



**Canadian Life  
and Health Insurance  
Association Inc.**

**Association canadienne  
des compagnies d'assurances  
de personnes inc.**

February 28, 2014

Sent by e-mail to: [Philippe.sarrazin@osfi-bsif.gc.ca](mailto:Philippe.sarrazin@osfi-bsif.gc.ca)

Mr. Philippe Sarrazin  
Managing Director, Legislation and Policy Initiatives  
Office of the Superintendent of Financial Institutions  
255 Albert Street  
Ottawa, Ontario  
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Dear Mr. Sarrazin:

### **Changes to the Membership of the Board and Senior Management**

The CLHIA welcomes the opportunity to provide comments on the January 20, 2014 draft Advisory on Changes to the Membership of the Board and Senior Management. We appreciate the importance of appointing qualified candidates to the board of directors and senior management of federally regulated life insurance companies and fraternal benefit societies and, therefore, the need for the final Advisory to be workable for both insurers and fraternal, and for OSFI.

Established in 1894, the Canadian Life and Health Insurance Association (CLHIA) is a voluntary trade association that represents companies which together account for 99 per cent of Canada's life and health insurance business. The industry, which provides employment to more than 142,000 Canadians and has investments in Canada of about \$615 billion, protects about 27 million Canadians through products such as life insurance, annuities, RRSPs, disability insurance and supplementary health plans. It pays benefits of over \$66 billion a year to Canadians and manages about two-thirds of Canada's private pension plans.

Our initial review of the draft Advisory gave us pause because, as currently written, it would create important implementation issues for member companies. Subsequently, having had the

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opportunity to discuss with you how OSFI intends to operationalize the new guidance, and having received your clarifying e-mail dated February 14, 2014, we find that many of the questions that we had on the draft Advisory have been answered.

For example, we appreciate your reassurance that OSFI does not intend to intrusively complicate the nomination procedures or to vet or interview candidates. We are also pleased to hear that the timely approval of a preferred candidate will not be impeded, and that the dialogue between an institution and OSFI will take place on a parallel track, such that there will be no delay in the ordinary selection process. In short, we welcome OSFI's pragmatic approach, including the recognition that smaller, less complex institutions may have fewer resources to deploy in support of the Advisory. As well, we appreciate your commitment to continued dialogue and consultation on the draft Advisory.

Given the important clarifications that you provided, **we strongly recommend that, as much as possible, the points that you made in your e-mail should be built into the next version of the draft Advisory.** This would move the document very much in the right direction.

That being said, there continue to be some issues that we would like you to consider. One broad issue relates to clarity of accountability and the concern that if OSFI becomes directly involved in the process of selecting directors and senior officers, there could easily be confusion as to where accountability for the process rightly belongs. This is particularly of concern where, for example, companies have recently instituted significant initiatives to strengthen governance so that the process they now have in place is one that is balanced and produces positive outcomes that OSFI looks for in financial institutions. The concern is that OSFI's approach in the draft Advisory could undo that balance and, as noted above, create confusion as to accountability.

Some other issues that we would like to flag relate, in many ways, to the mechanics of how OSFI's draft Advisory would work. In particular, there is some concern that the draft Advisory could lead to an unintended increase in risk associated with the appointment process. Two specific items that we would highlight are privacy concerns (sharing personal information of candidates with OSFI would require the obtaining of consent) and potential employment law claims if a candidate is rejected because an offer has not been made subject to OSFI approval. Both of these risks can, of course, be mitigated relatively easily by incorporating appropriate legal language in any offer that is made (assuming an institution has successfully uncovered them in advance), but we remain concerned that there may be other similar risks associated with the hiring process that institutions may not have considered.

In order to improve predictability and remove uncertainty, CLHIA encourages OSFI to set parameters (even by way of providing examples) indicating when OSFI would view an appointment as problematic.

We also have a few other questions that would benefit from further clarification in a revised Advisory. These are as follows:

- Will there be consideration for exempting interim appointments from this process?
- Will companies need to wait for a response (or approval) from OSFI after the notification is made before they can appoint a Senior Manager?
- Will there be a timeline within which OSFI will respond to the pre-notification?

Finally, one area which we discussed as a concern is the expectation that early notification of OSFI occur at least 30 days before the candidate would be officially appointed. CLHIA supports

your suggestion that pre-notification should match the timelines normally followed by institutions when performing background checks (i.e., the notification to OSFI must be made on or before the time when the background checks begin). You have asked about the length of time that these checks typically take. Our experience is that timelines vary across our membership, and they may even vary from vacancy to vacancy within the same institution. We are continuing to canvass our members and will look to provide some input on this point shortly.

Finally, given the importance and sensitivity of this draft Advisory, please consider a second round of consultation once revisions are made to the January 20, 2014 version.

Thank you for providing us with the opportunity to provide feedback on this important document. We look forward to continuing our discussions with you so that the final Advisory that is developed meets the needs of both OSFI and of the industry.

Yours very truly,

*"Frank Zinatelli"*

Frank Zinatelli  
Vice President and General Counsel