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October 1, 2009

Mr. Dennis Gartner  
Superintendent of Insurance, Financial Institutions and Pensions  
Alberta Finance and Enterprise  
Finance and Enterprise  
4th fl Terrace Building  
9515 - 107 Street  
Edmonton, AB T5K 2C3

Dear Mr. Gartner,

**Re: Consultation on Proposed Regulations for the Amended Insurance Act**

Advocis appreciates the opportunity to provide comments in response to the Consultation on the Proposed Regulations for the Amended Insurance Act.

Advocis is a national professional association that is committed to preparing, promoting and protecting financial advisors in the public interest. We do this by providing a professional platform including career support, designations, best practices direction, education, timely information and professional liability insurance. This strengthens the relationship of trust and respect between financial advisors and their clients.

Our members represent life and health insurance licensees, and mutual fund and securities registrants who provide a wide range of financial services, including estate and retirement planning, wealth management, risk management and tax planning. Most Advocis members are insurance licensed individuals and are primarily owners and operators of small businesses and create thousands of jobs across the province. Our 1500 members in the province of Alberta provide financial advice and services to hundreds of thousands of Albertans. They operate in accordance with the requirements of Alberta's *Insurance Act* and its associated regulations, and those that are licensed for securities purposes are also operate in accordance with the requirements of the *Securities Act* and its regulations.

Our comments are directed at those proposals that are aimed at preserving and enhancing consumer protection and enhancing clarity, certainty and fairness. Moreover, Advocis is supportive of proposals where regulatory harmonization can be achieved consistent with the highest level of consumer protection.

**Proposal 1: Disclosure of Limitation Periods**

Advocis agrees with the proposal in principle. We recommend that a more reasonable notice period of at least 90 days. In addition, the regulation should clearly provide that an insured or claimant under a group plan or creditor group insurance plan be provided with the same notice provisions as an individual insured or individual claimant.

### **Proposal 3: Require Insurance Companies to Participate in Industry Ombudservice Organizations**

Advocis supports the requirement for insurance companies to participate in industry consumer-complaint OmbudService programs. We look forward to reviewing the detailed set of proposals and we trust that it will require insurance companies to notify consumers of their right to take a dispute to the dispute resolution service and notify consumers of any suspension or the non-suspension of any applicable limitation period. We also recommend that the Ombudservice should track complaint statistics in a meaningful way for the different types of insurance products such as creditor group insurance, group insurance and individual insurance and by type of insurance such as creditor group mortgage insurance, creditor group life insurance, individual life insurance etc.

### **Proposal 6: Disclosure of Compensation and Potential Conflicts of Interest Related to Group Insurance Products**

The proposal will require that, where an insurer of a group insurance policy pays compensation, including commission, to the insured (the group policyholder or administrator), the insurer must notify the group life insured or the group person insured (A&S) in writing of the amount of compensation paid to the insured (the group policyholder or administrator). This is inconsistent with the Industry Practices Review Committee's (IPRC)'s three key principles-based recommendations that regulators have endorsed, including the Alberta Insurance Council.

In addition, going beyond current comprehensive intermediary disclosure requirements will not improve the consumer's ultimate purchase decision. Disclosing the discrete amount of compensation will be confusing to consumers and will not provide the consumer with more meaningful disclosure.

#### *Current Regulatory Requirements Regarding Disclosure of Conflicts of Interest*

The Industry Practices Review Committee (IPRC) of the Canadian Council of Insurance Regulators and the Canadian Insurance Services Regulatory Organizations in 2006 established the three key principles-based recommendations that they wished to see the industry address through harmonization of best practices:

1. priority of client's interest – an insurance intermediary (broker or agent) must place the interests of insurance policyholders and prospective purchasers ahead of his or her own interests;
2. disclosure of conflicts or potential conflicts of interests – consumers must receive disclosure of any actual or potential conflict of interest associated with a transaction or a recommendation; and
3. product suitability – the recommended product must be suitable to the needs of the consumer.

Advocis favours meaningful disclosure to consumers that is easily understood, relevant to the transaction, mitigates real or potential conflicts of interest and is easily comparable in a vast marketplace of life and health insurance products. In order to develop voluntary and consistent measures regarding intermediary disclosure, Advocis participated in the Intermediary Disclosure Working Group (along with the Canadian Life and Health Insurance Association (CLHIA) and other industry associations). The Working Group produced the "Advisor Disclosure Reference Document" in March 2005.

Advocis also developed its own Best Practices Guideline on Product Suitability along with an interactive web-based tool entitled “The Advocis Interactive Disclosure and Product Suitability Web Tool”. This helps advisors to generate transaction and recommendation disclosure letters based on the Advisor Disclosure Reference Document, allowing them to customize letters for clients in all provincial jurisdictions, including Newfoundland’s additional Consumer Protection Document – Principles for the Sale of Insurance. In the disclosure letter, agents disclose the companies they represent, any financial relationships they may have with those companies and whether an actual or potential conflict of interest exists. Newfoundland also requires insurance companies to include a document outlining the consumer’s right to additional information and how to access it, with all newly issued policies.

Advocis also has worked with other industry participants to standardize the needs-based sales practices that are integral to the product suitability principles, through the production of the reference document: *The Approach: Serving the Client Through Needs-Based Sales Practices*.

### *Compensation Disclosure*

Currently regulatory requirements for the sale of life and health insurance require that intermediaries provide relevant information when a consumer is considering the purchase of a life or health insurance product. It is intended to provide meaningful information about the product, how it meets the consumer’s needs, the company offering the product, and the advisor and the advisor’s business relationships. It also obliges intermediaries to disclose any actual or potential conflicts of interest. Reinforcing this is the practice of placing the client’s interest first in situations where a bias or potential bias exists.

Advocis believes that the IPRC’s principles-based approach to dealing with conflicts of interest, product suitability and client’s needs, along with industry practices, are helping to ensure that the regulatory outcomes derived from the Joint Forum’s “Principles and Practices for the Sale of Products and Services in the Financial Sector” are being met.

Consistency in the implementation of these principles has served to reinforce harmonization of practice standards across the industry and across Canada. It is equally important for provinces to attempt to harmonize across jurisdictions key Insurance Act provisions where appropriate to achieve a similar objective.

Accordingly, Advocis recommends a proposed regulation which will require that, where an insurer of a group insurance policy or a *creditor’s group insurance* policy, pays compensation, including commission, to the insured (the group policyholder or administrator, or the creditor), the insurer must notify the group life insured or the group person insured (A&S) or the debtor insured of the fact that compensation has been paid so that there is disclosure of a potential or actual conflict of interest.

Advocis does not believe that consumers will be well served by any requirement to disclose the discrete amount of compensation between the insurer to the group policyholder or administrator or creditor, as this will be confusing, not meaningful (especially in light of the varying business models through which such insurance is provided) and will not improve the consumer’s ultimate purchase decision.

## **Proposal 10: Confidential Information in Group Life and Accident & Sickness Insurance Contracts**

We support this proposed regulation which will provide the individual insured under a contract of group insurance, creditor's group insurance or a claimant under the contract to examine and obtain a copy of the policy, while insurers will be permitted to withhold personal information in accordance with privacy legislation. There may be proprietary commercial information which should not be accessible to the person requesting the information but information sufficient to determine actual or potential conflicts of interest should be disclosed ( for example, the fact that the group policyholder is compensated by the insurer) in accordance with the IPRC's principles-based approach to dealing with conflicts of interest.

We look forward to working with the Superintendent of Insurance throughout all stages of its review of insurance and insurance-related legislation as it develops details to these proposals and future regulations.

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'G' and 'P' followed by a long horizontal line ending in a small arrowhead.

Greg Pollock  
President and CEO