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March 30, 2009

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

Sent by E-mail

Dear Ms. Pearson:

Subject: Incidental Sale of Insurance (ISI)

Thank you for your letter dated March 2, 2009, in which you invite Independent Financial Brokers of Canada (IFB) to comment on the regulation of the incidental selling of insurance in Manitoba.

IFB is a voluntary association comprised of some 4,000 financial advisors. It was established over 20 years ago to represent the interests of independent contractors. Our members are provincially licensed to offer advice and products related to financial services, primarily in the life/health insurance, mutual funds and securities fields.

As you know, IFB participated in the earlier ISI consultation undertaken by the Canadian Council of Insurance Regulators and Canadian Insurance Regulatory Organizations of Canada. In preparing our response to that consultation, we undertook an extensive survey of our members to gain insight to their experience, and the experience of their clients, with these types of products. We had an unprecedented number of responses and, in fact, developed a supplementary survey due to requests from non-members. We believe this is a strong testament to the concerns that exist amongst licensed financial advisors over how these products are marketed and sold to consumers.

You note in your letter that Council has considered the comments received through the CCIR/CISRO consultation so I will not reiterate them here except to emphasize that there are serious issues for consumers related to a lack of understanding concerning the product being purchased. We believe that much of this misunderstanding comes from lack of

training amongst those selling such products, poor disclosure, implied (if not overt) tied selling, and post-claim underwriting which can lead to denial of future claims for the policyholder or beneficiary at a time when that replacement income is most needed.

To counteract these pitfalls, IFB recommended 8 actions:

1. Require that only properly licensed insurance agents/brokers can advise or sell insurance to clients – regardless of where the transaction physically takes place. This would require sellers to address suitability and to place the client’s interest ahead of their own.
2. Require that sellers disclose actual and potential conflicts of interest to clients in writing, using the same criteria licensed life brokers are subject to.
3. Require that consumers be informed that this type of insurance is optional and may not be the most suitable choice to meet their needs. This should include the possibility of overlapping coverage and that alternative, individually underwritten insurance is available. For example, sellers should inform consumers that these are group plans and there are instances where individual insurance may be more suitable.

It should be made clear that the financial institution is the beneficiary; that premiums are paid and coverage provided on a declining balance over time and the conditions under which the coverage will terminate, including the risk that the person may not qualify for insurance in the future.

4. Ban post-claim underwriting. A much inferior solution is to require sellers to make it very clear, in writing that the client may not qualify for insurance at the time of their claim. The incontestability clauses in life insurance contracts limit the time insurers have to question or verify the information they have received. Similar restrictions should be placed on insurers which offer incidental insurance.
5. Mandate more effective disclosure of the terms and conditions of the insurance. Consumers have a right to meaningful information in a plain language format so they can decide if it is the right insurance for them. For example, there should be written acknowledgement for consumers and the seller to sign certifying that lack of disclosure related to deliberate and non-deliberate misrepresentations and fraud can affect their coverage. Consumers should also be informed of where they can find further information and how to access complaint resolution procedures.
6. Enact stronger penalties for unfair or coercive sales practices. For example, require that sellers separate the loan or mortgage transaction from the insurance application so the consumer has a clear understanding that one is not dependent on the other and ensure they have adequate time to consider, or re-consider, purchasing the insurance.

7. Require the use of standardized terminology to describe such insurance so consumers are not confused by terms like 'mortgage protection', and that make a clear distinction between the CMHC type of 'mortgage insurance' and creditor-type insurance.
8. Require insurers and sellers to make statistical information easily available to regulators and the public. This should include all the information identified by the ISI Working Group as well as any reinsurance or other arrangements between the seller and insurer. This will greatly help to identify weaknesses in the existing system.

IFB continues to support these recommendations and believes they are suitable to all provincial jurisdictions.

In conclusion, we commend Council for investigating improvements to the current regulation of ISI products. We believe it is essential that sellers of incidental insurance are properly trained, licensed and accountable to consumers, just as life and general insurance agents and brokers are now. To permit a 'lighter' regulatory regime to operate based on how insurance is sold is confusing and unfair to purchasers of those products – consumers.

Yours truly,

A handwritten signature in black ink, appearing to read 'John Whaley', written over a horizontal line.

John Whaley
Executive Director
Email: jaw@ifbc.ca