



August 24, 2007

Ernie Gaschler
Administrator
The Life Insurance Council of Saskatchewan
310 2631 28th Avenue
Regina SK S4S 6X3

Dear Mr. Gaschler:

Subject: Proposed Segregated Fund Marketing Guideline

Independent Financial Brokers of Canada (IFB) appreciates the opportunity to respond to Council's request for comments and recommendations related to the above-noted Guideline. We understand that it is not Council's intent to amend the existing bylaws, but has issued the Guideline as an interpretation of how it intends to adjudicate complaints under Bylaw 8.

To provide context to our remarks, IFB is a national, not for profit association comprised of approximately 4,000 financial advisors. IFB members must be independent in that a criterion of membership is that they be able to offer products from a variety of providers. Our Association is founded on the belief that a consumer's financial needs are best served by brokers who are able to access a range of products. We believe this premise is an important contributor to consumer protection.

Our members are licensed to sell life and health insurance products and/or mutual funds. Many are licensed to provide related financial products, such as securities, mortgages and other types of insurance. IFB and its members, therefore, have a vested interest in issues related to the governance and delivery of such products.

The Independent Business Model

As noted above, our members are licensed financial practitioners who operate independent, often small, businesses in their local community.

It must be remembered that the delivery of insurance and mutual fund products and advice through individual brokers and agents is a deeply rooted tradition. Its value in bringing a personalized approach to consumers, often in their own homes, should not be under-rated. It concerns us greatly that securities regulators, by increasing the regulatory

burden on all market participants, may force smaller, independent players – like our members – out of the market. The result will be a reduction in choice for consumers who wish to access sound financial advice from their local broker, and ultimately negatively impact the very consumer protection that regulators seek to increase. Furthermore, it is our firm belief that regulation should not dictate, however unintentionally, the business models or distribution channels, which consumers can access. With this in mind, we are concerned that Council’s proposed Guideline is based on the mutual fund model of compliance.

Prescriptive versus principles based approach to regulation

Insurance regulators have a long standing history of working with all industry stakeholders to develop appropriate solutions. This consultative approach is well suited to the development of principles based regulation. This was most recently demonstrated by the CCIR’s adoption of three basic principles to address and manage conflicts of interest. In contrast, securities regulators, and SROs have a history of seeking more prescriptive solutions and have been less willing to engage all levels of stakeholders in the development of new policies and regulations. IFB believes that the approach of insurance regulators results in regulation that ‘makes sense’, unlike that of the mutual fund industry whose dealers, advisors and clients are struggling with the burden of over-regulation.

Council has stated that “it is not appropriate to have significantly less oversight in the marketing of segregated funds than is mandated in the marketing of mutual funds”. We are not sure why Council believes this to be the case.

There is no doubt that consumers benefit from appropriate disclosure requirements to ensure they have information on which to base their decision to purchase a segregated or mutual fund. Having said that, the point of sale project currently underway by the Joint Forum of Financial Market Regulators (Joint Forum) is an example where simplified tools are being developed in recognition that overly burdensome disclosure materials are largely unread or ignored by consumers. In such instances, information overload works against the goal of consumer protection by “turning off” consumers.

Similarly, an overly burdensome regulatory regime has the same effect on advisors who seek to deliver service to clients in a timely manner. In this respect, we do not agree that the mutual fund model is superior to the existing regulatory environment for segregated funds. As stated above, we are concerned that the regulatory burden imposed by the MFDA on its member dealers is so significant that it is driving smaller players out of this market entirely and driving others to move to the IDA platform.

Furthermore, we cannot support the suggestion that a managing general agency should have regulatory responsibility for the actions of those brokers who *choose* to place business through it. Mutual fund dealers are regulated by the MFDA. There is no regulatory authority for Council to impose such a requirement on MGAs, nor can we support it as it runs directly counter to our members’ ability to conduct business as independent advisors. Such action by Council would undermine the existence of this

important channel of insurance distribution with negative repercussions for potentially thousands of customers.

Know Your Client forms

Council seems to be suggesting that licensees replace their current needs analysis procedures with a standardized KYC form, based on that prescribed for use in the mutual fund industry. We believe this would be a mistake. The KYC form does not provide as comprehensive an investigation into a client's financial needs as is required to support the purchase of an insurance product. Furthermore, suggesting it be updated annually with clients does not recognize the longer term nature of a segregated fund purchase.

We find that when we are called upon by securities/mutual fund regulators to respond to regulatory initiatives, they usually seek to codify the client/broker relationship. The CSA's Registration Reform Project is proposing the development of a relationship disclosure document (RDD) and the MFDA and IDA are currently drafting rules related to this RDD for their members. In addition, the Joint Forum has developed a consultation paper identifying point of sale disclosure requirements for mutual funds and segregated funds. While these consultations are still ongoing, it has been our experience that such attempts fail, or simply become exercises in compliance, because they fail to recognize the fluid nature of the broker/client relationship. A better solution is to provide guidelines as to what constitutes adequate personal and financial needs analysis which can adapted to suit the client.

Industry Initiatives Currently Underway

There are currently a number of initiatives underway aimed at examining issues related to how insurance and mutual funds are marketed to consumers. Industry consultation is ongoing as all parties seek to find better, more effective means to ensure consumers understand the financial products they are purchasing and that meet their needs. Therefore we are unsure why Council has developed the proposed Guideline while these processes are still underway.

For example, beginning in 2005, the Canadian Council of Insurance Regulators (CCIR) undertook an extensive review of the sales practices of life insurance companies and their intermediaries. As you know, this initiative culminated in the endorsement of three basic principles:

1. The client's interests must take priority
2. Conflicts of interest must be disclosed
3. The product recommended must be suitable to the needs of the consumer

IFB supports these principles and, indeed, members of our Association have been bound to abide by them through our Code of Ethics for some years. In addition, IFB developed electronic tools which are available on our website and can be downloaded and customized to disclose actual or potential conflicts of interest situations to consumers in a written format. IFB is an active participant in an industry-wide initiative to publicize the three principles and to provide advisors with compliance strategies.

We are a major provider of continuing education for those in the life/health/general insurance and mutual fund industries, through our Educational Summits. These Summits are offered twice a year at specific locations across Canada and attract a large number of participants – both members and non-members. IFB has used these Summits as well as targeted mailings to educate advisors as to their responsibilities in meeting their disclosure and suitability obligations.

As you can see from the above, IFB is actively engaged in the promotion of professional standards which ultimately provide the underpinning for consumer protection by ensuring consumers receive advice from highly trained and competent advisors.

Concluding remarks

We agree that consumers who are considering the purchase of a segregated fund should receive competent, professional advice and a product which meets their needs. The vast majority of life insurance brokers provide this high standard of service to clients now. It would be unfortunate to seek solutions which will hamper these successful relationships to deal with the actions of a few.

The Guideline identifies factors to be used when determining the suitability of a segregated product which provides useful guidance to agents and brokers as to the application of Bylaw 8 in various circumstances. However, going beyond this to import inflexible prescriptive practices and procedures from the mutual fund industry (like the KYC) is inappropriate and detrimental to insurance clients – the vast majority of whom have benefited from the processes advisors already have in place to explore and understand their unique circumstance.

We urge Council to seek other solutions, such as educational tools, to ensure all licensees are fully aware of their obligations. Insurers, advisor associations and other industry stakeholders have demonstrated a strong willingness to work with regulators to ensure life/health insurance clients receive a high level of service regardless of provincial jurisdiction.

We trust you will find our comments useful. Should you wish to discuss them in further detail, please contact the undersigned.

Yours truly,

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