

September 14, 2018

Ms. Janette Seibel  
Acting Director of Insurance and Real Estate  
Financial and Consumer Affairs Authority  
601-1919 Saskatchewan Drive  
Regina, Saskatchewan  
[janette.seibel@gov.sk.ca](mailto:janette.seibel@gov.sk.ca)

**RE: *The Insurance Amendment Regulations, 2018***

Dear Ms. Seibel:

The Canadian Association of Financial Institutions in Insurance (CAFII) thanks the Financial and Consumer Affairs Authority (FCAA) of Saskatchewan for your letter of 10 August, 2018 inviting our Association to provide feedback and input on the embedded *Insurance Amendment Regulations, 2018*.

We are pleased to provide our response submission below, which addresses only those sections of the consultation document which are germane to CAFII members.

## **2. Premium refund exemption for life contracts**

CAFII agrees with and supports the proposed amendment which clarifies that subsections 7-5(2) and (3) do not apply to contracts of life insurance. This amendment is very much welcome and needed, as life insurance is not priced for a pro-rated premium refund when the insurance is terminated.

## **3. Change to the exemption from disclosure requirements when advertising**

CAFII agrees with the spirit of this change which broadens the exemption from the advertising disclosure requirements set out in section 7-11 of *The Insurance Act*. However, we are concerned that because there are some types of advertising, such as advertising on social media, where brevity is essential, having a requirement to include both a website and a phone number in the ad could severely impair the flexibility and the effectiveness of such ads.

We recommend that requiring the inclusion of either a website address or a phone number, but not both, would still be consistent with the spirit of this amendment, but would be much easier for the industry to implement. It is also our understanding that if online advertising is used with an embedded live link, and the viewer is directed to a website upon clicking on the live link, that would satisfy the requirements of this provision. We request that the FCAA confirm for the industry the accuracy of our understanding on this point.

## **4. Exemption for life insurance contracts from subsection 7-17(3) of the Insurance Act**

CAFII agrees with and supports this amendment which corrects for an apparent inadvertent error in the new *Insurance Act* -- which would enable a creditor to require a life and health insurer to amend the creditor's insurance contract -- whereas the relevant section in the province's current *Insurance Act* does not apply to life and health insurance.

## 5. Expanding exemption from “free look” provision to group life insurance contracts

CAFII agrees with and strongly supports this amendment which corrects an unintended drafting error, as the new *Insurance Act* and *Regulations* should exempt both group and creditor’s group accident & sickness insurance contracts; and group and creditor’s group life insurance contracts from the “free look” provision.

## 6. Notice to consumers purchasing online

CAFII disagrees with and objects to this proposed requirement that a prescribed warning stating “*Individual circumstances may vary. You may wish to contact an insurer’s representative or insurance agent to obtain additional advice about your insurance needs*” be disclosed to consumers who are researching or buying insurance online.

CAFII views this proposed amendment as unwarranted from a consumer protection standpoint, and seemingly intended to steer business to the advice-based channel. We are not aware of any other jurisdiction in Canada – federal, provincial, or territorial – which has imposed that sort of warning requirement upon online sales of insurance.

We support allowing consumers to have choice in a competitive marketplace. Consumer choice means that they have options to purchase insurance through a licensed broker, or to purchase it directly from an insurance company or distributor through whatever channel they prefer, depending upon their preference.

Consumers have a wealth of information available to them in today’s marketplace, including about the products of CAFII members; and it is the consumer’s right to decide what channel, level of advice, or method of purchase they prefer. Consumers differ in their level of knowledge, and some products may not require advice and can be purchased more efficaciously via a direct channel and without the involvement of a commissioned agent. It is for the consumer to make that decision, without the competitive marketplace being tilted by favouring one channel or method of purchase over another.

CAFII members are committed to clear and effective disclosure for consumers so that they can be knowledgeable about what they are buying, including the limitations and exclusions under an insurance policy. Our members are also committed, and dedicate significant resources to, educating their salespersons so that they are able to provide clear, substantive information and disclosures to consumers. The consumer disclosure obligations to which CAFII members adhere are clearly set out in applicable *CLHIA Guidelines* ([https://www.clhia.ca/web/CLHIA\\_LP4W\\_LND\\_Webstation.nsf/page/D99B8079BC50934685258226006FE573!OpenDocument](https://www.clhia.ca/web/CLHIA_LP4W_LND_Webstation.nsf/page/D99B8079BC50934685258226006FE573!OpenDocument)) and the Canadian Bankers Association *Code of Conduct for Authorized Insurance Activities* ([https://www.cba.ca/Assets/CBA/Documents/Files/Article%20Category/PDF/vol\\_20090000\\_authorizedinsuranceactivities\\_en.pdf](https://www.cba.ca/Assets/CBA/Documents/Files/Article%20Category/PDF/vol_20090000_authorizedinsuranceactivities_en.pdf)).

The life and health insurance needs and expectations of consumers have evolved dramatically over the past 20 years. And in response, the marketplace has evolved to embrace digital/internet distribution channels – including distribution through consumers’ mobile devices – which provide increased opportunities for access to insurance for Canadians across the full spectrum of society.

In addition to the traditional agent and broker distribution channels, the life insurance market now includes new types of intermediaries, such as corporate agencies and Managing General Agents (MGAs), as well as direct distribution options such as client contact centres and the internet. These competitive changes have shifted the insurance market and improved choice for consumers.

Online distribution has been a well-spring of innovation, and proven to be well-suited to making information readily available on a clear and complete basis. CAFII members have developed interactive simulations and other tools to enable consumers to model a variety of scenarios with a view to understanding and choosing from among insurance protection options.

For example, creditor's group insurance and travel insurance, which CAFII members are authorized to distribute, are supported in the online environment with a view to ensuring that consumers understand the coverage offered. Online information and advice tools utilized can include "click to chat" capability and toll-free access to knowledgeable representatives.

Direct and electronic distribution are now well-established and valued channels for Saskatchewan consumers, and are distinguished from traditional channels by the following features:

- Simple product design
- Straightforward enrolment process
- Affordable protection products
- Convenient and broad access
- Focus on meeting the needs of the under-served lower and middle income market
- Immediate and reliable coverage
- Comprehensive disclosure and well-trained representatives

It is CAFII's position that insurance legislation and regulation must ensure that consumer needs for direct and electronic access to protection are effectively met; they must not unduly discourage consumer access to coverage.

We therefore strongly counsel against the imposition of a warning requirement upon online sales of insurance. The proposed warning favours one purchase channel over another. It is also at odds with the direction that the life and health industry is moving in, with increased consumer choice and direct-to-consumer offers ever more common.

At the end of day, it is critical to provide Saskatchewan consumers with a competitive mix of insurance products -- including simple, straightforward convenient creditor's group insurance offered by CAFII members through the online channel -- and we encourage a regulatory framework that does not unnecessarily steer consumers away from that competitive choice.

As a concluding point with respect to this proposed amendment, CAFII believes that open and transparent regulatory consultation processes are in the best interests of consumers, regulators, and the industry, as they help ensure that all of the implications of proposed laws and regulations are fully understood by key stakeholders and that they achieve their intended objectives.

However, given the very short time remaining before the in-force date and given that the other amendments on the table are about clarifications and technical adjustments to provisions which were first tabled some time ago, we are very concerned about this relatively last minute introduction and proposal of a substantive, new requirement that had not previously been raised. It is our view that the proposing of such a change at the 11<sup>th</sup> hour is inconsistent with the FCAA's typically open and transparent consultation practices.

#### **7. Deemed notice to the insured person for the purpose of 8-108 and 8-171**

CAFII is supportive of the spirit of these amendments, as we believe they will achieve the objective of enhancing efficiency and effectiveness in the life and health insurance sector by setting out express exceptions to the notice requirements placed upon insurers in specified circumstances.

However, we believe that greater detail and precision is required in some clauses of the amendment. For example, what constitutes “proof”?

We also believe that it should be specified that the notice provisions do not apply to group life and health insurance policies.

#### **8. Notice of Statutory Conditions wording to include “and sickness”**

CAFII agrees with and supports this clarifying amendment which corrects the inadvertent omission of the words “and sickness” from the term “accident and sickness insurance”.

#### **Specific Issues To Be Addressed In FCAA Transition Regulation Requested By The Industry**

CAFII believes that it would be of great assistance to the industry if the FCAA could provide guidance via a Transition Regulation which addresses the following:

- when and how each new provision in the modernized Insurance Act and the related Regulations is to have force and effect upon **existing** insurance contracts, certificates, and claims. This will help in identifying sections that will only apply to existing contracts when they are renewed or replaced; and
- the procedures for an insured to follow in making an electronic beneficiary designation to an insurer, as permitted under s. 7-24 of the new Insurance Act, so that the insured’s declaration is “in accordance with procedures approved by the Superintendent.” Alternatively, this information could be conveyed via a stand-alone Information Bulletin.

#### **Conclusion**

With respect to our concerns about the definitions of Insurer’s Representative and Insurance Agent found in Sections 1-2 and 5-5(1) & (2) of *The Insurance Act* and Section 5-2(1) of *The Insurance Regulations* and the implications of those definitions for insurance licensing, previously communicated in our letter of July 31, 2018, CAFII has been informed by CLHIA that through a collaborative effort between CLHIA and April Stadnek and Ron Fullan of the Insurance Councils of Saskatchewan (ICS) over the summer months, a working document has been developed which satisfactorily addresses the industry’s concerns in this area; that the document has been endorsed by the Superintendent of Insurance and ICS’ Life Insurance Council; and that the document will be circulated shortly as part of an official FCAA communication to the industry, likely in October.

We also understand that the FCAA has agreed to grant some flexibility in the transition to the new licensing requirements under *The Insurance Act* and *The Regulations*, such that a phase-in period will be provided and it will not be expected that industry players will have the correct licence in place for all of their representatives on January 1, 2019.

CAFII congratulates and applauds FCAA, ICS, and CLHIA on this important collaboration and its vital outcome.

With respect to our previously communicated concern about the definition of “travel insurance” found in section 5-69 of *The Insurance Act*, CAFII implores the FCAA to take near-term action to address the wording error which will put Saskatchewan’s Restricted Insurance Agent licensing regime out of harmony with the parallel RIA regimes in Alberta and Manitoba and with BC’s “insurance licensing exemptions.”

This imminent lack of harmonization on a key RIA regime definition in Saskatchewan is of particular concern to CAFII members because, as we understand it, the FCAA still plans to have the relevant section of *The Insurance Act* proclaimed into force for January 1, 2019, despite the fact that the flawed definition will exist in *the Act*. Such a situation will only cause confusion in the industry.

In conclusion, thank you again for the opportunity to provide input and feedback on *The Insurance Amendments Regulations, 2018*. Should you require further information from CAFII or wish to meet with representatives from our Association at any time, please contact Brendan Wycks, CAFII Co-Executive Director, at [brendan.wycks@cafii.com](mailto:brendan.wycks@cafii.com) or 647-218-8243.

Sincerely,



Peter Thorn  
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; RBC Insurance; Scotiabank Financial; and TD Insurance – along with major industry players American Express, Assurant, Canadian Premier Life Insurance Company, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and The Canada Life Assurance Company.