenders found that CCI sales practices are still delivering poor outcomes for consumers as well as poor product value.

On page 4, we set out the standards that we expect all lenders and insurers who design and sell CCI products to meet.

CCI was sold to ineligible consumers, and to those who did not need cover or were unlikely to benefit

A number of lenders sold CCI policies to consumers who were ineligible to claim for all or many benefits under the policy.

Some examples of the key eligibility criteria in the CCI policies that consumers did not meet when sold the product include:

- › not working the required average number of hours per week and/or the number of consecutive days;
- › having seasonal, casual, temporary, or fixed-term employment; or
- › having a pre-existing condition excluded under the CCI policy.

These sales were due to inadequate sales and internal monitoring systems, processes, procedures, and controls. Affected consumers are being remediated.

In many situations, CCI was also sold to consumers who did not need cover or were unlikely to benefit. We consider that CCI is unsuitable for the following categories of consumers:

- › in the case of the life component of CCI, sales to single consumers under the age of 25 with no dependants who have minimal assets;

- › consumers who already have life, total and permanent disability or income protection cover through their superannuation fund that covers the same risks;
- › consumers in financial hardship due to a change in personal circumstances who obtain a loan to consolidate their debts, where the change in personal circumstances means the consumer no longer meets the key eligibility criteria;
- › consumers who do not meet the key eligibility criteria for all or some types of cover when they are sold the product; and
- › consumers who do not meet a lender's own target market criteria for the product, including income thresholds.

Case study: Consumer was ineligible to claim

During February 2014, a personal loan CCI policy was sold to a consumer working less than 20 hours per week. The consumer later became unemployed and lodged an insurance claim for unemployment benefits.

The claim was declined on the basis the consumer was not working the required minimum of 20 hours per week for the six-month period leading up to the claim date. When the policy was taken out, proper checks were not performed to ensure the consumer was eligible to claim for the benefits under the CCI policy.

This consumer will be remediated.

Consumers were charged for CCI even if they had no loan repayments to protect

Consumers were charged for CCI before they had drawn down on their loan or after they had paid off their loan. This was despite being unable to claim on the primary benefits of the insurance because there was no loan balance outstanding or loan repayments owing.

Case study: CCI premiums charged for loans with nil balances

A minimum annual premium of \$150 for home loan CCI was charged to consumers when the home loan balance was zero.

The policy remained open in case consumers redrew on their home loan, despite many never doing so. During this time, consumers were not obtaining any primary benefit from paying the premium.

Affected consumers in the review will be remediated.

CCI was not considered when assessing financial hardship

Our review of lenders found that many did not have consumer-focused systems to adequately inform or remind consumers with a CCI policy who were in financial hardship that they had a CCI policy and might be eligible to claim.

Some lenders who did have such systems did not adequately help consumers to lodge a claim.

Unfair sales tactics were used to sell CCI

Lenders employed telemarketers, with motivation to maximise sales

Some lenders used third-party telemarketers to sell CCI and motivated them to maximise sales by providing volume bonuses and sales targets.

Lenders reinforced these incentives by concentrating their limited monitoring on telemarketers' sales performance rather than on detecting and preventing misconduct.

This resulted in significant mis-selling of CCI.

Telemarketers used a variety of unfair sales tactics

Our review found that telemarketers' staff engaged in unfair sales tactics.

These tactics included:

- › falsely representing that buying CCI was a condition of getting credit;
- › pressuring consumers and persisting with sales calls even when consumers stated they did not need or want CCI;
- › overcoming consumers' reasonable objections using practiced techniques that played to the consumers' concerns (e.g. describing scenarios where the consumer may find it difficult to make credit card repayments such as suffering an injury and not being able to work);
- › suggesting that consumers buy CCI and cancel it during the cooling-off period at no cost if they continued to see no value in it;
- › failing to inform consumers about exclusions, including exclusions for pre-existing medical conditions and limitations of a new CCI product (that they may not have been informed they were acquiring);

- › advising that the monthly insurance premiums for credit card CCI could be avoided while suggesting vague, impractical or misleading methods to do so (e.g. the consumer could avoid paying for the CCI if they paid their credit card by the *due date* when, in fact, they had to pay by the *statement date* to avoid paying the premium); and
- › using ambiguous language to obtain consent so that some consumers did not realise they were agreeing to buy CCI.

This misconduct caused consumers to cancel their CCI policies and complain disproportionately about telemarketers.

Case study: Sales conversation involving unfair sales tactics

At the start of a sales conversation, a telemarketer pretended to be calling about a consumer's loan repayments and did not make it clear they were calling to sell CCI or obtain consent to discuss CCI.

Despite the consumer expressing several times that he was not interested in CCI, the telemarketer persisted and attempted to persuade the consumer that CCI provides 'peace of mind' and only costs \$4.10 per day.

The telemarketer also applied time pressure, saying 'if you have it at the start, from day one, you can cancel anytime' and 'you can always cancel at no cost within the 30 days cooling-off period'. The telemarketer refused the consumer's request for more time to consider the CCI policy and for the telemarketer to call back later.

Affected consumers in the review will be remediated.

Sales scripts and monitoring systems to detect mis-selling were inadequate

In [REP 256](#), ASIC made 10 recommendations for the sale of CCI products to raise industry standards and reduce the risk of CCI being mis-sold. The recommendations covered sales practices, disclosure (particularly in formal sales scripts), training programs and monitoring systems.

Based on independent reviews undertaken by the 11 lenders, we found that in sales scripts, many lenders failed to provide consumers with:

- › a clear statement of the intention to sell insurance before any attempt to sell CCI (e.g. a clear question seeking the consumer's consent, or 'permission to discuss insurance');
- › a clear explanation of the main exclusions that apply to the CCI policy and where CCI is sold as a bundled product, the main exclusions that apply to each component of the policy;
- › clear instructions to end any attempted sale if a consumer indicated once, or twice at most, that they did not want to buy the product; and
- › information on the cooling-off period without using it as a selling point (this is best achieved by providing information about the cooling-off period after the consumer has clearly agreed to buy the product).

Many lenders failed to tell consumers how much interest they would pay on the single upfront financed premium for the life of the CCI policy (or loan). This additional interest meant that consumers paid significantly more for the CCI than if the premium had been paid monthly outside the loan.

Another significant finding and consistent theme of the independent reviews was that many lenders failed to have documented systems to detect non-compliant sales of CCI through regular reviews of sales, complaints and cancellation reports, mystery shopping exercises, sales verification calls, and failed to have processes to monitor calls.

ASIC is writing to lenders and insurers to set out the standards that we expect for their processes and procedures for monitoring and supervision. We will seek confirmation by an attestation from each lender that:

- › the recommendations from the independent reviews have been implemented and are working effectively;
- › the standards in this report are being met; and
- › the remediation programs are complete, thorough and robust.

Online sales did not distinguish between CCI and loan applications and relied on written disclosure

In 2018, we reviewed a sample of credit card online application forms and online sales content for six lenders and wrote to the lenders to outline our concerns. The six lenders reviewed were ANZ, Citigroup, CBA, Latitude, NAB and Westpac.

We found that lenders listed CCI under headings such as ‘card options’ or ‘setting up your card’, misleading consumers about the distinction between credit card and CCI application and information.

Almost all lenders reviewed did not inform consumers that interest was payable on the CCI premium if the credit card balance was not paid in full and they relied on the Product Disclosure Statement (PDS) to provide consumers with the necessary information.

Research has shown that disclosure documents do not enhance consumer decision-making, assist with product comparisons or prevent consumers buying unsuitable products.

Note: See [Report 416](#) *Insuring your home: Consumers’ experiences buying home insurance* (REP 416). For a summary of the findings on disclosure in REP 416, see paragraphs 17–28 of [Report 415](#) *Review of the sale of home insurance* (REP 415).

The online sales content also did not provide consumers with balanced information about the cover, exclusions, features, limits and costs of CCI.

Overall, lenders have failed to:

- › effectively and efficiently communicate CCI policy terms to consumers;
- › innovate their disclosure in digital channels (where there is an opportunity to be interactive); or
- › address issues with product design, sales and marketing processes to improve consumer understanding and outcomes.

Strengthening consumer protections

Deferred sales model for CCI

In August 2017, ASIC formed a CCI working group with industry to respond to concerns about the way in which CCI was sold and to improve outcomes for consumers. As a result, the Banking Code of Practice now has a four-day deferred sales period for CCI sold with credit cards and personal loans in branch or over the phone, effective 1 July 2019.

In its Final Report the Financial Services Royal Commission recommended the development of an industry-wide deferred sales model for the sale of any add-on insurance product (except policies of comprehensive motor insurance) and that the model be implemented as soon as practicable (Recommendation 4.3).

Given the concerns identified in this report, in ASIC's view, the four-day deferred sales period should apply to all CCI products sold across all distribution channels to facilitate improved consumer decision making. This will give consumers the time to understand the complexities of CCI products, assess their value and whether the product meets their needs and to ensure that consumers do not feel pressured to buy CCI to be approved for the loan.

Note: For ASIC's expectations for deferred sales of CCI, see page 4.

We consider that all relevant industry codes (e.g. banking, life and general insurance) should incorporate a deferred sales model.

Product intervention power and design and distribution obligations

On 5 April 2019, legislation was enacted to introduce design and distribution obligations for financial services providers and give ASIC a product intervention power.

Note: See *Treasury Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Act 2019*. The product intervention power is available for ASIC to use. The design and distribution obligations will be phased in over two years. We are working to provide guidance on the new regime.

From 6 April 2019, ASIC can intervene using its product intervention power where there is a risk of significant consumer detriment. In these situations, ASIC can order that a person not engage in specified conduct in relation to a product or class of product, or except in accordance with certain conditions. For example, ASIC could use the power to place restrictions on the way CCI products are marketed and sold.

From 5 April 2021, issuers and distributors of certain financial products, including CCI, will need to identify target markets, and design their products to be consistent with the needs of, and direct distribution towards, the target market. Firms will be obliged to review these arrangements to ensure they remain appropriate.

Ban on unsolicited sales of CCI

CCI products are complex and are typically sold under a no advice or general advice model. When complex products are sold through unsolicited contact, there is an increased risk that consumers do not need, want or understand the product, resulting in poor consumer outcomes.

Our review identified pressure selling and other unfair sales in unsolicited outbound sales of CCI, particularly through telemarketers where sales commissions drive poor consumer outcomes.

The Financial Services Royal Commission recommended that the hawking of insurance products should be prohibited (Recommendation 4.1). ASIC is working towards implementing this recommendation.

Unfair contract terms in insurance contracts

The Financial Services Royal Commission recommended that unfair contract term provisions set out in the ASIC Act should apply to insurance contracts regulated by the *Insurance Contracts Act 1984* (Recommendation 4.7). ASIC has supported this for many years and is working with the Government to assist with implementation.

Claims handling as a financial service

The Financial Services Royal recommended that the handling and settlement of insurance claims, or potential insurance claims, should no longer be excluded from the definition of a financial service (Recommendation 4.8).

This means that insurers' decision making on claims, claims investigations, policy interpretations and settlement negotiations will need to meet the obligation to do all things necessary to ensure that financial services are provided efficiently, honestly and fairly in s912A of the Corporations Act.

ASIC supports this reform and is working with the Government to assist with implementation.

Stronger civil penalties

The Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Bill 2018 was enacted in March 2019.

This law improves ASIC's enforcement regulatory toolkit allowing us to pursue civil penalties against a greater range of misconduct, including a failure by a lender or insurer to act efficiently, honestly and fairly, failure to report breaches and defective disclosure.

The new civil penalties apply to conduct engaged in from 13 March 2019.

Appendix 1: Lenders and insurers in the CCI review (2013–17)

Lender	Credit cards	Personal loans	Home loans
ANZ	OnePath General (general insurer), OnePath Life (life insurer)	QBE (general insurer), OnePath Life (life insurer)	QBE (general insurer), OnePath Life (life insurer)
Bankwest (CBA)	St Andrew's (general insurer), St Andrew's Life (life insurer)	St Andrew's (general insurer), St Andrew's Life (life insurer)	St Andrew's (general insurer), St Andrew's Life (life insurer)
BoQ	Not sold	St Andrew's (general insurer), St Andrew's Life (life insurer)	St Andrew's (general insurer), St Andrew's Life (life insurer)
Bendigo	IAL (general insurer)	IAL (general insurer)	IAL (general insurer)
CBA	CMLA (life insurer)	CMLA (life insurer)	CMLA (life insurer)
Citigroup	AIA (life insurer, 2013–14), Great Lakes (general insurer, 2013–14), MetLife (life insurer), Suncorp (life insurer), MTAI (general insurer)	Not sold	Not sold
CUA	Not sold	IAL (general insurer, 2013–15), Credicorp (general insurer), St Andrew's Life (life insurer, 2015–17)	IAL (general insurer, 2013–15), Credicorp (general insurer, 2015–17), St Andrew's Life (life insurer, 2015–17)
Latitude	Hallmark General (general insurer), Hallmark Life (life insurer)	Hallmark General (general insurer), Hallmark Life (life insurer)	Not sold
NAB	MLC (life insurer)	MLC (life insurer)	MLC (life insurer)
People's Choice	Not sold	Not sold	IAL (general insurer)
St. George, Bank SA and Bank of Melbourne brands (Westpac)	Swann (general insurer), IAL (general insurer, 2017), St. George Life (life insurer)	Swann (general insurer), IAL (general insurer, 2017), St. George Life (life insurer)	No general insurer, St. George Life (life insurer)
Suncorp	MTAI (general insurer, 2013–15), AAI (general insurer, 2015–17), Asteron Life (life insurer)	No general insurer, 2013–16, AAI (general insurer, 2017), Asteron Life (life insurer)	AAI (general insurer), Asteron Life (life insurer)
Westpac	Westpac General (general insurer), Westpac Life (life insurer)	Westpac General (general insurer), Westpac Life (life insurer)	No general insurer, Westpac Life (life insurer)

Note: For full names of lenders and insurers, see Table 1. IAL, trading as CGU Insurance, provided CCI life insurance cover through group life insurance policies issued by AMP Life Limited. CMLA, MetLife and MLC have obtained declarations from APRA under section 12A of the *Life Insurance Act 1995* which permits them to issue CCI products containing general insurance cover.

Appendix 2: Accessible versions of figures

Table 5: Decrease in total CCI sales by year (2014–18)

Year	Total sales
2014	664,240
2015	527,090
2016	420,702
2017	338,265
2018	190,488

Note: This is the data shown in Figure 1.

Table 6: Decrease in total CCI sales by product (2014–18)

Year	Personal loan	Credit card	Home loan
2014	318,551	255,216	90,249
2015	275,557	182,951	68,343
2016	221,304	145,746	53,294
2017	171,990	118,674	47,431
2018	93,161	74,186	23,073

Note: This is the data shown in Figure 2.

Table 7: Decrease in total CCI sales by channel (2014–18)

Year	Branch	Online	Phone
2014	411,605	96,358	145,656
2015	321,075	102,128	93,268
2016	227,501	104,419	80,019
2017	166,253	93,172	70,775
2018	66,306	66,981	51,904

Note: This is the data shown in Figure 3.

Table 8: Comparison of loss ratio by general insurance product (FY 2011–18)

Year	Domestic motor vehicle	Houseowners and householders	Travel	Consumer credit
2011	\$0.89	\$0.90	\$0.42	\$0.24
2012	\$0.95	\$0.61	\$0.42	\$0.25
2013	\$0.84	\$0.48	\$0.40	\$0.22
2014	\$0.83	\$0.42	\$0.44	\$0.22
2015	\$0.90	\$0.68	\$0.50	\$0.23
2016	\$0.90	\$0.55	\$0.56	\$0.27
2017	\$0.94	\$0.63	\$0.46	\$0.23
2018	\$0.89	\$0.52	\$0.55	\$0.29

Note: This is the data shown in Figure 4.

Table 9: Claims ratio by CCI product type (FY 2011–18)

Year	Credit card	Personal loan	Home loan
2014	\$0.10	\$0.17	\$0.27
2015	\$0.12	\$0.18	\$0.30
2016	\$0.11	\$0.19	\$0.33
2017	\$0.13	\$0.20	\$0.30
2018	\$0.16	\$0.25	\$0.35

Note: This is the data shown in Figure 5.

Key terms and related information

Key terms

FY 2011–18	The financial years 2011 to 2018
ASIC Act	<i>Australian Securities and Investments Commission Act 2001</i>
ASIC's expectations	The standards we expect of lenders and insurers who sell or issue CCI products
Corporations Act	<i>Corporations Act 2001</i> , including any regulations made for the purposes of that Act
Financial Services Royal Commission	Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry
Product Disclosure Statement (PDS)	A document that must be given to a retail client in relation to the offer or issue of a financial product in accordance with Div 2 of Pt 7.9 of the Corporations Act Note: See s761A for the exact definition.
REP 256 (for example)	An ASIC report (in this example numbered 256)
RG 256 (for example)	An ASIC regulatory guide (in this example numbered 256)

Related information

Headnotes

ASIC's expectations, consumer credit insurance (CCI), enforcement investigation, ineligibility, insurers, lenders, mis-selling, monitoring systems, product design, product value, remediation, sales practices, standards, unfair sales tactics

ASIC documents

[15-318MR](#) Westpac to refund premiums for unwanted insurance cover

[17-268MR](#) Commonwealth Bank to refund over \$10 million for mis-sold consumer credit insurance

[17-457MR](#) Latitude Insurance refunds almost \$1.1 million for poor consumer credit insurance sales and claims handling

[REP 256](#) Consumer credit insurance: A review of sales practices by authorised deposit-taking institutions

[REP 415](#) Review of the sale of home insurance

[REP 416](#) Insuring your home: Consumers' experiences buying home insurance

[REP 470](#) Buying add-on insurance in car yards: Why it can be hard to say no

[REP 471](#) The sale of life insurance through car dealers: Taking consumers for a ride

[REP 492](#) A market that is falling consumers: The sale of add-on insurance through car dealers

[RG 256](#) Client review and remediation conducted by advice licensees

Agenda Item 4(j)
August 13/19 EOC Teleconference Meeting

Proposed CAFII 2019 Western Canada Insurance Regulators and Policy-Makers Visits Tour

- Monday, October 21/19 (federal election day in Canada): fly to Winnipeg in late afternoon or early evening.
- 1. Tuesday, October 22/19, Winnipeg:
 - 9:30 a.m. to 11:30 a.m.: meeting with Insurance Council of Manitoba Executive Director Barbara Palace Churchill, other ICM staff executives, Council members/ISI Committee Members, as appropriate, and Superintendent of Insurance Scott Moore and other Financial Institutions Regulation Branch (FIRB) also attending **(meeting confirmed, but time of day still to be firmed up)**
 - 12 Noon to 1:30 p.m.: lunch for CAFII delegation at Winnipeg restaurant.
 - 2:00 to 3:00 p.m.: meeting with Deputy Minister of Finance and/or other Ministry officials with oversight responsibility for life and health insurance policy-making **(meeting still tentative, as September 10, 2019 is provincial election day in Manitoba and Deputy Minister changes may occur as a result of the election.)**
- Tuesday late afternoon or evening, October 22/19: fly from Winnipeg to Regina.
- 2. Wednesday, October 23/19, Regina:
 - 9:30 a.m. to 11:00 a.m.: meeting with Saskatchewan Superintendent of Insurance Roger Sobotkiewicz; Jan Seibel, Director, Insurance and Real Estate Division, Financial and Consumer Affairs Authority; and other FCAA staff executives, as appropriate, **(meeting confirmed)**
 - 11:30 a.m. to 1:00 p.m.: lunch for CAFII delegation at Regina restaurant.
 - 1:15 to 3:00 p.m. liaison meeting with Ron Fullan, Executive Director; April Stadnek, Director, Strategic Initiatives; other ICS staff; and Life Insurance Council members, as appropriate, **(meeting confirmed)**
 - 3:30 to 4:30 p.m.: meeting with Deputy Minister of Justice and Attorney General and/or other Ministry of Justice officials, responsible for oversight of FCAA and insurance policy development in Saskatchewan **(meeting still tentative)**
- Wednesday evening, October 23/19: fly from Regina to Edmonton
- 3. Thursday, October 24/19, Edmonton:
 - 9:30 to 10:45 a.m.: meeting with Darren Hedley, Assistant Deputy Minister, Financial Sector Regulation and Policy and Superintendent of Insurance; David Sorensen, Deputy Superintendent of Insurance; Laurie Balfour, Director, Financial Compliance, Insurance Regulation and Market Conduct Branch; and Wayne Maday, Director, Insurance Policy, Alberta Treasury Board and Ministry of Finance, at Ministry's Edmonton office **(meeting confirmed)**

-11:00 a.m. to 12 Noon (tentative): meeting with Grant Hunter, Associate Minister of Red Tape Reduction and/or associated Alberta Treasury Board and Finance officials **(meeting still tentative)**

-12:15 to 1:45 p.m.: lunch for CAFII delegation at Edmonton restaurant.

-2:00 to 4:00 p.m.: meeting with Joanne Abram, CEO, and Alberta Insurance Council staff at AIC's Edmonton office **(meeting confirmed)**

- Thursday evening, October 24/19: fly from Edmonton to Vancouver.

4. Friday, October 25/19, Vancouver:

-9:30 to 11:30 a.m. (tentative): meeting with Janet Sinclair, Executive Director, Insurance Council of BC; other Insurance Council staff executives; and Insurance Council members, as appropriate **(meeting confirmed, but time of day still to be firmed up)**

-12 Noon to 1:30 p.m.: lunch for CAFII delegation at Vancouver restaurant.

-2:00 to 3:15 p.m.: meeting with BC Ministry of Finance staff executive Kari Toovey, project lead, and colleagues re policy change recommendations emerging from 10-Year Review of Financial Institutions Act, at Vancouver office of BC Financial Services Authority **(meeting confirmed, but time of day still to be firmed up as CAFII is investigating alternate possibility of an early morning meeting with Ms. Toovey and BC Ministry of Finance colleagues in Victoria, which would impact upon the time of day for the then-ensuing meetings with Insurance Council of BC and BCFSa in Vancouver.)**

-3:30 to 4:45 p.m. (tentative): meeting with CEO of BCFSa (if appointed), and BCFSa staff executives Frank Chong, Chris Carter, Michael McTavish, Lorena Dimma, and Harry James, at BCFSa Vancouver office **(meeting confirmed, but time of day still to be firmed up)**

- Friday evening, October 25/19: fly from Vancouver to home cities*.

possible dinner meeting in Vancouver for small CAFII delegation with Nancy Meagher, Yukon Superintendent of Insurance

Ministry of Health

Assistant Deputy Minister
Ontario Health Insurance Plan Division
1075 Bay Street, 6th Floor
Toronto ON M5S 2B1
Tel.: 416-326-0827

Ministère de la Santé

Sous-ministre adjointe
Division du Régime d'Assurance-santé
de l'Ontario
1075 Rue Bay, 6^{ème} étage
Toronto ON M5S 2B1
Tél. : 416-326-0827

111-2019-12

August 8, 2019

Martin Boyle
Board Secretary and Chair, Executive Operations Committee
Canadian Association of Financial Institutions in Insurance
200 -411 Richmond Street E.
Toronto ON M5A 3S5

Dear Mr. Boyle:

I am writing to inform you that proposed amendments to Regulation 552 under the **Health Insurance Act** (HIA) to end Ontario Health Insurance Program (OHIP) coverage for emergency services (arising while outside the country) for Ontarians travelling outside of Canada (OHIP Out of Country (OOC) Travellers Program) have been approved by Cabinet. These regulatory changes will now come into effect on January 1, 2020.

The ministry will continue to reimburse eligible claims (under the existing regulatory criteria) for OOC emergency services rendered up to and including December 31, 2019. Any OOC emergency services rendered on January 1, 2020 onwards will not be eligible for reimbursement. The timeframe to submit eligible claims has not changed and is still 12 months from the date of service. Therefore, eligible OOC claims rendered on December 31, 2019 can be submitted up to December 31, 2020.

I would also like to bring to your attention that starting January 1, 2020, the Ontario Renal Network (ORN) within Cancer Care Ontario (CCO), will be administering a program to help Ontario renal dialysis patients with financial aid for dialysis services when travelling abroad.


I know that your organization and its members share our interest in ensuring that the elimination of OHIP coverage for travellers proceeds with minimum disruption and risk for all stakeholders, including insurance providers and travelling Ontarians. The ministry looks forward to collaborating with your industry during the transition and particularly to underscore for Ontarians the need to purchase travel health insurance when travelling outside of Ontario.

The government press release on the OOC changes can be found here:

<http://news.ontario.ca/mohltc/en/2019/08/ontario-launching-program-to-fund-out-of-country-dialysis-services.html>

Thank you for your attention to this matter.

Sincerely,


Lynn Guerriero
Assistant Deputy Minister

Agenda Item 4(k)(i)(2)
August 13/19 EOC Teleconference Meeting

From: Keith Martin

Sent: August 8, 2019 3:31 PM

Subject: CAFII ALERT: FW: Letter from Lynn Guerriero, OHIP Division, Ontario Ministry of Health

CAFII Board, EOC, and Committee Members:

Please find attached a just-received letter from the Assistant Deputy Minister, OHIP Division, Government of Ontario.

Key points in the letter are that the Government is proceeding with implementing the elimination of out-of-country OHIP coverage for Ontarians; has postponed the implementation date by **three months to 1 January, 2020**; and that a program will be developed to administer a program "to help Ontario renal dialysis patients with financial aid for dialysis services when travelling abroad."

The letter also states:

"I know that your organization and its members share our interest in ensuring that the elimination of OHIP coverage for travellers proceeds with minimum disruption and risk for all stakeholders, including insurance providers and travelling Ontarians. The Ministry looks forward to collaborating with your industry during the transition and particularly to underscore for Ontarians the need to purchase travel health insurance when travelling outside of Ontario."

The press release on the dialysis program can be found at:

<https://news.ontario.ca/mohltc/en/2019/08/ontario-launching-program-to-fund-out-of-country-dialysis-services.html>

Keith Martin

Co-Executive Director / Co-Directeur général

Canadian Association of Financial Institutions in Insurance


L'association canadienne des institutions financières en assurance

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Media Briefing Note

Keith Martin live-to-air phone interview with Libby Znaimer, host of Fight Back with Libby Znaimer
Monday, July 29, 2019 – 12:25 pm (ET)

Journalist	 <p>Libby Znaimer Host of Fight Back with Libby Znaimer, Zoomer Radio (Airs on 740 AM and in downtown Toronto at 96.7 FM)</p>
Time & Logistics	<p>Interview starts at 12:30 (ET), Monday, July 29 Live to air phone interview between Keith Martin and Libby Znaimer. <i>Keith to call the show's studio line at 12:25 for preparation.</i></p>
Contact Information	<p>Studio line: 416-367-5353 ext. 487 (Backup number: 416-360-0417) Show producer: Ziv Haddi Email: z.haddi@mzmedia.com</p>
Format & Rules of engagement	<p>The second segment of this one-hour show will be about travel medical insurance and the Government of Ontario's decision to cancel OHIP out-of-country coverage. You are the only confirmed guest as at this point, but the producer has calls out to Marit Stiles, MPP for Davenport (NDP) and Christine Elliott's office (Minister of Health). We will get confirmation of other confirmed guests as soon as confirmed.</p> <p>You and any other participant will be interviewed separately -- it will not be back and forth on the same line. The dynamic of both NDP and PC participation would set the stage nicely for you to avoid criticizing anyone (they will do it to each other) and allow you to focus on the best way to implement the change from a consumer friendly perspective if it has to be done. If 3 people do participate, your interview time will likely be in the range of 5-7 minutes.</p> <p>There are no call-ins from listeners.</p> <p>The producer (Ziv) has our news release on travel medical insurance and understands our position about if it has to be cancelled, then delay implementation and undertake an aggressive communication campaign to ensure consumers understand the change and are properly prepared. I also gave Ziv your biography.</p>
Libby Znaimer Background & Bio	<p>After working in television broadcasting covering business and politics for two decades, Libby Znaimer joined MZ Media in 2006. She serves as Vice-President of News and Information for both The New Classical FM and Zoomer Radio. She is the host of the Zoomer Week in Review – a weekly roundup of all things Zoomer, and a daily consumer advocate talk show called Fight Back with Libby Znaimer. Libby also writes a regular column for Zoomer Magazine.</p>

	<p>She has contributed to numerous publications including Reader’s Digest, More Magazine, the Globe and Mail, and the National Post, where wrote a popular series on breast cancer called “The Lump.” Her first book, In Cancerland – Living Well Is The Best Revenge – was published by Key Porter in October 2007.</p> <p>Libby broke into print journalism with The Associated Press in Tel Aviv. She then moved into television, with stints at Global Television, KSTP-TV in Minneapolis, and WNBC in New York. She covered Parliament Hill for three years, then moved to reporting and anchoring daily news coverage for ground-breaking television stations Citytv and CablePulse 24. She was also an on-air host for ROBTv (now Business News Network.)</p> <p>Libby is active in a number of cancer-related causes. She is the national spokesperson for Pancreatic Cancer Canada, and co-Captain of Team Zoomer, which raises funds for The Princess Margaret Hospital Foundation. Libby is married to Doug Goold.</p>
<p>Key Messages</p>	<p>Key messages for interview:</p> <ul style="list-style-type: none"> • Canceling OHIP’s out-of-country medical coverage is a decision for elected officials to make, not me. Having said that, if we have to lose our coverage, let’s do it in a way that gives consumers as much time and information as possible to prepare for the change. • One of the consequences of ending OHIP out-of-country coverage too quickly and without sufficient communication is that people travelling abroad in future may not have adequate insurance coverage. We believe a one-year transition period is the minimum time frame needed for a significant change like this, instead of the current plan to stop coverage on October 1. • Even without this change, many Ontarians travel outside of Canada without adequate travel health insurance and without realizing they are at risk of incurring major financial costs. For example, according to the U.S. Centers for Medicare & Medical Services, the average cost of a three-day hospital stay in the United States is approximately US\$30,000, and comprehensive care can run up costs of several hundred thousand dollars or more. • Allowing more lead time for implementation of this change will ensure consumers are aware they will no longer be covered by OHIP when they travel outside of Canada. • We believe a robust communications campaign by the Government that supplements what the insurance industry is already doing will be critical in mitigating the risk to the travelling public of this change in insurance coverage. That communications campaign should emphasize to Ontarians the importance of having travel health insurance in place

	<p>before travelling outside Canada, so that they and their loved ones will have immediate access to emergency medical care and related assistance, and can avoid exposure to potentially catastrophic and life-altering financial costs.</p> <ul style="list-style-type: none"> • We know from independent research that travel medical insurance is a cost-effective and effective way for Canadians to safeguard against the high-cost of out-of-country medical care. • For example: <ol style="list-style-type: none"> 1. The experience of Canadians with travel medical insurance is very high, with at least 80% satisfied with the product and the value it provides. 2. Travel medical insurance in Canada has a high rate of pay-out, with 98% of people who made claims getting fully or partially paid 3. Canadians have a good understanding of travel medical insurance. For example, 89% say their knowledge of policy terms, coverage and limitations is reasonable. 4. Consumer confidence in the travel medical insurance industry and its ability to meet their needs is also high. For example, 91% of claimants were satisfied with their experience from initial contact to final outcome.
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Transcript of “Fight Back with Libby Znaimer” on Zoomer Radio

Monday, 29 July, 2019
“Out-of-Country Health Insurance”

Podcast Description:

The Ford government has plans to put an end to out-of-country travel insurance.

The province announced this decision after a six-day consultation with the public stating that the program is costly and not valuable to taxpayers.

Libby Znaimer is joined by NDP MPP Marit Stiles and Keith Martin, Co-Executive Director at the Canadian Association of Financial Institutions in Insurance.

Introduction to the Show:

“You’re listening to an exclusive podcast from the Zoomer podcast network. Home of great shows like Ages and Icons, featuring in-depth interviews with cultural luminaries from the Zoomer generation. And the conspiracy show, where host Richard Syrett uncovers the out-of-sight and unexplained. Find them and many other fantastic podcasts by searching for the Zoomer podcast network in your favourite podcasting app. You’re listening to an exclusive podcast of Fight Back on Zoomer radio, heard weekdays from noon to one.”

Link to the Podcast:

[Out-of-Country Health Insurance](#)

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
1:17	Libby Znaimer	<p>“Welcome back, in our first segment we talked about Americans coming here and now we turn to the subject of Canadians going South, and the prospect of much higher cost for travel medical insurance because of a Ford government decision. Now, you’ll recall health minister Christine Elliot announced the end of Ontario’s coverage for out-of-country medical costs. The rationale was that it covered only a maximum of four hundred bucks a day, which frankly, will not buy very much of anything in the US health system if you get sick there, and this program was extremely costly to administer, it was flagged by the Auditor General. The administration costs came to nearly a third of the entire amount that was paid out, which was not very high, it was about 9 million dollars. Well, now the health minister, the federal health minister Ginette Petitpas Taylor, was the one sending the letter. She warned that this could jeopardize access to necessary medical care, something which is required under the Canada Health Act, and she says it would also inevitably lead to higher premiums for Ontario travelers. If you are a snow bird, or somebody who just spends time in the United States in the winter, I’d love to hear from you or if you have other thoughts on the issue the number to call is, 4163600740 toll free 18667404740. Let’s hear from those snow birds, frankly I gather that the actually best time to buy and arrange your travel medical for the following year is in August. So I would imagine that those people are thinking about it right now. And right now we go to NDP MPP Marit Stiles and Keith Martin, Co-Executive Director at the Canadian Association of Financial Institutions in Insurance. Hello and welcome to you both.”</p>
3:24	Marit Stiles	“Great to be here.”
3:26	Libby Znaimer	“Keith?”
3:26	Keith Martin	“Hi. Great to be here.”
3:27	Libby Znaimer	<p>“Okay. Thank you for that. Now let’s start with Marit Stiles. What do you think of the argument that this particular program just wasn’t effective? Certainly not from a financial point of view.”</p>

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
3:42	Marit Stiles	<p>“Well, I think for a lot of people it was assurance that there would be at least some coverage available, should they find themselves out of the country for family or other reasons. But I think what where it really is going to hit people hard, and we’ve even had the Minister of Health in Ontario acknowledge this and yet do nothing about it so far, is with people who have existing conditions. Like, for example, folks who need dialysis. Even though what was offered was just a drop in the bucket, it was at least some coverage for folks who actually will have difficulty getting insurance coverage when they leave even for, you know, very important reasons like, they have to get out of the country for work, or for family travel. So it was an assurance that I think a lot of people counted on, and so I think that the government making this change, and I know we talked about it when they first announced this a few months ago, I think it’s left a lot of people feeling uncertain, and I do agree, I mean one of the concerns people have is that this will, we may, see insurance premiums hiked up.”</p>
4:48	Libby Znaimer	<p>“I mean, from what I could see about the program, the average pay out was one hundred and twenty seven dollar a day. And that in the context of health care in the United States is nothing.”</p>
5:02	Marit Stiles	<p>“Yeah, I mean absolutely. But I think when you look at people who again, where this is really going to hit people the hardest is probably people who do need, and we always use the example of dialysis patients, because they are some folks where access to that out of country OHIP reimbursement is absolutely essential to their ability to leave the country, for any reason. And the reimbursement under the previous program with OHIP was about two hundred and ten dollars per treatment, which meant that they were at least partially covered, when a cross border work trip or a family event, or something like that came up. And, you know, these are life sustaining procedures. So, I think that the government has got to change the policy, and preferably they have to do it quickly to insure that people like that get the care that they need when they’re out of the country.”</p>
5:51	Libby Znaimer	<p>“Keith Martin, will this inevitably lead to higher premiums for travel medical?”</p>

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
5:58	Keith Martin	<p>"It will probably lead to higher premiums, but we do need to keep in mind that the amount that was covered by the OHIP coverage was so low at four hundred dollars a day that I don't think that it will be dramatic. I think the more fundamental issue is the speed with which this is being implemented. It doesn't give consumers the opportunity to digest this, to start thinking about options. In general we are aware in our Association that a very significant number of Canadians travel without medical travel insurance or with insufficient medical travel insurance. And if the government is going to take this action, it should do so over a longer time period, we suggest at least a year beyond the first October 2019 current timeline. And they should have a robust communication plan to let Ontarians know the risks of travelling without travel insurance. It can be catastrophic for a family if they don't have travel medical insurance and they fall sick or get injured. In fact, Libby, according to the US Centres for Medicare and Medical Services, the average cost of a three day hospital stay in the United States is approximately thirty thousand dollars, and it's much more if it's a serious problem. So, number one priority from my perspective, for the government, is to communicate to Ontarians the risk of traveling without purchasing insurance."</p>
7:25	Libby Znaimer	<p>"Yeah, that probably goes even if they kept this program. Keith, let me ask you this. Are there instances where an insurance company that provides this insurance first sends a claim to the government for the first four hundred bucks and then takes it? Is that what's happening? Because I thought I heard that said."</p>
7:49	Keith Martin	<p>"I'd have to look into that. That's not my understanding. My understanding is that you get the government to pay out and then what ever else is left, your private insurer would take care of."</p>
8:01	Libby Znaimer	<p>"Well that's exactly, that's what I'm asking. You would think if that's the case it would have been a lot more than nine million dollars, no?"</p>

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
8:12	Keith Martin	“Well I’m taking the government statistics at face value. I think that it is true that there is not a huge payout from the government. And, so, from my perspective the important thing here is not necessarily the premium hit, or the lack of payout from the government, but the need to communicate this more effectively.”
8:38	Libby Znaimer	“Okay. Marit Stiles one of the things that I’ve heard surrounding this, and the health minister seemed to allude to this in her letter, the national health minister, about coverage from the Canada Health Act, is that there could even be a court challenge because the Canada Health Act says that all Canadians need access to health care, and this kind of flies in the face of that.”
9:03	Marit Stiles	“Well, you know, it’s been interesting over the last week. You can tell there’s an election coming right? Because suddenly we’ve got the federal health minister writing to the provincial health minister, and it’s going back and forth. But, you know, I really do wish in this case we could just stick to what Ontarians need right now. And I thought Keith’s point was really excellent. You know, the government spent, I think--they admitted they only had six days of consultation on these cuts. They aren’t putting any money that I can see, into any kind of public information program, or anything to insure people are aware of what’s going on. You know, is this something that’s going to end up in the courts? I have no idea. Right now I see it as something that’s being used as a political football, but what we’re talking about is absolutely you know people’s health. So again, I go back to it, if you’re somebody that has a pre-existing health condition and you have to leave this country for any reason, you know, you’re going to be worried right now about whether you’re going to be able to qualify for insurance and how it’s going to get covered. And for many people what worries me, and I appreciate also your other guest mentioning this, is you know a lot of people already travel without that kind of coverage. We need to do a better job of informing people and the government needs to get out from hiding behind this and actually get out there and start to talk about it openly or else people are going to be put at an even greater risk.”

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
10:25	Libby Znaimer	"And Keith, do you think that the rules will become even more restrictive? So for instance, there are rules if somebody has a health episode, whatever it might be, they have to have been stable for a certain amount of time, 3 months, 6 months, before they're even eligible. Do you think that those rules will be tightened up because of this?"
10:48	Keith Martin	"I don't think so. Let's keep in mind that the coverage that typically would be offered through an insurance company would be so significantly higher than the amount that the government is paying that it's not like it's going to have that great an impact in terms of premiums, and certainly I don't think it would have any impact on coverage. It's more about Canadians and Ontarians needing a sufficient amount of time to adjust and to understand the risks if they travel without travel medical insurance. That's true today, and this is, in sense, an opportunity if the government has to go down this road, to ensure that it uses it as a way to communicate how significant of a risk and even potentially catastrophic a risk it could be for Canadians. And, you know, we have done consumer research with Polara, a pollster, on consumer's views on travel medical, and Canadians who purchase it have very good experience, in terms of support, in terms of claims payout, which is 98 percent. So, I think the industry is performing an important service. But if people don't know that they need it, or if they're not purchasing it, that really is not relevant, because they will be at risk because they don't have the coverage. But just to go back to your original question Libby, I don't see that this policy, given the financial element that I mentioned, in terms of how small a coverage it is, will really have an impact in terms of coverage from private insurers."
12:23	Libby Znaimer	"We're going to get right to the phones, we've got Hal in Kitchener. Hello Hal."
12:27	Hal	"Yes hello. I'm sorry I might ramble here because I didn't hear some of your conversations earlier, but I just want to let people know they dare not go to the States without travel insurance. It's just ridiculous."
12:43	Libby Znaimer	"Yeah we know that. We do know that."

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
12:45	Hal	"I have firsthand knowledge of that because it cost me a frickin' fortune for a sprained ankle."
12:51	Libby Znaimer	"When did that happen and how much did it cost you?"
12:54	Hal	"About four or five years ago, about eighteen thousand dollars."
12:57	Libby Znaimer	"Wow. What happened?"
12:59	Hal	"I sprained it getting off of moped, would you believe."
13:03	Libby Znaimer	"Okay I believe that, why not."
13:05	Hal	"Anyway, it's one of those things. But on the other hand I have also personal knowledge of trips to Cuba. I go there about three times, well I've been there about three times in the last few years, I'm eighty-four years old. And I can go to Cuba and get a broken arm or a broken leg done for a hundred dollars."
13:26	Libby Znaimer	"Okay, well I hope you don't have to do that."
13:29	Hal	"No, but they have the most wonderful health care there, it's ridiculous, it's just ridiculous. And it's as good, if not better, than here. I mean all the way down the line."
13:40	Libby Znaimer	"Well I'm not sure that's true all the way down the line there, but...."
13:43	Hal	"Well it is from the people that I know, that I email every other day and this and that, been going there, as I said, for fifty years actually. And I've noticed the country ever since, you know, right from then on."
13:58	Libby Znaimer	"Okay, well eighteen thousand dollars for a sprained ankle is certainly a cautionary note."
14:04	Hal	"Well I was in the hospital too, you know, but everybody charges for everything."
14:08	Libby Znaimer	"Yep"

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
14:09	Hal	"A little Band-Aid, some tiny little thing is ten dollars, or more. Just some tiny little Band-Aid out of a box."
14:19	Libby Znaimer	"Okay Hal, thank you for that."
14:20	Hal	"Well you take care."
14:21	Libby Znaimer	"Okay, cautionary tale people. Let's go to Al in Brantford. Hi Al."
14:26	Al	"Hello there. I was going to say the exact same thing that he said. The only place that four hundred dollars would be any good for is in some dark third world country."
14:36	Libby Znaimer	"Uh—yeah, do you have any...."
14:39	Al	"The four hundred dollars that the government here in Ontario, provincial government, does. We have a policy, my wife and I, and it's by the year, and were covered, just in general any time during the year, for up to a week at a time. You pay a fee, and you're covered. If we're going to be longer for anywhere else or any time, then you pay more and get a longer coverage."
14:58	Libby Znaimer	"Right. And that works for you?"
15:00	Al	"If that four hundred dollars is, I don't know where they come up with that being needed to go over the border, for anything, in the States."
15:07	Libby Znaimer	"And what do you think about the prospect that your premiums might go up because that four hundred dollars is being cancelled?"
15:14	Al	"My premiums might go up?"
15:15	Libby Znaimer	"Yep, that is what the health minister says will happen, our guest here from an insurance Association doesn't think it would be that dire, but that's one of the possibilities, yes."
15:29	Al	"Well I don't see how our OHIP in Ontario would go up...."
15:32	Libby Znaimer	"No, no, no, your travel medical."

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
15:36	Al	"Oh travel medical. Yeah well it could be, but it'll be a small minimal amount. If you can afford to go on holiday to another country somewhere else, then you should be able to afford to have the insurance or sit at home and don't go. You've got to go back to the Bob Rae days, back when Bob Rae was in power, we were covering sun tan lotion for people going on holidays through OHIP."
15:56	Libby Znaimer	"I don't recall that, but I'll take your word for it."
15:59	Al	"Well I know it was going on because I was one of the guys against it. If you can afford to go, buy your own sun tan lotion."
16:05	Libby Znaimer	"Okay, well I would agree with that. Thank you Al."
16:08	Al	"Yeah."
16:09	Libby Znaimer	"Okay, so we've heard a couple of stories. I mean, is that, you know Al's view, Marit Stiles, if you can afford to go on holiday or be a snow bird and spend months in the United States, well then you should be able to afford the medical insurance. You disagree with that?"
16:29	Marit Stiles	"Well you know, hey look I certainly agree with what you caller said about you know about really advising people not to travel without out of country insurance. Absolutely. A hundred percent. It's very important. I mean, I just want to go back to your first caller who talked about the cost of his own experience, you know, we all know how expensive health care is in the United States. It would be here too if we didn't have universal medicare. But you know, the number one reason why people in the United States file for personal bankruptcy is because of health care costs. So it can really mess up your whole life, without question, and the amount that was being covered was minimal. I think what we have to remember though, regarding your second caller's point is that this isn't just about people who are snow birds, going on vacation, but it is also people who go for work, for short periods, people who are going for emergency or family issues. And as I said before, I mean, let's also consider that there are some people who have pre-existing conditions, for whom this is not an option."

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
17:34	Libby Znaimer	"Yeah, That's a really difficult part of it. And also there are issues you know, that you get a form that you have to fill out when you apply for the insurance and you know, if that form is not filled out correctly you can be denied coverage, right Keith Martin?"
17:54	Keith Martin	"You could be, but we've done surveys of the claims experience of our consumers and there's a 98 percent payout on claims, so only 2 percent where you see that sort of denial. So I understand your point Libby, but I don't think it's very common."
18:09	Libby Znaimer	"Okay, well I would be very glad to hear that because I have certainly heard stories about that as well. So Keith Martin, in general I believe that August is really the time that people should be thinking about their travel medical if it's for a trip in the winter. When would new rates come out? When would consumers kind of get information on this?"
18:35	Keith Martin	"I mean the rates are available now, I think that one of the challenges is that the first October timeline for the government does make it difficult to get consumers the information they need about any changes that will be made. But, I do want to emphasize Libby that I don't think that the crux of this is going to be any significant change to people's premiums. I don't think your listeners should be worried about that. It's more about the government taking the time to communicate these changes so that industry can prepare consumers, so that they themselves can educate consumers. And to do it in a timely and sort of a prudent way. If it has to happen, let's implement it effectively, and make sure that consumers have the highest level of knowledge and protection possible."
19:24	Libby Znaimer	"Marit Stiles, I mean this sound like a lot of other things that this government has done really, really, really quickly, and then, you know, they often have to back track, were just hearing about changes to their autism file today. You know, how do you see it in that context?"

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
19:40	Marit Stiles	<p>“Yeah, I mean I think we’ve seen, and I think autism program is a very good example, I mean a really devastating example of what happens when government makes rash decisions with the excuse of “saving money” without really thinking this through. I mean, our leader, Andrea Horwath, back in May, early on in this conversation about the cuts to the OHIP out-of-country, pointed out to the minister of health in the legislature that this was going to hit some patients, particularly and she used the example of dialysis treatment, worse than others. And what would the minister do about it? And the minister said, actually in the House, that she was committed to looking at that issue and doing something about it, and here we are, months later and no solution. What we’ve seen I think is a government that is making again really rash decisions without proper consultation. It’s one thing to send out a survey and say you’ve talked to a whole lot of people in a short period of time, but we expect you to talk to the people who really know this area. Like the folks who were on the phone today, or others, you know who actually really understand what the impact will be and make sure you don’t make mistakes that are going to leave people out in the cold, or in the case of all of those poor families with children who have autism fighting for their lives the last few months and then finally getting them to reverse it, and we still don’t know what that final program will look like.”</p>
21:05	Libby Znaimer	<p>“Okay, and Keith Martin what would you like to leave us with pretty quickly.”</p>
21:10	Keith Martin	<p>“I think I would agree with some of those comments that policies need to be implemented over a sufficient period of time that people can understand what the implications are and prepare. And communication as well is absolutely critical as I have mentioned several times, and I hope the government will reconsider about this timeline and make a commitment to communicating this to consumers really effectively. We don’t want to see people travelling without proper coverage and facing some of these dire consequences that some of your callers talked about.”</p>
21:43	Libby Znaimer	<p>“Okay well It will be very interesting to see if this does in fact become an election issue and if this is yet another file that the government back tracks on. Right now, thank you so much Marit Stiles and Keith Martin.”</p>

<u>Time</u>	<u>Person speaking</u>	<u>Dialogue</u>
21:58	Marit Stiles	"Thank you so much."
21:58	Keith Martin	"Thank you Libby."

Agenda Item 5(a)
August 13/19 EOC Teleconference Meeting

Summer 2019 Update: Lobbying, Election Finance and Conflict of Interest Reform

Alexis Levine and Ayah Al-Sharari (Summer Law Student)

July 17, 2019

There have been considerable recent regulatory and legislative changes with respect to lobbying and conflicts of interest regimes at the federal level and in each of British Columbia and Quebec.

FEDERAL REGISTRATION

Recent jurisprudence may have widened the category of registration under the federal *Lobbying Act* (Act). Former federal Lobbying Commissioner Karen Shepherd decided not to investigate the allegation that Prince Shah Karim Al Hussaini had breached the *Lobbyists' Code of Conduct* (Lobbyists' Code) by hosting Prime Minister Justin Trudeau because Hussaini was not paid and therefore not subject to the Act. A federal court challenged the decision and determined that payment could include benefits from a volunteer position.

In its reasons, the court held that the Act applies to anyone who is lobbying for payment and that the definition of "payment" in the Act is wider in scope than "remuneration" in return for a service and may include other benefits. This interpretation would create considerable uncertainty for unpaid advocates.

The case is currently on appeal and more information will be provided as a decision is made.

FEDERAL GUIDANCE ON MITIGATING CONFLICTS OF INTEREST

On April 2, 2019, the Office of the Commissioner of Lobbying of Canada (Office) updated the basis on which the Lobbyists' Code will be interpreted and applied. The new guidance, which applies to registered federal lobbyists, focuses on mitigating conflicts of interest related to the rules on lobbyists' relationship with public office holders (also called "preferential access") (Rules 7 and 8), political activities (Rule 9) and gifts (Rule 10).

The new guidance expands on the types of relationships that risk creating a perception of preferential access and thus are prohibited under the Lobbyists' Code. The prohibition of lobbying a family member has been expanded beyond immediate family members to include parents, siblings, children, children of a spouse or partner, grandparents, grandchildren, first cousins, aunts, uncles, nieces and nephews who may be public office holders. The prohibition on lobbying a business partner has also been clarified to mean a public office holder with whom the lobbyist shares an ownership, fiduciary, or monetary interest in a business.

The cooling-off period under Rule 9, which prohibits lobbyists from lobbying a public office holder for whom they have undertaken political activities, has been reduced from five years to a "full election cycle", which is generally four years. In addition, some political activities that were previously classified as "at risk" are no longer listed in the guidance. For instance, serving on the board of directors of an electoral district association except as an officer and serving in a paid position on campaign staff, except holding a strategic position or working in a "war room", are no longer considered "at risk" political activities.

Gifts provided as a normal expression of courtesy or within the customary standards that typically accompany the public office holder's position do not create a sense of obligation and are thereby deemed appropriate under the new guidance. The new guidance also confirms that under Rule 10, it is appropriate to provide a working meal or refreshments of minimal value during a meeting with public office holders. This, however, does not extend to the wining and dining of public office holders. It also confirms that it is appropriate to provide other gifts of minimal value as a token of appreciation when the public office holder serves as a speaker, moderator or in a ceremonial role. Promotional gifts of minimal value are now permitted and receptions providing food and refreshments are now evaluated on a case-by-case basis, considering whether the value of the hospitality is "reasonable" and whether a public office holder would feel a sense of obligation to the host.

BRITISH COLUMBIA

The City of Surrey voted on February 11, 2019 to adopt a motion directing staff to consider additional accountability measures in the form of an independent ethics commissioner and an enhanced lobbyist registry.

The city is looking to strengthen its Lobbyist Registry by adopting a by-law that makes registration – which is now completely voluntary – mandatory for some types of lobbying. It is also proposed that a Council Code of Conduct containing rules relating to, among other things, gifts, contact with lobbyists and disclosure of business relations, be established.

QUEBEC

On February 13, 2019, the legislature introduced Bill 6, *An Act to transfer responsibility for the registry of lobbyists to the Lobbyists Commissioner and to implement the Charbonneau Commission recommendation on the prescription period for bringing penal proceedings* (Bill 6), which proposes amendments to the *Lobbying Transparency and Ethics Act* (LTE Act). Among other changes, Bill 6 transfers the responsibility of the registry of lobbyists to the Lobbyists Commissioner and increases the prescription period for bringing penal proceedings from one year to three years. An exemption to the new prescription period is also provided for offences under section 62 of the LTE Act, which penalizes persons who hinder the work of the Lobbyists Commissioner or an authorized person. Amendments to the prescription period are currently in effect.

Bill 6 comes into force on December 19, 2021, or on an earlier date that may be set by the government on the Commissioner's recommendation, except sections 18, 24 to 26 and 28, which came into force on June 19, 2019.

Lobbyists registered in Quebec should ensure that, within 60 days after June 19, 2019, all information contained in the returns and notices filed that appear in the registry is accurate, complete and up to date. Any necessary amendments must be made within the same 60-day period. For further information on Bill 6 and other regulatory changes to Quebec's lobbyist regime, please see our June 2019 [*Blakes Bulletin: Quebec's Lobbyists Commissioner Calls for Complete Overhaul of Lobbying Transparency and Ethics Act*](#).

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Quebec's Lobbyists Commissioner Calls for Complete Overhaul of Lobbying Transparency and Ethics Act

Mathieu Nolin and Pierre-Philippe Turnbull (Summer Law Student)

June 12, 2019

BACKGROUND

In a report entitled *Simplicité, Clarté, Pertinence, Efficacité – Réforme de l'encadrement du lobbyisme* (Report), Quebec's Lobbyists Commissioner (Commissioner) turned the spotlight on the legal framework applicable to lobbying activities and called for an overhaul of the *Lobbying Transparency and Ethics Act* (Act).

The Act, which has been in effect since 2002, sets out a regime designed to foster transparency in the lobbying of municipal and provincial public office holders and ensure that lobbying activities are properly conducted. Under this regime, any enterprise or consultant lobbyists must be registered in the registry of lobbyists.

On February 12, 2019, Bill 6 proposed amendments to the Act. Bill 6 aims to transfer the responsibilities of the registry of lobbyists to the Commissioner and to increase the prescription period for bringing penal proceedings from one year to three. These amendments are not currently in effect.

REPORT

The Report provides an overview of the various issues raised regarding the Act. It also introduces 34 recommendations and considerations, in four sections, in order to enhance the current regime and address these issues.

Below, we discuss the noteworthy elements in each section (except those currently covered by Bill 6) and highlight the significant differences from the current regime.

1. Scope of the Act

The first section of the Report focuses on the principles deemed appropriate by the Commissioner to enhance the scope of the Act, including activities, institutions, individuals and entities.

No Minimum Threshold Requirement for Registration

The Commissioner considers the removal of minimum thresholds of activities which apply to lobbyists under the current Act and proposes to eliminate the current requirement whereby registration is only mandatory for employees for whom lobbying activities comprise a significant part of their jobs.

Furthermore, the Commissioner proposes that all consultant lobbyists (i.e., those not employed by a company or organization) be required to register in the registry, including those who receive no compensation for their activities. At present, registration is not required for consultant lobbyists who receive no compensation for their lobbying activities.

Application of the Act to All Public Institutions

According to the Commissioner, the Act should apply without exception to all provincial and municipal public institutions, including Quebec's public education institutions, which are currently not covered by the Act.

Application of the Act to All Types of Lobbyists

The Commissioner recommends that the Act apply to any individual or entity carrying out lobbying activities, regardless of their nature. In 2015, Bill 56 (which died on the order paper) contained a similar proposal requiring that not-for-profit organizations also be subject to the Act.

2. Responsibility and Obligations Regarding Lobbying Activities

The second section of the Report introduces principles that, according to the Commissioner, would clarify certain obligations and responsibilities pertaining to lobbying.

Joint Responsibility of Entities and Their Representatives

The Commissioner underlines the necessity of assigning to enterprises the responsibility of registering their representatives, disclosing their lobbying activities and ensuring compliance with the Act, rather than simply assigning such responsibility to their most senior officer or the representatives, as is currently provided for in the Act.

Appointment of an Institutional Representative

The Commissioner recommends that a provision be added to the Act requiring that each public institution appoint a representative responsible for the application of the Act. The *Act respecting Access to documents held by public bodies and the Protection of personal information* includes similar measures with respect to freedom of information requests.

Restrictions During and After Public Office

The Commissioner recommends the establishment of ethical principles and obligations that would apply to elected officials and heads of public institutions during and after their terms. He also opens the door to certain "pre-employment" restrictions. These would differ from the current regime under which such rules only apply to certain elected officials or heads of public institutions once their term of office has ended.

3. Disclosure

The Report's third section sets out principles that would enable the development of an efficient disclosure process for lobbying activities in Quebec.

Timely Disclosure

The Commissioner underlines the need for an effective, mandatory and open disclosure system to ensure more timely disclosures of information and the following up of all lobbying activities.

According to the Report, this objective could be achieved by adjusting the registration and disclosure periods (which are currently set at 30 days for consultant lobbyists and at 60 days for enterprise lobbyists following their respective lobbying activities) and by adding certain follow-up requirements.

Relevance of Disclosed Information

The Commissioner recommends that all relevant information be disclosed to the public. The Report lists, in a non-exhaustive manner, certain additional information that may be deemed relevant, such as (i) the recipients of lobbying activities; (ii) the nature and frequency of communications between parties; (iii) amounts spent on lobbying; and (iv) lobbyists' potential political links.

4. Compliance with the Legislative Framework, Responsibilities, Powers and Duties

The final section of the Report focuses on administrative and technical aspects of the Act, including the Commissioners' powers and duties as well as the penalty regime.

Introduction of an Administrative Monetary Penalty Regime

The Commissioner calls for a rethinking of the types of penalties that may be imposed in the event of an offence under the Act. Currently, the Act provides for penal, disciplinary and civil penalties, although the latter option is rarely used.

To this end, the Report mentions that granting the Commissioner the power to impose administrative monetary penalties would foster better management of public funds and eliminate the need for the Commissioner to alert the Director of Criminal and Penal Prosecutions of offences under the Act.

CONCLUSION

The progress of Bill 6 in the national assembly and the publication of the Report by the Commissioner demonstrate a real desire for the modernization of the current system, now in its 17th year. It remains to be seen whether the Government of Quebec will hear the Commissioner's call for change and address some of the concerns raised in the Report.

In any case, the Act in its current form remains in effect. As such, any business or individual that interacts with municipal or provincial public office holders should be familiar with the current regime and comply with the applicable requirements.

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