

## **ROLE OF THE AGENCY IN THE DISTRIBUTION OF LIFE/HEALTH INSURANCE PRODUCTS**

Independent Financial Brokers of Canada (IFB) is pleased to provide the Canadian Council of Insurance Regulators (CCIR) with input on the current distribution framework and how it supports independent life/health insurance brokers and their clients. We trust that our input will help to address the questions regulators have posed and contribute to a deeper understanding of how this market functions.

### **PURPOSE OF SUBMISSION**

Questions have been raised by life/health insurance regulators on the role of insurance agencies in the distribution of life/health insurance products to consumers. The CCIR has identified an initiative in its “2008-2011 Strategic Plan” to review the regulation of managing general agencies (MGAs) and to identify any risks to consumers, regulatory gaps and legislative and regulatory barriers.

While no formal consultation is currently underway, industry stakeholders have been asked to provide a description of what constitutes an ‘agency’ and the types of activities it takes on to support the sales process. Over the past few months, IFB, CAILBA, Advocis and CLHIA have held various meetings to discuss how each of our member constituents interact and the responsibilities each has in ensuring consumers receive suitable advice and products. Together this group represents advisors, small agencies, MGAs and life/health insurance companies.

### **OUR CONSTITUENCY**

IFB represents some 4,000 independent financial advisors across Canada. The majority are life licensees. Our members must be independent, meaning they must be free to offer products from more than one provider. Most operate small financial services businesses in their local communities.

As well, many of our members are also principles of insurance agencies. These agencies may be AGAs, MGAs or smaller personal producing agencies. IFB being a major provider of corporate Errors and Omissions insurance has over 100 corporate members in our plan that look to us for representation in this matter.

### **IFB SURVEY**

In order to better understand the relationship of our individual and corporate members with the insurers and the insurance agencies they do business with, we conducted an online survey. There were two parts to the survey – one part designed for individual brokers to respond to and another part for those who are principles of an agency (i.e. an AGA or MGA).

The agencies represented in our survey results range in size from very small (under 5 brokers) to very large (over 1,000 brokers). About half, however, have less than 50 brokers under contract. This is significant for regulators because while CAILBA members represent a large percentage of life business conducted through MGAs, many of its members are larger corporate entities whose scope of operations can be very different than those of small or mid-sized agencies. Regardless of size each has a place in the distribution of insurance and on occasion may overlap. For example, an agency may have a MGA contract with certain insurers but need to place a broker’s business through a different MGA if the broker has selected an insurer that the MGA does not have a contract with. Alternatively, the broker may use a different MGA or agency in this regard.

This type of flexibility is welcomed by the brokers and agencies in our survey. MGAs add value by supplying business-to-business services that contribute to the sales process by providing administrative efficiencies. In contrast, brokers are at the forefront of the sales process because they establish, build and maintain the relationship with the consumer/policyholder.

### **SURVEY RESULTS**

About 400 individual members responded to our survey and 35 principles of insurance agencies. Most brokers are licensed in Ontario, although there were respondents from most provinces. Nearly 80% of the brokers have been licensed for more than 10 years.

Most agency respondents have offices in Ontario or in Western provinces. They tend to be small in size; almost 50% have fewer than 50 brokers under contract (15% have fewer than 10 brokers). However, 30% have between 100-500 brokers and 10% have more than 750 brokers.

### **Broker/ Agency relationships**

Regulators have asked us to describe the market function of agencies and how they interact with brokers and insurers.

In the current marketplace, life Insurance agencies can range in size from small offices supporting a few brokers, to large complex organizations which operate in multiple locations and offer a wide range of services. For example, larger agencies or MGAs may engage in a variety of business activities including training, marketing, and managing the service and claims functions, while smaller agencies may engage in only a small subset of these functions. However, the baseline business function agencies share in common is to provide services intended to increase the administrative efficiencies between the broker and insurer.

### Contractual relationships

Brokers are individually contracted with the insurers they place business with. This contractual relationship identifies the roles and responsibilities of each party and compensation agreements. In our survey,

- Many brokers are able to place business directly with the insurer (this is especially true for group insurance)
- The most common services brokers get from life companies are related to product training.

Brokers then may contract individually with an agency, as does the insurer. These contracts are generally aimed at simplifying certain administrative functions for the insurer and the broker. In our survey,

- Most brokers have contracts with multiple MGAs (up to 5)
- Many have contracts with local AGAs

We asked agency representatives to tell us what insurers commonly specify in their contracts. The most common items were:

- Requirement to adhere to the company's or industry code of conduct
- Provision of administrative support
- Management of compensation for brokers

We asked brokers to tell us the most important services that their agency provides to them.

- The 2 most important factors for brokers when choosing an MGA/AGA were the insurance companies the agency has contracts with and the level of service to be provided. Categories related to compensation were rated much lower.
- The most common services brokers get from their MGA/AGA are managing compensation, tracking of policy issuance medical requirements, product training, compliance advice and administrative back office support
- The most common services brokers provide themselves are office space, succession planning and licensing support

We asked agencies to tell us the most important services they provide to brokers.

- Most agencies said the most important service they provide is administrative co-ordination between the broker and insurer (91%). Only a small number cited ensuring the application is complete as important.
- Policy tracking and product training were also common services provided to brokers. Least common were the provision of office space, branding, succession planning (this is consistent with broker responses)

#### Market conduct/supervision of broker by agency

We asked a number of questions related to the agency's 'supervision' or monitoring of the brokers they have contracts with.

Brokers said,

- Proof of their regulatory compliance is required by both their MGA/AGA and insurance company. The most common proof required by agencies relates to license renewal, E&O insurance and conflict of interest disclosure. Oversight of their AML and privacy obligations was also common, but to a lesser degree.
- They felt that the current level of monitoring by their MGA/AGA is sufficient (55% agreed with this statement).
- Compliance information is most commonly acquired from their professional association (like IFB); next most common is the MGA/AGA and less common is the life insurance company. Fewer said they look directly to their provincial regulator for this information.

Agencies said,

- They require brokers to provide proof of compliance most often for License renewal (96%), E&O (92%), CE (56%) and Disclosure (50%). The smaller numbers for CE and Conflict of interest disclosure was because some agencies said this was the insurer's responsibility.
- Over 80% of agency respondents said they were satisfied or very satisfied with their current level of monitoring of broker activities. A further 15% were neutral.
- The broker is responsible for suitability, needs assessment and documentation to support the suitability of his/her recommendation. Some agencies offer training on the importance of the broker's obligations related to suitability, needs assessment, conflict of interest disclosure and privacy. The insurer usually trains on anti-money laundering obligations.

- Most agencies get updated compliance advice from the insurance companies; followed by their professional association (like IFB), or in-house compliance officer.
- Over 80% of agencies currently have Corporate E&O coverage (some respondents operate in jurisdictions which do not require separate corporate coverage)
- 65% said no further regulation is required, 8% were not sure.
- 27% said more regulation is needed. Several said it was because the lack of regulatory harmonization leads to too many different rules.

#### Client contact

Responses from brokers and agencies were consistent when asked about client contact. Both agreed that the broker is primarily responsible for client contact and the agency has little direct contact.

- Most agencies which have client contact said it was to handle inquiries or provide written or electronic (on their website) information. Very few said they mediate disputes. If they receive complaints from clients, the majority said they would refer the client back to the broker.
- Most brokers said they conduct their business with clients directly and the MGA has very little client contact. Where they do, it tends to be related to a complaint.

#### **CONCLUSION**

As stated at the outset, it is our hope that the foregoing information will help regulators gain a better understanding of the marketplace. We believe there is much value in the current regulatory structure and trust regulators share this perspective.

This is not to say, of course, that if a gap in regulation truly exists that reforms should not be put into place to deal with those specific issues. For example, if there are MGAs who actively engage with clients and promote their products to the public, this may require some additional oversight. However, our survey shows that many agencies have little or no direct client contact and their business-to-business activities present no threat to consumer protection. In the event of an administrative oversight, most agencies have corporate E&O, which is the appropriate recourse for consumers. On balance, we hope that regulators will share our confidence that the current regime works well and protects the consumer.

The purchase of life/health insurance is different from many financial products in that it generally remains in place for many years. It is worthy of note that our members feel strongly that they have an important role as advocates for their clients. They have the knowledge and experience to go head to head with the insurance company when they feel their client needs assistance or has a complaint. Without their broker as advocate, clients would be left to try and negotiate their complaint on their own – sometimes long after the original purchase date.

Much has been made of the similarities or dissimilarities in compliance between the mutual fund industry and life insurance, particularly with regard to segregated funds. Insurance agencies do not serve the same business function as mutual fund dealers. Similarly, insurance companies are subject to a regulatory regime which imposes on them ongoing obligations with respect to the brokers they have contracts with and to the policyholders who invest in their products. There is no similar obligation on the part of a mutual fund manufacturer. We have before us a mutual fund industry that is collapsing under the weight of regulation and the cost (in time and money) of compliance. The trend of consolidation and convergence continues as smaller players in this market can no longer remain competitive.

In today's marketplace, independent brokers can place their business with a wide range of insurers. Ultimately, this choice benefits consumers who are more likely to obtain the best product to meet their needs. The broker's choice of MGA/AGA under the current system is invisible to the consumer, yet is still routed in his access to the insurer of his choice.

We welcome the opportunity to offer these comments to members of the CCIR and would be pleased to discuss any of our points in greater detail, as required.