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May 6, 2009

The Honourable Kevin O'Brien
Minister of Government Services
Confederation Building
P.O. Box 8700
St. John's, Newfoundland
A1B 4J6

Dear Minister:

Re: Bill 11: *Act Respecting Credit Unions*

Advocis, the Financial Advisors Association of Canada, is extremely disappointed that the Government of Newfoundland and Labrador has gone ahead with amendments to the *Credit Unions Act* under Bill 11 which will now allow credit unions to sell and market life and health insurance directly through its credit union branches. The restrictions were put in place to protect consumers from the potential harms of tied selling and privacy violations. In our view, nothing has changed that has reduced the risk to consumers to warrant removing the restrictions. By removing the in-branch restrictions, the Government has taken away the ultimate form of consumer protection and put consumers at risk. The amendments are detrimental to consumers, who will now be subject to potential harm from tied selling and privacy violations.

Furthermore, the amendments give preferential treatment to credit unions, creating an unlevel playing field. This disadvantages small business financial service providers in the province.

Consumers are No Longer Protected

The coercive tied selling provision that is found at section 17 of Bill 11 will not offer sufficient protection to credit union customers. The coercive tied selling provision will not prevent credit unions from directing their customers to insurance licensed employees in the ordinary course of business transactions. A credit union can now routinely *recommend* that an applicant for a loan purchase life insurance in addition to a small business loan or mortgage. Borrowers will tend to comply with the insurance product recommendation either (a) because they fear offending the lender; (b) they want to please the lender; or (c) they are not focused on the insurance aspect of the transaction.

The federal *Bank Act* has a coercive tied selling provision but that legislation also has the restrictions preventing in-branch sale of insurance in order to adequately protect consumers.

Bringing together in-branch the usual business of a credit union and the business of insurance leads to forms of coercion that are difficult to detect or monitor. Consumers will be left without adequate protection from tied selling pressures. Consumers will not be able to choose insurance freely and in a considered way, free of pressure.

The removal of the restrictions also creates a risk that the personal health information collected for insurance purposes will be shared, commingled or access by loan personal. This will be harmful to the consumer's privacy and could negatively affect the loan application process. Health issues of the consumer may be shared or accessed by loan personnel which could lead the credit union to deny the loan.

Bill 11 removes the restrictions without putting in place any other regulatory safeguards to try to protect consumers from tied selling or privacy breaches. The Government's legislation puts consumers at greater risk of harm.

Preferential Treatment Given to One Player – Credit Unions

Prior to the amendments, all players in the industry were on a level playing field as credit unions – like banks or life insurance agents - could sell insurance through subsidiaries and licensed agencies. Now credit unions are able to sell directly from their branches – this is giving preferential treatment to one player – the credit unions.

Now that credit unions are able to sell life and health insurance in-branch, federally regulated financial institutions – banks – will seek similar powers through changes to the *Bank Act*. This will tilt the playing field in favour of the banks and the credit unions. The amendments threaten the ability of small business professional financial advisors to maintain a viable business in the Province.

Advocis would like an opportunity to appear before the legislative committee reviewing Bill 11 to provide the government with greater details regarding our concerns.

We urge you to reconsider the amendments in Bill 11 and maintain the restrictions on credit union in-branch retailing and marketing of life and health insurance, which were put in place originally as the strongest form of consumer protection.

Yours truly,



Kristan K. Birchard, CFP, CLU CH.F.C., TEP
Chair, National Board of Directors



Kevin J. Dunphy CFP, CLU
Chair, Newfoundland and Labrador
Provincial Advocacy Committee

cc: The Honourable Danny Williams, Premier of Newfoundland and Labrador