



January 31, 2006

Carol Shevlin, Policy Manager (A)
CCIR Secretariat
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Sent via email: ccir-ccrra@fSCO.gov.on.ca

Dear Ms Shevlin:

Independent Financial Brokers of Canada (IFB) is pleased to provide our submission to the CCIR in response to the consultation paper on Insurance Agent and Broker Reciprocal Licensing.

IFB is a national, voluntary association comprised of approximately 4,000 licensed financial advisors across Canada. The majority of our members are licensed to sell life and health insurance products and mutual funds, and many are also licensed to sell securities and other forms of insurance. IFB is the only association devoted to representing the independent advisor - those advisors who provide clients with a range of products from a range of providers - and has done so for over 20 years. Our members strongly believe that only in this type of competitive market can advisors provide consumers with products truly suited to their needs.

IFB welcomes initiatives to increase harmonization across Canada. Harmonization helps to minimize the inter-provincial barriers to conducting business, and ultimately benefits our members and their clients by reducing the regulatory burden, the inherent costs of this burden and allows advisors to serve their clients efficiently and effectively regardless of their province of residence.

As set out in this consultation paper, the areas under consideration for further harmonization pertain to agent and broker applications, continuing education standards and errors and omissions insurance. The majority of our members are life and health licensed, and therefore our comments will reflect this focus.

Agent and Broker Application Form

We understand this application form is already in use for new applicants across Canada with the exception of Nunavut, the Yukon and Northwest Territories. The use of a single form is a significant improvement in streamlining the application process for new brokers and we look forward to its extension to renewals in the future.

As a next step, we hope the Committee will further refine the harmonization process whereby each participating jurisdiction would agree to recognize the license of the home jurisdiction, thereby removing the current requirement that licensees reapply in each province in which they wish to conduct business. This would streamline the application and renewal processes even further and would provide for additional cost-savings.

Continuing Education

The Reciprocal Licensing Committee has identified the need for greater streamlining and harmonization of continuing education requirements as a priority, and IFB shares this view. IFB has established itself as a national provider of continuing education, and can attest to the fact that monitoring and complying with the differing requirements between jurisdictions is a costly and time-consuming task.

IFB supports the proposal of the Committee that further CE requirements on a non-resident licensee will not be imposed if s/he meets the requirements of any other Canadian jurisdiction. Further harmonization could be achieved, and confusion among licensees reduced, if the required number of hours was standardized across jurisdictions. As is pointed out in the discussion paper, Manitoba currently requires 30 hours per year, B.C. calls for 60 hours per two year licensing period, and all other jurisdictions have set the requirement at 15 (or 30 per two year licensing period, as the requirement is set out in Ontario).

Streamlining and harmonization of continuing education requirements is a worthwhile goal, and IFB supports the work of the Committee in this regard. Of greater concern to this association is what we perceive to be the potential for erosion of the quality of this continuing education. IFB has processes and procedures in place which ensure that the continuing education hours earned by delegates at our educational events are accurately recorded, tracked and reported. Indeed, IFB has not moved to offering continuing education credits online because we have not found any reliable and accurate way to verify the hours earned through this method of delivery.

The current trend to online C.E. delivery is a concern for IFB, and we suggest that this Committee carefully consider the pitfalls inherent in this method of education when framing any new guidelines. It is our belief that if online learning is to be considered an acceptable method of earning continuing education credits there must be rigorous

standards in place to prevent against the possibility of fraudulent activity, and that the number of hours that a licensee may earn by this method be limited to only a small portion of his/her overall requirements.

Errors and Omissions Insurance

One of the issues contemplated in this paper relates to a change in the maximum deductible for errors and omissions policies. Under the Committee's proposal, participating jurisdictions would agree to "accept a policy where the first dollar of any claim is to be paid directly to the claimant to be equivalent to a zero deductible". Using Ontario as an example, the proposal would mean that Ontario would remove the existing policy deductible limit of \$1,000 and permit the size of the deductible to be negotiable between brokers/agents (hereafter "brokers") and the insurer. Also, it would put the full onus on the insurer to pay 100 percent of any claim and to collect the deductible amount from its insured.

We have a number of concerns with the changes being considered, and the potential unintended, negative consequences which may impact this market.

Contextual Framework in which the Current E&O Market Operates

As one of the earliest compulsory E&O participants in Canada and the one involving the most brokers, Ontario's requirements have been the standard in the industry, with the rest, if not all, insurers basing their policy terms and wording on that base. When other provincial regulators introduced their own unique requirements, insurers amended these 'standard' policies for brokers in those provinces only, with the basic 'Ontario' policy terms remaining for the rest of the country. As an example, although Quebec and Newfoundland currently allow for deductibles of \$10,000, most policies for brokers in those provinces have a \$1,000 deductible.

The insurers we have talked to are satisfied with the current Ontario requirements. We have strong doubts that the changes suggested here would positively impact rates or bring new insurers into the market.

Potential Market Influences

We are concerned about how this proposal could influence the current E&O marketplace and, in particular, how these changes will impact independent brokers. It is our view that the most likely consequence of this approach will be that insurers will increase deductibles while maintaining current pricing – thereby making brokers responsible for repaying the higher deductible amount at the time of a claim, with no reduction in premium.

We do not see the reasoning behind increasing the financial burden on independent brokers, nor do we believe that consumer protection will be heightened by this proposal. The current \$1,000 deductible situation protects consumers because, in effect, they are not denied payment of this amount currently.

Our reading of the proposal indicates that insurers could increase deductibles to any level with which they were comfortable, and presumably balance this against the ability of the insured to repay this deductible should they have claims made against them. This adds a new element to the underwriting process – that of credit risk - whereas at present, underwriting is based solely on errors and omissions and fraud risk. (The current \$1,000 deductible isn't sufficiently high to bring in a credit risk consideration.)

Insurers which write individual policies of E&O insurance would probably meet this additional exposure by charging increased premium or by requiring financial guarantees, either of which, in our view, would negatively impact independent brokers.

IFB E&O Plan – a Group Plan

The E&O plan offered by IFB to its members is a group plan. We believe that provision of such a group E&O plan is of considerable benefit to those in the life insurance and mutual fund industries - specifically, independent brokers. This is especially true for those who could not procure cover otherwise. The shared risk, fundamental to a group plan, makes such insurance accessible and affordable to a wide variety of participants. We are advised by our insurer that it would not be practical for our Plan to underwrite each individual's ability to pay a deductible amount higher than \$1,000. Furthermore, based on our experience, we believe that many brokers would be very hard-pressed to repay a large deductible amount – particularly when they are in a situation where a serious claim or claims might have been made against them, and when their license and consequently, their livelihood, might be threatened.

We do not know what considerations the Committee used to base these changes on. However, we would be very concerned if any credence was given to the statement contained in an earlier background paper, entitled “Agent and Broker Streamlining and Harmonization Policy Paper”, which said:

“In subsequent discussions with the two working groups, it was raised that such a change could result in some agents or brokers being able to obtain insurance but with a deductible that would be difficult for them to cover financially. In such cases, E&O providers would have the potential risk of not being able to collect on the amount of the deductible. Industry members on the working groups agreed that this would be a means of ensuring a stronger industry, as more problematic customers would not be able to obtain E&O insurance.”

IFB does not agree that the life insurance industry would be stronger by the elimination of those who could not afford to participate in an E&O plan because of the changes being considered. In our view, the regulatory role is to mandate (or not) the requirement of E&O. It is the role of the insurer to ascertain risk and to accept or deny this risk. It is not the role of the regulator to interfere in the marketplace by erecting barriers to participation. Indeed, it is contrary to the major initiatives underway across jurisdictions, and in this very consultation paper, to reduce such barriers through increased harmonization.

Potential Conflicts of Interest Situations

We do not know where the idea to increase deductibles originated. Perhaps it would be advantageous to other plans. For example, we can see where life insurance company sponsored plans might find this proposal to be attractive as a cost-savings mechanism for

the companies. In such situations, a life insurance company (“life company”) may have an arrangement with a Property and Casualty Company (“P&C company”) to provide E&O cover for the agents and brokers who do business with the life company. This is not an uncommon arrangement. The Committee’s proposal would allow such a P&C company to write a policy with a greatly increased deductible based on the credit-worthiness of the life company – not that of the individual agent/broker.

In such a situation, when a claim is made against an individual agent under the plan, the P&C company would be obliged to pay the total claim – including the deductible. The P&C company would look to the agent to reimburse it for the deductible amount, with the guarantee of the life company available should the agent not be able to pay. In ‘captive’ situations, the life company would have the ability to simply deduct the ensuing debt from ongoing agent earnings. In the event that the agent could not repay this directly, the relationship between the agent and the P&C company/life company would become that of debtor-creditor.

The potential for conflicts of interest arises when independent brokers are involved. At present there are life companies which sponsor E&O plans for independent brokers and agents. Having agents/brokers indebted to life insurers, we believe, is not a healthy situation and gives rise to potential conflicts of interest with clients. We can see situations developing where there is pressure put on the agent/broker to put more business through the subject insurer, and almost certainly a broker who is trying to repay a large debt would find it hard to resist placing more business with the company to which he/she is indebted.

Other Considerations

IFB has been a leading provider of E&O Insurance for brokers for some years. It is important in maintaining such a group policy that a fairly large number of brokers participate from a wide variety of economic backgrounds. It would be unfortunate for an insurer to come along and ‘cherry pick’ the higher earners among brokers by offering higher deductibles than the average broker could handle, thereby driving up the cost of insurance for the average broker.

If those companies decided to undertake to ‘finance’ increased deductibles to make entry into their plans more attractive, it could negatively impact association plans such as ours. They would be given the advantage of being able to recover deductible amounts through deductions from their commissions – much as the captive companies would do. (IFB, of course, does not have this ability.)

Reliance Model of Reciprocal Licensing

IFB supports building upon the initiatives outlined above to develop a reliance model for reciprocal licensing of insurance agents and brokers across Canada. Since many of our members are licensed in multiple jurisdictions, the ability of another regulator to rely on the requirements of the home province or territory will be a progressive step in simplifying the procedures involved in cross-jurisdictional licensing.

IFB looks forward to participating in future consultations as other opportunities are explored to resolve multi-jurisdictional differences.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Whaley', with a large, stylized flourish at the end.

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