

May 19, 2015

Insurance Policy Branch, Ministry of Finance
Frost Building North, 4th Floor
95 Grosvenor Street
Toronto, Ontario M7A 1Z1

Re: Parts V and VII, Insurance Act Consultation

Dear Sir or Madam:

The Canadian Association of Financial Institutions in Insurance (CAFII) appreciates the opportunity to provide input on four proposed regulations related to Parts V and VII of the Insurance Act. We have organized our input in accordance with the three questions posed in the consultation paper.

1. Based on the goal of harmonization, are the changes in the four proposed regulations sufficient to adhere to this intent?

Overall, we believe that the proposed regulations will go a long way towards achieving their intent of providing similar rights to insured persons and policyholders in different jurisdictions. It will also make it easier and less costly for our members to do business in multiple jurisdictions.

However, we offer the following comments on two areas in which we believe the regulations fall short of the harmonization objective.

Prescriptive Language Re Ontario Limitations Act, 2002

In subsections 175(2)(7), 176(8), 177(1)(7), 294(6), 296(8), and 298(7) of the amended Ontario Insurance Act, language is set out which will require that "the following statement" be included in an insurance policy:

"Every action or proceeding against an insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the Limitations Act, 2002."

You may be aware that in other jurisdictions, the time limits are set out in various documents: the Insurance Act (BC, AB, MB, NB, NS, PE, YK, NT, NU – the title of the Act may vary by province), Limitations Act (SK, NF), and Civil Code (QC). As a result, the prescribed language would require us to produce customized documents for Ontario insureds.

Instead, we recommend that the phrase "the following statement" be changed to "a statement to the following effect" (similar to the phrase found at s. 302, Notice of Statutory Conditions) so that insurers can use a national statement along the following lines:

Every action or proceeding against an insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the Insurance Act (BC, AB, MB, NB, NS, PE, YK, NT, NU – title of act may vary by jurisdiction), Limitations Act (SK, NF), Limitations Act 2002 (ON), Civil Code (QC), or other applicable legislation.

Gap in Ontario Insurance Act Re Group Life Insured, Enforcing Rights

We believe that there is a gap in the amended Ontario Act re *Enforcement of right re creditor's group insurance* in subsection 201.1(3): "Where the debtor insured provides evidence satisfactory to the insurer that the insurance money exceeds the debt then owing to the creditor, the insurer may pay the excess directly to that debtor insured."

This provision fails to contemplate a situation where the debtor insured is deceased or otherwise incapable of enforcing his/her rights. We recommend that Ontario harmonize with Alberta as follows:

736(3) If satisfactory evidence is provided to the insurer that the insurance money exceeds the debt then owing to the creditor, the insurer may pay the excess directly to the debtor insured or to a debtor who is jointly liable for the debt with the debtor insured.

This would accommodate situations where the debtor insured is not able to give discharge for the excess insurance money and allow payment of any excess to a debtor who is jointly liable for the debt.

2. In regard to the proposed regulations extending confidentiality, are there any other circumstances for which confidentiality should be provided?

CAFII is pleased with the wording of the proposed regulations related to additional confidential information for group life and group accident and sickness policies and does not have recommendations for additional circumstances for which confidentiality should be provided.

3. Should the amendments to Parts V and VII be proclaimed on July 1, 2015; January 1, 2016; or some other date in order for an adequate transition period; and why is the length of transition period required?

When provinces are finalizing new regulations, CAFII requests that lead time of 12 to 18 months be provided to facilitate our members' implementation of changes. These changes inevitably become major projects within our member organizations and it takes time to ensure that necessary systems changes are made, forms revised, staff trained, and consumers notified of how the changes affect them.

Therefore, we recommend that the amendments to Parts V and VII be proclaimed into force on January 1, 2017; or on July 1, 2016 at the earliest.

Closing Remarks

CAFII strongly supports harmonization of regulations across jurisdictions and commends the Ontario Ministry of Finance for working toward this objective and for consulting with the industry prior to finalization of the new regulations. Should you require further information from CAFII or wish to meet with our Association at any time, please contact Brendan Wycks, our Executive Director, at brendan.wycks@cafii.com or 647-218-8243.

Sincerely,



Greg Grant, MBA, FLMI, ACS
Board Secretary and Chair, Executive Operations Committee
Canadian Association of Financial Institutions in Insurance

ABOUT CAFII

The Canadian Association of Financial Institutions in Insurance (CAFII) is a not-for-profit industry Association dedicated to the development of an open and flexible insurance marketplace. CAFII was established in 1997 to create a voice for financial institutions involved in selling insurance through a variety of distribution channels. CAFII 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.

CAFII is currently the only Canadian Association with members involved in all major lines of personal insurance. CAFII's full 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 American Express, Assurant Solutions, Canadian Premier Life Insurance Company, and The CUMIS Group Ltd.

In addition, CAFII has 10 Associates that support the role of financial institutions in insurance.

CAFII 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 its members' common ground.

CAFII's diverse membership enables our Association to take a broad view of the regulatory regime governing the insurance marketplace. CAFII works with government and regulators (primarily provincial) 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.