



February 25, 2011

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3

Re: Consultation on Distribution of Insurance Other than through a Representative

Dear Me Beaudoin,

CAFII is pleased to be able to provide comments to you on the Consultation on Distribution of Insurance Other than through a Representative (DWR).

About CAFII

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

CAFII is the only insurance association today whose members are involved in all major lines of the insurance business, including creditor's group insurance, travel, life, health, property and casualty insurance. Our members provide insurance through call centres, agents and brokers, travel agents, branches of deposit-taking institutions (DTIs), direct mail and the Internet. Our members sell products and services that consumers often purchase to complement other financial products.

CAFII's diversity in 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.

Overview of CAFII Response

Consistent with the direction of the Canadian Council of Insurance Regulators (CCIR) to industry in the past several years, CAFII's response focuses on three primary themes:

1. Risk-based regulation
2. Harmonization across provinces
3. Elimination of red tape and bureaucracy

CAFII members have been offering DWR products, mainly creditor's group insurance and travel insurance (see Appendix 1 for description) to consumers for decades. As indicated in the Issues and Consultation paper, deposit-taking institutions (DTIs) account for 49 % of the 12 million plus DWR sales in Quebec as of the end of 2008. CAFII members are supportive of the existing DWR regime and believe that its members' adherence to it along with additional existing federal legislation and industry guidelines (see Appendix 2 for a listing), has allowed for the relatively complaint-free delivery of DWR products in Quebec.¹

Since CAFII members are not aware of any metrics that would indicate that there is a problem with DTIs compliance with the DWR regime, we urge the AMF to take a risk-based approach to DWR regulation. Rather than impose greater requirements and/or restrictions on all distributors, CAFII recommends that the AMF focus on ensuring adherence to the regime by those distributors who are not in compliance or are causing the concerns.

In the event that the AMF decides to implement a change to the existing DWR regime, we would encourage the AMF to harmonize where possible with the CLHIA Guidelines G7 (Creditor's Group Insurance) and G9 (Direct Marketing) and with the disclosure requirements in place in Alberta and Saskatchewan. The CCIR notes the importance of harmonization. For DWR, harmonization would facilitate the ease of regulatory adherence, particularly in the development of insurance documents and scripts, creation of systems and processes, training of representatives and ensuring cost effective solutions for consumers. In addition, CAFII would support any effort by the AMF to streamline the existing regulatory requirements and eliminate or reduce red tape and bureaucracy and in turn simplify product and processes for clients.

¹ Evidence of a relatively complaint free delivery by DTIs of creditor and travel insurance products include: 1) The AMF consultation paper data estimates that there were 336 complaints in a year, which represents less than .003 % of the 12 million policies in force, or about 1 complaint for every 36,000 policies; 2) The Financial Consumer Agency of Canada's most recent annual report (2009-10), noted that it handled only four complaints related to authorized insurance activities of banks. This is a very small number considering the millions of certificates in force and; 3) CAFII contacted the Ombudsman for Banking Services and Investments who confirmed that there were very few complaints relating to bank distribution of creditor's group insurance.

Comments on Specific Recommendations

1) Reduce the length and complexity of the guide

CAFII supports this recommendation. The discussion document does not propose specific guide contents. We recommend that the guide be a structured document which summarizes key product features and key exclusions, restrictions and limitations. We further recommend that the required disclosures at time of enrolment be aligned with CLHIA G7 Guideline to the extent possible.

Finally, reference in the guide should be made to the Certificate of Insurance where the complete contractual terms and conditions can be found. The guide should clearly state that it is for purposes of helping inform the consumer and that the wording in the certificate or legal contract takes precedence. This reference would serve to clarify the difference between the two documents – one to highlight important product features and benefits, the other for comprehensive legal contractual requirements.

2) Limit the number of insurance products that may be offered in the same guide

With respect to the number of products to be offered in one distribution guide, it is typical for DTIs to offer an insurance product that includes several coverages such as mortgage insurance which may offer life, disability and job loss coverage. Similarly for travel insurance, a range of coverages are offered such as out-of- province medical, trip cancellation, trip interruption, etc. We recommend that one Distribution Guide should reflect the full range of coverages available to the customer for the service (eg travel) or underlying creditor product (eg mortgages).

3) Give greater prominence to the exclusion, restriction, limitation and pre-existing condition clauses

We agree with the approach as set out in the discussion document however, the guide should clearly state that it is for information purposes only and that the wording in the certificate or legal contract takes precedence.

4) Require that confirmation of insurance be separate from the guide

Currently, some CAFII members combine the guide with the certificate and some provide separate documentation. If the DWR regime requires separate documentation, this is acceptable to CAFII.

5) Facilitate access to the guide

The recommendation states that, with respect to posting guides on the AMF website, “this will allow consumers to consult them at their leisure, and compare the products available on the DWR market before they even acquire the good in question”. CAFII supports having the AMF post the guides on their website provided this applies to all guides and that the guides are posted on a timely basis to avoid consumer confusion.

6) *Extend the insurance policy rescission period from 10 to 30 days*

CAFII supports the proposal to extend the rescission period, however, we recommend harmonization with CLHIA Guideline G7 which specifies that the consumer should have not less than 20 days after receipt of the Certificate to review the insurance, during which time the coverage can be cancelled for a full refund.

We do not support such a rescission requirement for Travel Insurance. Its inclusion would, in practice, present consumers with an opportunity for “gaming”; a consumer could purchase medical coverage in advance of a trip of 10 days or less and cancel for a refund upon returning. Furthermore, many policies offer coverage for trip cancellation for events that occur up to the time of departure. As proposed, a person could obtain 10 days of trip cancellation coverage, cancel before departure and essentially have had the benefit of coverage at no cost. Travel insurance products typically have rescission rights which are consistent and appropriate for the coverages offered.

7) *Hold the insurers accountable for their distributors’ fulfillment of their obligations*

The paper sets out that “holding insurers accountable for their distributors’ fulfillment of their obligations will require the insurer to take the necessary steps to ensure that their distributors comply with the legislation. “ CAFII believes that the existing section 436 of the Act sufficiently addresses the legal requirements of the insurer. As well, CAFII agrees with the insurer accountabilities as defined in CLHIA G7 and summarized as: a) to establish reasonable procedures to train those offering its insurance products and b) to establish reasonable procedures to monitor the activities of those handling enrolments. CAFII members adhere to Guideline G7 and have the processes in place for the supervision of distributors.

8) *Inspect the distributors*

CAFII does not have an issue with this recommendation and would suggest that for such inspections to be most useful, they should be risk-based and prioritized by the degree to which evidence of non-compliance exists.

9) *Create a distributors registry*

CAFII recommends that for DTIs, requirements for a list would apply to the corporate entity only. CAFII members have no objection to posting the list of DWR products offered by the corporate entities.

10) *Require that insurers control the incidental nature of the insurance sale*

CAFII is in agreement with this proposal, however, the regime should continue to recognize travel insurance which is an ‘authorized product’ that DTIs can offer and which may not necessarily be incidental to any other financial product.

11) Disclose the distributor's remuneration, whether direct or indirect, in all cases and in writing

CAFII recognizes the AMF's concerns regarding disclosure non-compliance with the existing regulations. Bulletin No. 13, April 9, 2001, which is referenced in the consultation paper, clearly states the requirements for distributor disclosure of remuneration. We believe the existing regulations are appropriate and strongly recommend that the AMF enhance enforcement of these requirements. In order to facilitate greater enforcement by the AMF, we recommend holding insurers accountable for proper disclosure on consumer insurance applications. In addition to the distributors' obligation to disclose their remuneration when it exceeds 30%, we recommend that insurers should advise the AMF of cases where remuneration received by their distributors exceeds this threshold. It is CAFII's view that the existing recommendations combined with the enhanced enforcement by the AMF are appropriate and that no new disclosure measures are needed.

The paper calls for remuneration disclosure for DWR on the basis of managing conflicts of interest and states that this is not an issue for licensed representatives "because they have training and an obligation to act in the consumer's interest". Within the DWR regime, insurers offering products through DTIs abide by CLHIA Guideline G7 Creditor's Group Insurance which sets out training standards and the obligation to act in the consumer's best interest.² In addition, bank distributors abide by the Canadian Bankers Association code of conduct, and their own institution's internal code of conduct all of which have a requirement to put the client's interest first. We are not aware of any cases where a DTI has been involved in any fraudulent practices with respect to DWR. The CCIR Industry Practices and Review Committee (IPRC) conflict of interest project was first undertaken in 2004 precisely because of fraudulent and dishonest practices by licensed insurance representatives. Our members' staff are salaried employees who are trained to ensure all products offered contribute to an overall long term, multi-product relationship with their customers. It would be counterproductive for DTI's to not act in the best interest of the customer as this would jeopardize the larger banking relationship. Considering these factors, it is our view that the potential for conflict of interest for DTI distribution is not greater than and, in fact, is likely less than for licensed representatives.

As a matter of principle, it is anti-competitive to require one segment of any industry to disclose remuneration while other industry segments with competing products have no such requirement. Consistent disclosure helps to foster consumer understanding and comparison of options. We do not believe a specific compensation amount is relevant to consumers in their evaluation of their premium cost relative to the benefits provided by the insurance. If consumers are told a certain remuneration level for DWR only, they will have no basis on which to determine if it is reasonable unless they can compare to the remuneration level associated with a comparable individual insurance product. In the worst case, such disclosure could cause people confusion as to whether the remuneration is high or not; the element of doubt may cause them to

² Guideline G7 Purpose is to "protect(s) 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."

hesitate from obtaining any form of insurance and they would be without necessary coverage.

CAFII is committed to working with the AMF to find suitable solutions and would like to arrange a meeting to better understand the underlying concerns behind these proposals.

12) State the cost of the single premium insurance product in the guide, as well as the terms of reimbursement in case of cancellation

CAFII agrees that the presentation of information and literature given to consumers should enable them to make an informed decision. The material provided to consumers should set out the cost, either in the application form itself or the distribution guide. Further, we do not oppose a recommendation that would call for the inclusion in the guide of terms of reimbursement in the event of cancellation. Travel insurance would need to be handled differently. The cost of premium coverage is customized, thus the premium cost for consumers is quoted during the application process.

13) Prepare call scripts that meet DWR requirements

We do not agree with the recommendation to have distributors file scripts with the AMF. We believe that if implemented, filing scripts with the AMF would create red tape and bureaucracy with little benefit to the customer.

The telephone channel (for inbound and outbound enrolment) is an important distribution channel for DWR and other financial services products. It provides consumers with convenient easy access to insurance protection they need. It is also a distribution channel that lends itself readily to consistent and controlled communication and ultimately a positive customer experience. For example:

- Our members construct telephone scripts to adhere to DWR disclosures as well as CLHIA G7 (Creditor's Group Insurance) and G9 (Direct Marketing) Guidelines. These disclosures ensure that a customer is sufficiently informed about a product's key features, limitations, restrictions and exclusions prior to their purchase. The customer is sent the Certificate of Insurance shortly after the phone conversation. A rescission period is provided from the date the customer receives the Certificate which provides the customer sufficient time to review all written documentation and ensure that they have made the right purchase decision.
- This channel is easily monitored for compliance. Strict and continuous training and supervision of all representatives and real time listening of calls are all effective tools used to ensure script adherence. As well, calls are recorded.

- Telephone calls are subject to CRTC rules which in addition to the “do not call list”, provide consumer- friendly conditions such as acceptable calling hours and protection from unsolicited telecommunications.

Filing of the script with the AMF would not provide any additional measure of control beyond those noted above. In addition, as telephone scripts are dynamic and change over time, it would create an undue burden on CAFII members to file each change, and for the AMF to maintain a timely administration of numerous scripts.

14) Extend the rescission period of the insurance contract


See #6 for comments regarding this recommendation.

In conclusion, CAFII is supportive of the DWR regime in Quebec. We appreciate the opportunity to provide input to the AMF as you review and consider revisions to the regime. We agree with many of the recommendations in this paper that will enhance the customer experience, for example:

- Reducing length and complexity of the guide, and
- Giving greater prominence to the exclusion, restriction, limitation and pre-existing condition clauses.

We believe we are on common ground on yet other recommendations, e.g. rescission period. However, CAFII believes that the AMF recommendations on remuneration and telemarketing are problematic. CAFII would appreciate the opportunity to meet with the AMF to discuss these matters in greater depth.

Yours truly,



Dave Minor, Chair
Canadian Association of Financial Institutions in Insurance
Phone: 416 308 9018
Dave.minor@td.com

Appendix 1 – Creditor’s Group Insurance and Travel Insurance

Creditor’s Group Insurance

CAFII members offer important ISI products to consumers - one of the key products is creditor’s group insurance. An important example of creditor’s group insurance is mortgage life insurance. It pays off the balance of the mortgage loan if the borrower dies, thus ensuring that the surviving family does not lose their home.

Creditor’s group insurance has many benefits:

- Simple, affordable and convenient access to insurance protection, especially to consumers in remote areas.
- Coverages that are not readily available elsewhere (e.g. Job Loss Insurance on credit card balances).
- Creditor’s group insurance products for mortgages are offered at a price that is comparable to the average price of term insurance.
- Can be one component of an insurance plan that complements other forms of insurance that a family may have.
- Provides broad access to insurance protection to families in the underserved lower and middle income market who may not otherwise have insurance. About two-thirds of Canadian households do not have a life insurance agent or broker. Many consumers without a personal insurance agent do not know where to go to obtain insurance coverage. It fills a need for insurance that would otherwise not be addressed.

Travel Insurance

Travel Insurance is another key product offered by CAFII members. Travel Insurance offers people peace of mind during their travels as it provides important benefits. Provincial health insurance coverage may not be sufficient to cover emergency medical expenses, especially outside of Canada. The Canadian Government (Consular Services, Foreign Affairs and International Trade Canada) recommends that all Canadians purchase supplemental health insurance when leaving the country. Foreign medical costs can become a major financial burden if the traveler is not protected. Travel insurance is also beneficial if someone has booked an expensive trip (e.g. a \$15,000 cruise). This is a big investment to lose if you must cancel your plans at the last minute due to illness or death of a family member. CAFII members offer travel insurance online 24 hours per day, in branch, by phone, and as a feature on credit cards. Its broad availability is an important service to consumers.

Creditor’s Group Insurance and Travel Insurance are simple and very specific in terms of the risk covered.

Appendix 2 Existing Legislation and Industry Guidelines

- A robust framework of provincial regulation governing creditor's group insurance providers and contracts.
- CAFII members are accountable for Canadian Life and Health Insurance Association (CLHIA) Guidelines 7 (Creditor's Group Insurance) and 9 (Direct Marketing) which cover key processes (e.g. refund process) and customer communication (e.g. product disclosures).
- The offer of creditor's group insurance is subject to the Canadian Bankers Association (CBA) Code of Conduct for Authorized Insurance Activities.
- Federal legislation requires DTIs to have extensive customer complaint handling systems in place³. Even with these highly transparent processes, the Financial Consumer Agency of Canada (FCAC), in its most recent annual report (2009-10) noted that it handled only four complaints related to authorized insurance activities of banks. This is a very small number considering the millions of certificates in force.
- The Financial Consumer Agency of Canada monitors compliance with federal consumer protection measures as well as bank adherence to the CBA Code of Conduct for Authorized Insurance Activities.
- Prescribed federal regulation explicitly controls key market conduct issues such as tied selling and privacy.

³ Details on how to levy a complaint are easily accessible to all customers through the branch, internet, and on the phone. Escalated complaints are tracked and customers are provided with information on how to contact an independent complaint ombudsperson, should they choose to escalate their complaint in this manner. In addition to the DTIs, insurance companies track and report complaints to provincial regulators, including Manitoba, through the provincial central complaints registry.