September 30, 2008

Mr. R. Fullan, Chair
Life Insurance Council of Saskatchewan
310-2631 28th Avenue
Regina SK S4S 6X3

Sent by Mail and Fax: (306) 569-3018

Dear Mr. Fullan:

Subject: Proposed Regulation of Incidental Sale of Insurance

Independent Financial Brokers of Canada (IFB) is pleased to provide our comments on the proposal by the Life Insurance Council (Council) to regulate the sale of incidental insurance (ISI).

IFB is a professional association representing approximately 4,000 licensed financial advisors across Canada. Our members are self-employed, typically small business men and women who provide clients with financial advice and access to a variety of products from a range of providers. Most are licensed to provide life/health insurance and mutual funds. Many are licensed to provide other financial products such as other types of insurance, securities, mortgages, etc.

A unique feature of this Association is that our members must be independent contractors. IFB is the only Association exclusively dedicated to representing the views of such independent brokers and has been doing so for over 20 years. Our members strongly believe that their ability to offer products from a range of providers is fundamental to ensuring consumers have access to the product(s) most suitable to meet their financial needs. Because of their attention to client service and suitability, our members are generally opposed to the current distribution of incidental insurance and are even more strongly opposed to creditor insurance.

IFB is pleased that Council shares our concern that consumers are not well-served by the current distribution of incidental insurance products. IFB prepared an extensive

submission to the Canadian Council of Insurance Regulators (CCIR) as part of the public consultation process earlier this year. In this submission we made 8 recommendations. They were:

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; 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 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.

We believe that each of these needs to be addressed as part of any solution.

Council has proposed to license the ISI agency and permit the agency to authorize certain individuals to sell these products. While this will provide Council with greater regulatory authority than currently exists, in our view it will create a licensing anomaly that will not be apparent to the average consumer.

The licensing process ensures that consumers receive advice, regardless of where they live, 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 under different circumstances will be from an unlicensed seller.

Ultimately, those who sell life/health insurance products and/or provide advice – however indirectly – must be fully licensed, accountable and subject to regulatory enforcement. To permit differing standards amongst advisors is a disservice to the public and other licensed insurance brokers.

IFB believes that post-claim underwriting is an unfair practice for consumers and should be banned. While increased disclosure as to the risks of ineligibility is an alternative, it is a much 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.

Proponents of insurance products using post claim underwriting will cite speed of approval and premium affordability as justifications. We do not think these reasons are adequate to offset the risk to those who will be adversely affected, potentially years later, by a denied claim.

In conclusion, IFB generally supports Council's intent to impose a licensing structure on ISI sellers, which will include a requirement for specific training, reporting and increased

disclosure to consumers. However, we continue to favour a harmonized, inter-provincial approach whereby consumers who purchase such products receive equivalent protection regardless of residency. In this regard, we are hopeful that Council will adopt further recommendations that develop from the CCIR and CISRO review. In addition, for the reasons cited above, we prefer a model where the person selling such products is individually licensed.

Should you have any questions or require further clarification, please contact the undersigned.

Yours truly,

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