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

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

CONFIDENTIAL TO CAFII MEMBERS and ASSOCIATES; NOT FOR WIDER DISTRIBUTION

Regulatory Update – CAFII Executive Operations Committee, April 22, 2022
Prepared By Brendan Wycks, CAFII Co-Executive Director

Table of Contents

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

Federal/National

Canadian Bankers Association (CBA)

CBA Survey Provides Insights Into Consumers' Digital Preferences
On April 4/22, Insurance Portal published the following article highlighting the results of recent Canadian Bankers Association (CBA) research:

The results of a new Canadian Bankers Association-commissioned survey of 4,000 Canadians put numbers to trends also being seen in the insurance industry. Namely, widespread migration to digital technologies, driven by the pandemic, has accelerated changes to the way Canadians do their banking.

The survey found that 78 per cent are using digital channels, both online and app-based, to conduct most of their banking, up from 68 per cent in 2016.

Mobile Apps

Nine out of ten or 89 per cent reported using online banking in the last year. Half say that that is their most common banking method. The use of mobile app-based banking was also up, with 65 per cent saying they used banking apps in the last year, up from 56 per cent in 2018 and up from 44 per cent in 2016.

Broken down, nearly half of Gen Z respondents and well over a third of millennial respondents say apps are their leading banking method. When all demographic groups are combined, app use drops to 29 per cent.

"The broad-based shift towards online and mobile banking has gathered momentum during the pandemic. Consumers under the age of 30 are the main drivers of this trend," the study indicates. "Digital-first customer preferences are likely to become more entrenched in the years ahead." The CBA survey results also indicate that 86 per cent trust their bank to offer secure services. A slightly higher number, 87 per cent said they trust banks to protect their personal information.

High Satisfaction Levels

How Canadians Bank is a bi-annual study conducted for the CBA by Abacus Data. The study's results indicate that 93 per cent of Canadians are satisfied with online banking. A very similar number, more than 90 per cent, said they were also satisfied with in-person banking.

"Customers want a digital-first approach to their financial transactions, in real-time, from anywhere, on a reliable and secure network," Abacus Data stated. "Significant investments in modernization have helped banks in Canada anticipate and meet the evolving preferences of their customers."

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

The survey also looked at the role of cash, trust in banking innovation, and digital currencies. More than half of consumers, 56 per cent, led by younger Canadians, said they would consider using a private cryptocurrency in the future. More than one-third, or 36 per cent, of consumers added that they expect to be using an alternative currency within five years.

Canadian Council of Insurance Regulators (CCIR)

CCIR's Fall 2022 Meeting Slated To Be Two Day In-Person Gathering
Tony Toy, CCIR Policy Manager, has advised CAFII that CCIR's Fall 2022 meeting is slated to be a two-day in-person meeting on Thursday, October 21 and Friday, October 22, at the end of a series of national regulatory authority meetings known as "Regulators' Week."

The full Regulators' Week is currently slated to take place from October 18 to 22/22 in Charlottetown, PEI. However, there is a possibility that the CCIR meeting on Thursday and Friday, October 21 and 22 may be shifted to Toronto, as some CCIR member representatives who will be attending have raised as concerns about the fact that there are currently no direct flights available from their home cities to Charlottetown; and about the overall cost of return airfare for travel from Western Canada, for example, to Charlottetown.

CCIR Strikes 2023-26 Strategic Plan Committee
In its February 2022 Communique newsletter, CCIR announced that it had struck a Strategic Planning Committee to work on its 2023-26 Strategic Plan.

CCIR expects to engage with key industry stakeholders on a draft of the new Plan this Fall. Tony Toy, CCIR Policy Manager, has advised CAFII that CCIR's consultation with the industry on the new Plan will include an in-person meeting in Toronto, to be held in late October or early November.

CCIR Appoints Eric Hiemstra As Chair Of OmbudServices Oversight Committee
In its February 2022 Communique newsletter, CCIR announced that Erica Hiemstra, Head, Insurance Conduct, at the Financial Services Regulatory Authority of Ontario (FSRA) had been appointed the new Chair of OmbudServices Oversight Committee (OOSC). Ms. Hiemstra replaces Chris Carter of BCFSA. Members of the CCIR extended their appreciation to Mr. Carter as he now takes on the Chair of the Climate Change, Natural Catastrophes & Consumer Awareness Working Group.

Canadian Foundation For The Advancement Of Investor Rights (FAIR Canada)

FAIR Canada Issues Coalition Letter To Finance Minister on Strengthening Bank Complaint Handling
On February 24/22, the Foundation for the Advancement of Investor Rights (FAIR Canada) issued an open letter titled "Strengthening Canada's Complaint-Handling System for Bank Customers" to federal Finance Minister Chrystia Freeland, on behalf of the Coalition of Concerned Consumer Advocates, calling on her to take action to establish a designated, single ombuds organization to handle consumer complaints.

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

Dear Minister Freeland:

As concerned financial consumer advocates, we are calling on you, Minister Freeland, to designate the Ombudsman for Banking Services and Investments (OBSI) as the single, ombuds organization with binding authority to make recommendations over the banks. We encourage you to act expeditiously on this critical government commitment in 2022.

The broad consensus is that the current framework for complaint-handling is not working for many financial consumers and there is an urgent need for improvement. We are therefore encouraged that Prime Minister Trudeau, in his December Mandate Letter, specifically requested that you establish, on a priority basis, "a single, independent ombudsperson, with the power to impose binding arbitration, to address consumer complaints involving banks."

While the Mandate Letter's reference to "arbitration" is unclear, the need for a single ombudsperson with binding decision-making power in Canada is a clearly stated issue that we strongly support. Mandating a single not-for-profit ombudsperson would be beneficial in improving the complaints-handling outcomes for Canadian banking customers, particularly those who lack the capacity, time and/or resources to successfully navigate an opaque and confusing complaint resolution landscape with multiple players with diverse interests. This is an important objective that many of us, together with other investor and consumer advocates, have been urging industry, regulators and governments to implement for more than 10 years.

Designating OBSI under the Bank Act and providing it with the authority to make binding decisions on banks is necessary to advance consumer protection, improve access to justice, and foster fairness and confidence in Canada's banking sector. More specifically:

- *The OBSI is a well-established, independent organization that has been providing dispute resolution services to Canadian financial consumers for 25 years.*
- *Throughout the complaint-handling process, the OBSI provides more transparency and is directly involved with helping consumers resolve their issues.*
- *As a non-profit ombudsperson, the OBSI offers consumers a less complicated system and has demonstrated its ability to provide a quality, complaint-handling service.*
- *The OBSI already handles complaints for banks, investment dealers and advisors, and credit unions across Canada.*
- *The OBSI's complaint handling services provided today are reflective of many international best practices.*

This approach will also:

- *Eliminate the potential for banks to ignore the ombudsperson's recommendations or offer low-ball settlements that leave many customers feeling dissatisfied at the end of an arduous, stressful and time-consuming process.*
- *Remove the ability of banks to choose the External Complaint Body (ECB) that they feel will produce the most favourable result (customers in the current system cannot choose the ECB).*

• Reduce the incentive for customers to avoid raising a legitimate complaint because there's a perception that the system is biased in favour of the banks.
• Enhance the consumer-protection system at the federal level, which would also serve as a good example for provincially regulated financial services.

Thank you for your consideration of our views. We would be pleased to assist your office, the Department of Finance, and the Financial Consumer Agency of Canada move this issue forward in any way we can, as well as other reforms designed to improve our current complaint-handling system.

In addition to FAIR Canada, the other members of the Coalition of Concerned Consumer Advocates are Canadian Association of Retired Persons (CARP); CanAge; Prosper Canada; Option consommateurs; Public Interest Advocacy Centre (PIAC); Kenmar Associates; Consumers Council of Canada; and Union des consommateurs.

Financial Consumer Agency of Canada (FCAC)

FCAC Issues Consumer Advisory On "Your Banking Rights and Upcoming New Protections"
On April 6/22, the Financial Consumer Agency of Canada (FCAC) issued a consumer advisory on its website titled "Your Banking Rights and Upcoming New Protections." That advisory reads as follows:

Current protections for bank customers
Under current federal laws and regulations, banks must comply with consumer protections. These protections help to ensure that Canadians have access to basic banking services and are treated fairly in their dealings with banks.

They include your right to:

- *open a personal account at any bank*
- *cash a Government of Canada cheque for free at any bank with proper identification*
- *receive clear and simple information that is not misleading about the products and services banks offer you*
- *only get products and services you've provided express consent to*
- *have your issues resolved through a bank's complaint-handling process*

New and enhanced protections

As of June 30, 2022, you'll benefit from new and enhanced protections in your dealings with banks.

The protections are part of Canada's new Financial Consumer Protection Framework (the Framework). They apply to customers of banks, authorized foreign banks, and federal credit unions.

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

Enhanced disclosures

Banks will have to disclose more information to you about your day-to-day banking. This will help you make informed and timely decisions about your finances and protect you from financial harm.

For example, banks will have to provide:

- *new electronic alerts to help you avoid missing payments or spending over your credit limit, which can lead to unnecessary fees*
- *timely reminders to help you decide if you want to renew or cancel your products or services, including information on any rates or fees that apply*
- *separate agreements for optional products and services, such as credit card insurance, to help you better understand how they work, how much they cost, and how to cancel them*

Enhanced complaint-handling procedures

All banks must have procedures to handle complaints and resolve customer problems. They include access to an independent and impartial review by an external complaints body (ECB). You have a right to bring your complaint to an ECB when your bank has not been able to resolve it in a timely way or if you are unsatisfied with the bank's response.

Under the Framework, banks and ECBs will have to strengthen their complaint-handling procedures.

One important new requirement is that banks will have to deal with your complaint within a specific period – 56 days.

The changes will help you get your issues resolved in a more timely and effective way.

Other measures to better protect bank customers

The Framework will better protect you in several other important ways.

For example, it includes new obligations on banks such as having to:

- *offer and sell you products or services that are appropriate for you*
- *provide you with a refund for charges or penalties that were not disclosed to you, or that you didn't agree to*

Banks will also have to improve existing protections that require them to:

- *avoid misleading you or applying undue pressure when selling you products and services*
- *obtain your express consent before providing you with products or services*

Banks will also have to improve their business practices, such as by:

- *setting up a whistleblowing program for their employees to report wrongdoing*

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

- *creating a committee of their board of directors to make sure that they're complying with their obligations to their customers*

Banks will also have to cash, free of charge, Government of Canada cheques of $1,750 or less with proper identification. The current maximum amount is $1,500.

Canada's new Financial Consumer Protection Framework

In 2018, the Government of Canada adopted legislation to modernize the Financial Consumer Protection Framework in the Bank Act. The Framework introduces new and enhanced protections to advance your banking rights and interests, which will take effect on June 30, 2022.

The legislation also provides the Financial Consumer Agency of Canada (FCAC) with more powers to better protect you in your dealings with banks. FCAC's new powers came into force in April 2020. They include the power to:

- *impose a penalty of up to $10 million on banks that commit serious violations of their legal obligations*
- *direct banks to take actions to comply with their legal obligations*
- *direct banks to undergo a third-party, independent audit to comply with their legal obligations*

The Framework addresses issues raised by FCAC in its reviews of the banking industry. The reviews highlighted key areas where consumers of banking products and services could be better protected, and the oversight of banks could be strengthened.

The Framework is also based on extensive consultations with stakeholders across Canada.

FCAC Commissioner Issues Statement on "Breaking Gender Bias In The Financial World"

On March 8/22, FCAC Commissioner Judith Robertson issued via the Agency's website a Statement on "Breaking Gender Bias In The Financial World," which reads as follows:

Statement

Over the course of my professional life, I have experienced the benefits of having women in leadership roles and developed greater recognition of the importance of gender equality. As the Commissioner of the Financial Consumer Agency of Canada (FCAC), I know that a continued and renewed focus on bridging the gender gap will also benefit financial consumers.

The Government of Canada's theme for International Women's Day 2022 is "Women Inspiring Women," and the international theme is "Break the Bias." We are asked to envision "a world free of bias, stereotypes, and discrimination… that is diverse, equitable, and inclusive." Through our National Financial Literacy Strategy, FCAC recognizes these important issues and calls on all stakeholders in the financial ecosystem to adopt approaches and tailor programs for women, especially those belonging to communities facing financial vulnerability. The National Strategy promotes a financial ecosystem that is accessible, inclusive, and effective for all Canadians, especially those most in need due to barriers or personal circumstance, which includes women.

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

Women face unique challenges, including systemic and societal barriers in the financial marketplace. For example, women business owners face greater barriers to accessing financing and are more likely to be rejected or receive less funding than men. Women were also disproportionally affected financially because of the pandemic. And there remains a gender gap in the labour force, particularly for Indigenous, immigrant and racialized women.

For our part, FCAC is conducting research to better understand how we can tailor our activities to help women build financial resilience. As an example, we have recently launched a financial literacy intervention among high school students, since building financial confidence is crucial for young women at this age.

It's encouraging to know that Canada's banking industry is ahead of the curve when it comes to women in leadership roles. Let's hope the trend continues at the executive level. And it's great to see organizations like Women in Capital Markets and the University of Waterloo's Women in Finance initiative promote equity, diversity and inclusion and strive to bridge the gender gap within the finance sector.

So, let's continue to work together to inspire women and create more opportunities to break the bias.

Provincial/Territorial
British Columbia

BC Financial Services Authority (BCFSA)
BCFSA Imposes Penalties on Travel Insurers Involved in BC Secondary School Trip Cancellations
On February 17/22, BCFSA issued a news release announcing that two companies involved in travel insurance for secondary school trips had been disciplined for their conduct related to COVID-19 trip cancellations.

Between January and March 2021, BCFSA began receiving complaints regarding issues with insurance claims for cancelled school trips because of COVID-19 in March 2020. An investigation found that Worldstrides sold travel insurance in B.C. without a license and Old Republic facilitated that activity, in contravention of the *Financial Institutions Act*. Policyholders experienced significant delays in claims processing due to a dispute between the companies.

"BCFSA expects insurers to treat consumers fairly and to have the necessary oversight and control over parties selling their products," said Blair Morrison, Superintendent of Financial Institutions. "These cases are illustrative of the harm that can arise from inadequate oversight and control."

The Superintendent issued notices of administrative penalties of $40,000 for Old Republic and $35,000 for Worldstrides.

Notices of those administrative penalties can be found on the BCFSA website here:

- Worldstrides - Notice of Administrative Penalty
- Old Republic - Notice of Administrative Penalty

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

Insurance Council of British Columbia

Insurance Council Issues New Guidelines For Life Insurance Agencies

On April 8/22, the Insurance Council of BC posted on its website an announcement about the launch of its newly created *Guidelines for Life Insurance Agencies: Role and Responsibilities in the Distribution of Life Insurance in British Columbia*.

The announcement indicated that the Council had updated its guidance on expectations for life insurance agencies in the distribution of life insurance in British Columbia. The new *Guidelines for Life Insurance Agencies: Role and Responsibilities in the Distribution of Life Insurance in British Columbia* replace the guidance previously outlined in Notice ICN 12-001 *Role and Responsibilities of Managing General Agents ("MGA") in the Distribution of Life Insurance in British Columbia*.

The Insurance Council issued guidance in 2012 regarding the role of MGAs in the distribution of life insurance products. Since then, the Insurance Council has found that there are differing interpretations of the roles and responsibilities of life insurance agencies holding different insurer/agency contracts. This has resulted in inconsistent compliance and oversight of the distribution of insurance by life insurance agencies.

The new *Guidelines for Life Insurance Agencies* apply to all life and/or accident and sickness insurance agencies involved in the distribution of insurance, including, but not limited to those that hold MGA contracts with insurers. Nominees are expected to be aware of and familiarize themselves with this updated guidance.

The updated *Guidelines* outline the roles and responsibilities of life insurance agencies in the distribution of insurance, and expand upon the following:

• clarification regarding the overall role of agencies in the distribution of insurance;

• factors that agencies should consider in determining a life agent's suitability and risk;

• assessment of ongoing monitoring practices to manage risks effectively; and

• reporting requirements of conduct concerns related to the suitability of an agent to the Insurance Council.

Regulatory requirements Council Rule 7(6) sets out the nominee's responsibility to the Insurance Council for all activities of the insurance agency. Nominees must ensure that the agency and its licensees are appropriately supervised, and there are sufficient procedures to facilitate compliance with Insurance Council requirements.

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

Sections 7 and 8 of the Insurance Council's Code of Conduct set out licensees' (including agencies') duty to clients and insurers with whom they transact business. Agencies should ensure that life agents are suitable and competent before facilitating or recommending they hold a contract with an insurer. When considering ongoing monitoring practices, agencies must put the best interests of the client as their first concern and ensure that clients' needs are properly served.

Insurance Council Launches Updated Council Rules Course

On February 22/22, the Insurance Council of BC announced on its website that starting March 15/22, the Council's Insurance Council Rules Course will be offered through its online portal. The course is a prerequisite for all new Insurance Council licence applicants and can also be taken by licensees to count towards their continuing education (CE) requirements.

The course is delivered in two streams, one tailored for general insurance and adjusters, and the other for life and/or accident & sickness insurance licensees. Those courses were previously offered by the Insurance Brokers Association of BC (IBABC) and Advocis respectively, but will no longer be offered by those organizations after March 15/22.

The new Insurance Council Rules Course is an updated version that includes revisions and the most current information about licensee requirements and regulatory information. Both versions of the course will be provided solely by the Insurance Council, enabling timely updates regarding regulatory or other licensee requirements to keep course content current.

Although current licensees are not required to take the course, the Council does strongly encourage licensees to do so as it will provide a refresher and overview of the latest updates, as well as two CE credits towards annual CE requirements.

Alberta

Alberta Government

Alberta Introduces New Insurance Legislation
On April 20/22, Insurance Business Canada published the following article about the Alberta government's introduction of new insurance legislation.

The provincial government of Alberta has proposed a new Bill to help "diversify" the region's insurance sector.

The Insurance Amendment Act 2022 (Bill 16) would help enable easier access to re-insurance in Alberta. According to a release on the government's website, increasing the availability of re-insurance "should have a positive impact on the overall insurance supply in the provincial market." In turn, this would help ease insurance shortages and high prices, while better positioning traditional insurers in serving Alberta clients, the government added.

Bill 16 would also add the final touches to insurance rules before the province welcomes captive insurers. The amendment to the province's recently passed Captive Insurance Companies Act *will facilitate a seamless relocation of foreign captives into Alberta, so that businesses in the province with offshore captives do not have to worry about any interruptions, a government release said. The new section on captive "re-domestication" will contain instructions for the relocation process, an outline of responsibilities for owners, as well as a list of mandatory documentation and other procedural requirements.*

The Captive *Insurance Companies* Act *was first proposed last October.*

"Alberta is creating opportunities in every sector of our rapidly growing economy," said Alberta Treasury Board President and Minister of Finance Travis Toews in a statement. "To this end, we're delivering a regulatory framework that will help generate more insurance activity right here in Alberta – leading to more opportunities for Albertans in sophisticated finance and insurance positions, and boosting the investment potential of our entire financial services sector."

Ontario

Financial Services Regulatory Authority of Ontario (FSRA)

FSRA Approves First Four Credentials For Ontario's Title Protection
On April 11/22, Investment Executive published the following article about the Financial Services Regulatory Authority of Ontario (FSRA):

The Financial Services Regulatory Authority of Ontario (FSRA) has approved the first credentialing bodies for "financial planner" and "financial advisor" titles, the regulator said in a release on Monday, April 11.

FSRA approved FP Canada as a credentialing body, based on its certified financial planner (CFP) and qualified associate financial planner (QAFP) designations. Industry professionals with one of those designations are permitted to use "financial planner."

FSRA also approved the Institute for Advanced Financial Education (a subsidiary of Advocis) as a credentialing body. Professionals with the chartered life underwriter (CLU) designation are permitted to use "financial planner," and those with the professional financial advisor (PFA) designation can use "financial advisor."

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

"Existing holders of these FSRA-approved credentials, who are in good standing with their respective credentialing body, may continue to use the financial planner and/or financial advisor titles in Ontario without interruption," the regulator said in a background document.

The regulator will focus this year on approving credentialing bodies and helping them implement the title protection framework. To that end, the regulator is "actively" reviewing other applications, the release said, and will announce additional credentialing bodies and designations on its website as they're approved.

Those using "financial planner" or "financial advisor" on or before January 1, 2020 can continue to use the titles during a transition period of four years for "financial planner" and two years for "financial advisor" from the date the legislation came into force (March 28, 2022).

During this period, such individuals must determine whether their existing designation or licence is approved by a FSRA-approved credentialing body. If it isn't, they must get an approved designation or license from an approved credentialing body before the transition period ends (or stop using the title).

Those who started using one of the titles after January 1, 2020 can no longer do so until they get an approved designation or licence.

FSRA has authority to issue compliance orders against individuals who use the titles without approved credentials. However, the regulator said non-compliant title use may be unintentional throughout 2022. As such, enforcement will focus on "responding to consumer complaints and protecting consumers from harm by requesting non-compliant title users to voluntarily cease title use within 30 days," the backgrounder said.