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Erin Pearson, Executive Director
Insurance Council of Manitoba
466-167 Lombard Avenue
Winnipeg MB R3B 0T6

Submitted by email: contactus@icm.mb.ca

Dear Ms Pearson:

Subject: Proposed Guide to Licensees – Sale of Segregated Funds

Independent Financial Brokers of Canada (IFB) is pleased to provide the Insurance Council (Council) with our comments on the proposed Guide for life licensees who provide advice related to the sale of segregated funds to consumers.

IFB is a voluntary association representing some 4,000 licensed financial advisors. Many of our members are life licensed and offer a wide range of insurance products to clients – including segregated funds. Segregated funds, although similar in some respects to mutual funds, offer some unique and distinctive features that make them attractive to many clients and a sound addition to their financial portfolio.

IFB supports the public interest mandate of regulators by encouraging a high standard of professionalism amongst its members. We offer a comprehensive errors and omissions program, sponsor continuing education events, and provide ongoing compliance support. IFB members must abide by our own code of conduct, in addition to the standards set by provincial regulators, like the Manitoba Insurance Council. These initiatives promote a higher standard of protection for consumers and increased confidence amongst the public.

Overview

Our understanding of this document is that, if adopted, Council intends it to be used as a guidance tool for advisors to underscore their obligations related to the sale of segregated funds to clients - not a document formally entrenched in regulation. While we support Council's intent to ensure life insurance licensees are fully aware of their obligations in this respect, we are

unclear as to how the requirements identified in this document differ from the requirements required of life insurance agents generally – irrespective of the product being sold. Under existing regulation, all life insurance agents have a duty to place the interests of their clients ahead of their own, to avoid or disclose potential conflicts of interest, to adequately understand a client’s financial needs and to understand the products being recommended in advance of a sale. We do not see how the sale of segregated funds varies from this standard.

Furthermore, the CCIR has undertaken an information gathering exercise to gain insight into suitability – specifically how it relates to agents and the products sold to consumers. Various stakeholders, including ourselves, MGAs, and insurers, have been asked to assist. It may be prudent, at this point, for individual regulators to allow this process to proceed, as the information gathered may be of assistance to all. A harmonized approach to such issues reduces confusion in the marketplace and for brokers licensed in multiple jurisdictions.

Education

Council has noted that it does not mandate any educational requirements beyond that contained in the LLQP but “strongly recommends education related to investments and courses specific to segregated funds”. We agree that advisors selling segregated funds must understand the product and as the marketplace evolves overtime part of that responsibility is to engage in ongoing education. This can be achieved as part of their ongoing licensing requirement to earn CE credits. We note that Manitoba has limited the number of credits that can be earned in relation to segregated funds to a maximum of 5. This may be inadequate for some advisors, especially if they specialize in segregated funds.

If Council is concerned that the LLQP program is inadequate with regard to the current training modules for investment products and segregated funds, this could be addressed as part of the initiative currently underway by CISRO, which is intended to review the content of the current curriculum.

Agent as Fiduciary

In the section entitled “What the Agent Needs to Know”, Council makes the statement that “the agent is in a fiduciary position”. We would caution against the use of the term “fiduciary”, as acting as a fiduciary generally implies a higher legal standard, applicable to trustees, rather than to those subject to a common law standard based on the duty of care that should be demonstrated by those who enjoy a relationship based on trust.

Point of Sale

As you know, a major initiative underway by insurance and securities regulators is to implement the Point of Sale Disclosure framework for Segregated Funds and Mutual Funds, approved by the Joint Forum of Financial Market Regulators.

Once implemented, this framework will mandate increased disclosure to consumers prior to the sale of a segregated or mutual fund, primarily through the use of the standardized Fund Facts and Key Facts documents. The advisor will be required to provide fund-specific fact sheets and to explain the content in them to the consumer *before* the sale can proceed. This mandated

disclosure will duplicate a number of the categories in the “What the Agent Needs to Know” and “What the Agent and Client Need to Know” sections.

We thank the Council for the opportunity to express our views and trust you will find them helpful.

We’d be pleased to provide any further assistance as required.

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