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Financial Institutions Act & Credit Union Incorporation Act Review
Policy & Legislation Division
Ministry of Finance
PO Box 9470 Stn Prov Govt
Victoria BC V8W 9V8

Submitted by email: fiareview@gov.bc.ca

Subject: FIA & CUIA Review – Initial Public Consultation Paper

Independent Financial Brokers of Canada (IFB) appreciates the opportunity to provide our comments on the initial review of the Financial Institutions Act (FIA) and Credit Union Incorporation Act (CUIA).

IFB is a voluntary, professional association with approximately 4,000 members in Canada. Our members are licensed, financial advisors who generally operate small or medium sized financial practices in their local community. The majority are licensed to provide advice and products related to life/health insurance and/or mutual funds. Many are also licensed in complementary fields such as securities, property & casual insurance, exempt market, mortgages, etc. To be eligible for IFB membership, advisors must be able to offer the products or services of more than one company.

IFB supports the financial community and its membership by sponsoring an affordable, comprehensive errors and omissions insurance program (both individual and corporate), compliance support and high quality continuing education events, held several times per year and in various locations across Canada. Our educational events are open to both members and non-members to encourage professionalism within the wider network of advisors.

Although much of the regulation that governs our members is contained in BC's *Insurance Act*, where appropriate we have developed comments to the questions posed by the Ministry of Finance review of the FIA and CUIA. Our responses follow below.

Issue 1: Financial Consumer Protection

Q.1 Should BC consider adopting a market conduct code for fair treatment of consumers that would apply to financial institutions? If so, should there be one code for all financial institutions or separate codes for different types of financial institutions?

The focus of regulators on the fair treatment of consumers (FTC) has gained prominent attention since 2009, in reaction to various failures of prudent risk management and conduct in the financial marketplace. Many financial institutions and associations adopted or revised their codes of conduct to reflect this focus on putting consumers first, and in response to agreed-upon international standards. Codes of conduct reflect a firm's culture, commitment and, ultimately, success in meeting the FTC outcome.

There may be value for BC to adopt a high level general statement that reinforces the need to consider the fair treatment of consumers as an overall desirable outcome for any financial institution. This approach is consistent with principles-based regulation, which seeks to set high-level principles, while allowing flexibility in how financial institutions meet those expectations.

We see less value in adopting a detailed code applicable to all financial institutions, or separate codes for different types of financial institutions, as many are already bound by their individual or association codes of conduct (e.g. IFB, Canadian Life and Health Insurance Association, Canadian Bankers Association, CAILBA), which have been drafted to reflect the businesses they are in.

Individual life/health insurance agents and brokers are required to adhere to the insurance company's code of conduct as a condition of representing it. IFB members are required to adhere to our voluntary code of conduct as a condition of membership, and the BC Insurance Council has a Code of Conduct applicable to all licensees.

Q.2. Should BC credit unions be required to have an internal complaint handling process and to offer member access to an independent ombudservice?

The banking and investment industries offer consumers recourse through individual company complaint officers as well as through the Ombudservice for Banking Services and Investments (OBSI). Similarly, the insurance industry offers consumers recourse through individual company complaint officers, as well as either the OmbudService for Life and Health Insurance (OLHI) or the General Insurance OmbudService (GIO).

We see no reason that members of a credit union should not have access to similar recourse, given that many credit unions now offer a wide range of financial products, similar to those of a bank.

Q.3 Should ombudservices be mandated for addressing consumer complaints against mutual insurers and/or insurance agents and brokers?

Consistent treatment for consumer complaints regardless of the financial institution seems a reasonable approach although, as noted in the paper, the mutual insurers have voluntarily established an ombudservice.

We are unclear on the intention of adding insurance agents and brokers to this question, as the reason for this was not set out in the consultation paper. However, we would draw your attention to the research the Canadian Council of Insurance Regulators (CCIR) currently has underway, to explore if there is a need for ombudservices to be extended to complaints against individual insurance agents and brokers. It may be prudent for the Ministry to wait until the CCIR has concluded its research, before considering a position on this matter.

Q. 4. Should authorization requirements for financial institutions and licensing requirements for insurance agents and brokers specifically require fair treatment of consumers?

In our view, the fair treatment of consumers is already protected by the legislated power given to the BC Insurance Council to maintain the standards of professional conduct for insurance salespersons, agents and adjusters, and to require licensees to comply with its Code of Conduct.

According to the Council's mission statement: "We serve the public by regulating insurance licensees under the *Financial Institutions Act* and by promoting ethical conduct, integrity and competence." We think this is sufficient and does not require further regulation.

Issue 2: Market Discipline/Public Disclosure of Key Financial Risk Information

Q.3. Should financial institutions in BC be required to provide information to national databases for regulatory purposes and should FICOM be allowed to do so?

We support BC joining the national joint complaint reporting system. Many financial institutions conduct business in more than one jurisdiction. Sharing such information on a national database will be helpful to regulators in providing early warning signs of potential market conduct risks that could negatively impact consumers in BC and elsewhere.

IFB believes that to protect consumers, it is important for financial regulators to share information on enforcement activities, and make this information publicly available on a single, national database.

Issue 3: Financial Literacy

Q.1 What role should financial institutions and intermediaries play in contributing to and fostering financial literacy? Are there any legislative impediments to their doing so? Do financial institutions need additional tools to help fight financial abuse?

IFB members play an active role in contributing to, and fostering, financial literacy. They work with consumers every day to explain financial concepts, products, savings strategies and to better position individuals and families to be more financially prepared for life's expected, and unexpected, events.

As an association, IFB supports financial literacy. IFB participated in the Financial Literacy Task Force consultations (which included input from our members), added a "Consumer" section on our website, and has included sessions on how to deliver meaningful financial literacy/education to clients at IFB conferences. The trend toward plain language documentation is geared to making complex financial information more accessible to consumers.

In the last number of years, IFB's educational events have included more targeted sessions on recognizing mental capacity issues and suspected financial abuse of clients – sometimes perpetrated by other family members. It's a difficult position for advisors, however, who must respect the legal and privacy rights of their client. This can present barriers to sharing information with others. Advisors need clear direction on when/how to report suspected cases of financial abuse, and the ability to do so without legal retribution. IFB would welcome guidance from BC in this regard.

Q.2 What role should the provincial government have with respect to promoting financial literacy? Is there a need to duplicate or complement efforts being undertaken at the federal level, particularly for provincially regulated institutions?

A great deal of information has been centralized on the Financial Consumer Agency of Canada website. BC has been very active in promoting financial literacy and recognizing financial abuse and fraud. Individual provinces may need to tailor their programs to meet the unique needs of their residents.

Q.3 & 4 Should legislative changes to bolster financial literacy and/or protect consumers from financial abuse be considered? Should BC consider similar changes as the federal government to permit BC financial institutions to report concerns about financial abuse to next of kin in specific circumstances?

Individual insurance advisors should have a designated authority where they can turn to report suspected cases of financial abuse or to obtain advice. Insurance advisors are not lawyers or medical professionals and, while we share the concern of unreported abuse, they need clear guidance and parameters as to how and when to act.

Issue 4: Technological Change

Q. 2 Are any changes needed to ensure consumers continue to be protected and provided with the information they need to make informed choices?

The CCIR undertook a study of electronic commerce in insurance and concluded that for some products and for some consumers, online purchase of insurance was convenient and accessible. IFB responded to the CCIR consultation and supported that consumers must be able to stop the transaction at any time to access advice from a licensed advisor. They should be given the option to receive a paper copy of the policy with sufficient information on the insuring company that they can follow up with any questions. It's important that consumers receive warnings to this effect throughout the process when attempting to transact such business in an online environment

Q. 3. Are there certain financial products or services that should not be available for purchase directly by consumers online without using a professional broker or financial advisor at a regulated institution?

IFB believes that there is no substitute for the personalized contact that licensed insurance brokers bring to clients or prospective clients. Many life/health insurance products are complicated and do not readily lend themselves to online purchase. Consumers may not understand the terminology or the importance of providing accurate information in order to prevent a claim being denied in the future, or may not have the knowledge to compare products on the basis of more than just price.

Q. 4. Are there consumer protection and regulatory issues related to record storage or retention? Should there be limits on what kinds of data can be entrusted to a third party service provider for storage and/or processing?

Privacy concerns are raised when a consumer's personal information, which in life insurance files often contain sensitive health information, is lost, hacked into or otherwise not securely stored.

We do not see the issue as much as needing to limit the kinds of data, but rather requiring any third party provider to have taken steps to safely store or process the data.

Insurance Sector

Issue 1: Insurance Retailing and Licensing Exemptions

Q. 1 Are the current exemptions appropriate? Should any additional exemptions be provided?

IFB does not support exemptions from licensing for anyone selling insurance products, including those sold incidental to the sale of another product, such as mortgage life/disability insurance or other forms of credit insurance sold by a financial institution or travel agent. Unlicensed sales of insurance products are not consistent with the consumer protection framework examined in this consultation.

While IFB supports full licensing of all sellers of insurance, some provinces have implemented a restricted license for incidental insurance. All sellers of insurance should be subject to some form of licensing, regulatory oversight, proficiency standards and disclosure as licensed brokers. Consumers should have access to complaint mechanisms, and agents should be required to carry E&O.

Q. 2. Should insurers have more responsibility for exempt sellers? Should they be required to provide more direct oversight?

Yes. Insurers should be required to ensure sellers are knowledgeable, competent, and recommend suitable products. Further conditions should include requirements to ensure transparency in the sales process, disclosure of potential conflicts of interest, and mandated steps that the seller must take to ensure the consumer understands that approval of a loan is separate from (and not dependent on) the purchase of the insurance.

Insurers should be required to ensure sellers have appropriate Errors and Omissions insurance coverage, as it provides an additional means of protection for consumers.

Q. 3. Should the FIA be amended to give the Insurance Council increased powers to license and regulate incidental sellers of insurance?

Yes. A consistent approach for the protection of consumers should be in place for all insurance products, regardless of how they are distributed to the public.

Q. 4. Should certain insurance products only be sold by licensed agents? If so, which ones?

As per our comments above, any insurance product should be sold by a licensed agent/broker. Insurance products can be complicated and consumers rely on them to reduce their own financial risk, or that of their family, in the event of death, disability or critical illness.

Q. 5. Should the restricted insurance agent model used by some other provinces, and applicable to travel agencies in BC, be looked at with respect to the sale of other types of incidental insurance such as credit insurance and/or product and vehicle warranties? If so, which types?

IFB supports full licensing of those who sell insurance products, regardless of how it is sold. In the absence of full licensing, a restricted insurance agent model is preferable to no license, and should apply to credit insurance and product/vehicle warranties.

Of particular concern to us is creditor insurance, such as that provided by banks to cover disability/death for mortgages, because it can extend over many years. Consumers must be aware of alternatives that

may be better suited to them, and receive full, transparent disclosure that in the event of death or disability how claims will be adjudicated.

As stated in our response to Q.2, other requirements must ensure transparency in the sales process, including disclosure of potential conflicts of interest, and mandated steps that the seller must take to ensure the consumer understands that approval of a loan is separate from (and not dependent on) the purchase of the insurance.

Issue 2: Regulation of Insurance Intermediaries

Q.1 Should some or all members of the Insurance Council of BC be elected?

From the consultation paper, it is unclear to us how the selection process to appoint individuals takes place under the current system. There may be advantages to having a mix of elected and appointed members. Regardless of the selection system, however, members of Council should be knowledgeable about the industry, and committed to the principles of good governance, fairness (for the public and regulated entities), transparency and be accountable (based on formal measurement criteria) both for their actions, and the actions of Council staff.

Q.2 Does the Insurance Council have the right regulatory tools and structure for its role? Are any improvements needed to enhance coordination between the supervisory and intermediary regulatory authorities?

We are not aware of a need for different regulatory tools or for a need to change the structure.

Issue 5: Rebating

Q.1 Is the current FIA rebating framework effective and appropriate?

IFB does not support rebating. We believe it introduces risks to consumers, even at a rate capped at 25% of the value of the premium, by encouraging the consumer to focus on the rebate rather than the suitability of the policy. Removing the rebate will simplify the financial institutions' concerns that "observing and enforcing the limit imposes unnecessary costs on both the industry and regulator".

Q.2 Is the threshold of 25 percent of the premium appropriate? Would a different level be more appropriate, and if so, what level?

As stated above, we do not support any level of rebating.

The life insurance market is very competitive and is no less so in the jurisdictions in Canada that prohibit rebating. Competition in pricing should focus on the price charged to the consumer for the product being sold, rather than a 'hand-back' of a premium.

Q.3 Are the current disclosure rules on referral payments adequate to protect consumers? Should agents also be required to disclose the amount of any referral payment?

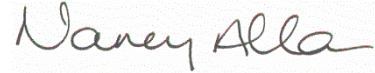
The rules requiring an insurance agent to disclose to the customer that compensation has been paid is consistent with voluntary and mandated standards in other jurisdictions. Feedback from IFB members indicate that they would disclose the actual amount of the referral upon request by the client.

As you are no doubt aware, securities regulators are requiring fee transparency for retail clients of mutual funds as part of CRM2, which will include disclosure of specific dollar amounts.

Thank you for the opportunity to provide our input, and we look forward to commenting further when the next draft becomes available.

Should you wish to discuss our comments or have questions, please contact me or Susan Allemang, Director, Policy & Regulatory Affairs, (email: sallemang@ifbc.ca).

Yours truly,

A handwritten signature in cursive script that reads "Nancy Alla". The signature is written in black ink on a light-colored background.

Executive Director

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