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August 21, 2009

Insurance Councils of Saskatchewan
310-2631 28th Avenue
Regina SK S4S 6X3
Attention: John Waugh
Sent by Mail and Fax: (306) 569-3018

and,

Superintendent of Insurance
Saskatchewan Financial Services Commission
Suite 601, 1919 Saskatchewan Drive
Regina SK S4P 4H2
Attention: Elaine Thompson
Sent by Email: elaine.thompson2@gov.sk.ca

Dear Sir and Madam:

Subject: Proposed Regulation of Incidental Insurance Products in Saskatchewan

Independent Financial Brokers of Canada (IFB) is pleased to offer our comments on the proposed regulatory structure for the selling of incidental insurance products in Saskatchewan.

IFB is a voluntary, not for profit Association representing approximately 4,000 licensed financial professionals in Canada – most of whom are licensed to provide advice and products related to life/health insurance and mutual funds/securities.

Our members have a strong interest in proposals to regulate the sale of incidental insurance products to consumers, in particular, creditor life and health insurance products, as they have long felt that a significant gap in consumer protection exists in the way these products are marketed and sold to consumers.

The following are our remarks related to this proposal.

Restricted Insurance Agent License

IFB has responded to previous consultations undertaken by the Canadian Council of Insurance Regulators (CCIR) and to the Life Insurance Council of Saskatchewan's (LIC) earlier proposal in September 2008. In both of these submissions, we referenced detailed feedback from a survey we conducted with our members (as well as non-IFB members) which demonstrated strong support for sellers of creditor life and disability insurance products to be life licensed. This remains our preferred position as we believe this puts all insurance agents and brokers on equal footing as it ensures a common level of proficiency and establishes set standards of protection for consumers.

The value of the licensing process is that consumers receive advice from advisors who have achieved a standardized level of education specifically related to life insurance and who have statutory obligations to maintain certain minimum requirements on an ongoing basis. It is not reasonable to expect consumers, who often have little or no knowledge of insurance matters, to understand that the insurance they purchase in certain situations will be from a licensed agent or broker, while insurance purchased in conjunction with a loan, for example, will be from a seller with different qualifications.

While implementing a restricted agent license will provide Council with greater regulatory authority than currently exists, in our view, it will still create a licensing anomaly that will not be apparent to the average consumer. At a minimum, we recommend that consumers be informed that they are dealing with an insurance agent whose knowledge and advice is restricted to a specific set of products.

Having said this, we understand that the Insurance Councils of Saskatchewan have chosen to adopt a model similar to that adopted in Alberta, whereby ISI sellers must obtain a restricted insurance agent license. In the absence of full licensing, we support this as it sets minimum standards, such as errors and omissions insurance requirements, and places an onus on the insurer and seller to understand the product being sold and to take steps to help the consumer understand the coverage s/he is purchasing. We note, however, that these requirements are fairly loosely described and hope that Council will draft more specific guidelines for its licensees.

The proposed licensing requirements under *Section 2, Education and Examination Bylaws*, provide an exemption for Restricted Insurance Agent Licenses from the education and examination bylaws. We believe all licensees should be subject to a regime which establishes base proficiency standards. This would include requiring applicants to meet an initial standard of competence (like an exam) and to undertake continuing education on an ongoing basis. The setting of such standards contributes to a higher level of consumer confidence in this marketplace and greater protection for purchasers of these products.

Post-Claim Underwriting

As noted in our recommendation to the CCIR and in our previous submission to the LIC, IFB believes that post-claim underwriting is an unfair practice for consumers and should be banned. While increased disclosure as to the risk of ineligibility is an alternative, it is

an inferior one. There will still be consumers who either do not understand, or do not receive full and complete enough disclosure to prevent confusion at the time of the sale or a claim. As long as consumers are paying premiums, they are going to believe they have coverage. Post-claim underwriting can lead to a false sense of security. Non-payment of claims undermines the reputation of the insurance industry as a whole and is inconsistent with the obligation of good faith and fair dealing implicit in insurance contracts.

Tied Selling

We are pleased that these amendments propose prohibitions on how information acquired from the consumer for the purpose of acquiring this insurance can be used in non-insurance related transactions. However, we would suggest additional wording that make it clear that such transactions are separate and that the consumer need not purchase the insurance in order to complete the creditor transaction.

Increased disclosure of information for consumers

Overall, this proposal contains significant improvements in the required level of disclosure of information to consumers. We recommend that this information be required to be provided in a plain language format to further their understanding.

Comments related to Insurance Regulations and LIC By-Law

The following are more specific comments related to the draft Regulation and Bylaw.

1. Saskatchewan Insurance Amendment Regulations, 2009, Section 15.16(a) and 15.17(a)

For greater certainty, we recommend adding the word “written”, to these sections so that they require the restricted licensee to:

“(a) establish reasonable *written* procedures to ensure that <those> transacting insurance are knowledgeable about the insurance being transacted...”

2. ByLaw 2 – Licences; Schedule A – Restricted Insurance Agent Licence

Section 3. Requirements for Errors and Omissions Insurance, subsection (2), states that “*failure by a licensee to immediately notify council in the event of a cancellation or non renewal of their errors and omissions insurance is misconduct*”. We note that licensees under the Alberta regulations have 30 days to notify council. While the LIC may not wish to permit a 30 day period, we suggest that establishing a set number of days will assist licensees in understanding their compliance obligation.

In closing, IFB supports Saskatchewan’s intent to impose a licensing structure on sellers of incidental insurance products. We believe this will improve how these products are marketed and sold to consumers by increasing their awareness and understanding of the product being purchased. However, we continue to be concerned that without a harmonized, inter-provincial approach, consumers who purchase such products will receive varying degrees of advice, service and protection, depending on their province of residency. We hope, therefore, that regulators will work toward finding consistent solutions.

In addition, we urge Council to closely monitor the success of the restricted license category and implement a formal review after a set period of time to evaluate whether further changes need to be made.

Thank you for the opportunity to provide our remarks. Should you have any questions or require further clarification, please contact the undersigned.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Whaley', written in a cursive style.

John Whaley
Executive Director
Email: jaw@ifbc.ca