



September 21, 2007

Gerald Matier, Executive Director
Insurance Council of B.C.
300-1040 West Georgia St., P.O. Box 7
Vancouver, BC V6E 4H1

Sent via email: rules@insurancecouncilofbc.com

Dear Mr. Matier:

Subject: Request for comment – Proposed changes to Council Rules

Independent Financial Brokers of Canada (IFB) is pleased to respond to Council's request for comments on proposed changes to "Rule 5 Council Fees" and "Rule 7 License Conditions" dated July 30, 2007.

As background, IFB is an association comprised of approximately 4,000 financial services professionals. The majority of our members are licensed to provide life/health insurance and investment advice and services. Therefore, IFB has a direct interest in issues related to the financial services industry and to the governance and delivery of such products. With this context in mind, we offer the following comments.

Rule 5 Council Fees

We have no comment on these changes and understand the need for Council to have flexibility to set increases in the fees it charges to meet its operational needs. Having said this, we trust that Council will endeavour to keep such increases to a minimum in recognition of the financial burden often experienced by individual licensees, especially those newly licensed or licensed in multiple jurisdictions.

Rule 7 Licence Conditions

We understand that Rule 7(3)(a)(iii) is being amended as simply a clarification of the requirement for a licensee to inform Council when s/he files for bankruptcy. We have no objection to this modification.

Council is also proposing to amend Rule 7(3)(a)(iv) which would require a licensee to disclose any criminal *charges* as well as convictions. Council notes that this is to address

situations where it needs to take interim action, in advance of a criminal conviction, when a licensee is charged with an offence affecting his or her suitability to be licensed. We have the following comments with regard to this change.

IFB, and its members, strongly support the need for the public to be protected from those in the financial services industry who engage in fraudulent, deceptive or dishonest practices. Regulatory authorities must have adequate enforcement capabilities to deal with such cases.

Having said this, there are several aspects to Council's proposed change which may have the potential to infringe on the individual rights of an advisor and which we wish to draw attention to.

Firstly, trust is a fundamental component in the relationship between a client and his/her financial advisor. Advisors, who are the gatekeepers of this trust, must be held to a standard of accountability that reflects this fiduciary responsibility. However, we urge Council to be especially mindful – in instances where there is a charge, not a conviction - to ensure it is satisfied that the threat to the public interest is sufficiently high to offset the potentially dire consequences to the reputation of the licensee. In the event the pending charge does not proceed to a conviction, we believe any action taken to restrict, suspend or cancel a license must be revoked and the license reinstated without financial loss to the licensee.

Secondly, the amendment to Rule 7, as drafted, appears not to be limited to criminal offences but to extend to charges or convictions of “any offence under any law of any jurisdiction”. We note that this goes beyond the explanation provided by Council on page 2 of its Proposal and beyond the disclosure required of first time applicants for a license under the existing Rule 3. If it is Council's intention to limit the application of this section to *criminal* charges only, then the proposed wording needs to clearly reflect this intent.

If, however, the intent is to include any charge or conviction under any regulation we submit this is too broad a requirement. In our view, only those offences under the specific provincial and federal statutes which are relevant to the licensee's suitability to act as an advisor in the financial services industry should be considered – a view consistent with the *B.C. Human Rights Code* which protects employees or prospective employees from discrimination based on a criminal or summary conviction charge that is unrelated to their employment. There are many charges, even convictions, which would have no bearing on a licensee's suitability to engage in the sale of insurance products. In contrast, *Criminal Code* violations related to fraud, for example, would have the utmost relevance.

We submit then that only in extraordinary circumstances should Council consider a charge laid under legislation other than that related to insurance, securities or any other financial services statute. Again, Council must be satisfied in such extraordinary cases that there is sufficient evidence of conduct which may be harmful to the public interest to warrant exercising its regulatory authority.

In conclusion, IFB appreciates the opportunity to present its views and trusts Council will find them useful. Should you require any clarification, please contact the undersigned.

Yours truly,

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

John Whaley
Executive Director
Email: jaw@ifbc.ca

200 – 4284 Village Centre Court
Mississauga ON L4Z 1S2
Tel: (905) 279-2727
www.ifbc.ca