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March 24, 2009

Luba Mycak
Senior Manager
Industrial & Financial Policy Branch
Ministry of Finance
95 Grosvenor St., 4th Floor
Toronto, ON M7A 1Z1

Dear Luba Mycak:

Re: **Proposed Ontario Regulation to be made under the *Credit Unions and Caisses Populaires Act, 1994***

Advocis, the Financial Advisors Association of Canada, welcomes the ability to provide the Ontario Ministry of Finance with our comments on the consultation document which seeks input into the proposed set of updated regulations to be made under the *Credit Unions and Caisses Populaires Act, 1994*.

Advocis is the country's largest and oldest voluntary professional membership association of financial advisors and planners in Canada. Our association was founded in 1906 as the Life Underwriters Association of Canada. Our over 5,000 Ontario members are provincially licensed to sell life and health insurance, mutual funds and other securities, and are primarily owners and operators of their own small businesses who create thousands of jobs across Canada.

Advocis members are professional financial advisors who provide comprehensive financial planning and investment advice, retirement, tax and estate planning, risk management, employee benefit plans, disability coverage, long-term care and critical illness insurance to more than a million Ontario consumers. In addition, our members provide retirement planning and investment advice to employees with pension plans and many of our members establish and administer pension plans for businesses.

Advocis financial advisors maintain lasting relationships with their clients based on trust. They take a long-term planning perspective and are helping to guide clients, young and old, individuals, families and businesses during these tough times of economic downturn and financial market uncertainty.

Draft of *General Regulation, 2009*

Advocis is an interested stakeholder as it pertains to the current restrictions regarding the ability of credit unions in Ontario to sell insurance products and services. We agree that the current restrictions in the existing regulations should be maintained in the proposed regulations.

Advocis is committed to providing a fair and balanced regulatory framework that preserves the health and strength of the sector, provides a level playing field for all who operate in the industry, and protects consumers.

Advocis has been engaged for a number of years on the issue of insurance sales through banks and credit unions. We have participated in policy consultations at both the federal and the provincial level, as governments have considered requests from the bank and credit union sectors to permit in-branch sales of insurance. We have undertaken considerable research concerning consumer and small business attitudes on these issues. The research supports the decisions of federal and provincial governments not to expand in-branch sales of insurance.

In 2005, Advocis participated in consultations in Ontario concerning whether to expand credit union powers to permit in-branch sale of insurance. In 2006, Advocis made submissions on this issue in the 2006 federal review of financial institutions legislation. Ontario subsequently concluded that the consumer protection provisions that restrict in-branch sales of insurance in credit unions should remain in place. The federal government also concluded that banks should not be permitted to sell insurance in-branch and should not be permitted to share customer information with their insurance subsidiaries.

We commend the Ontario government for continuing to protect the consumer and maintain a level playing field by maintaining the provisions in the proposed regulations that restrict in-branch sale of insurance.

Nonetheless, it has been customary for credit unions, when credit union legislation is reviewed, to ask for expanded powers to distribute insurance through their branches. Accordingly, we would like to provide you with our views on any such requested changes.

At present, there is a level playing field as credit unions are permitted to engage in the business of selling insurance through licensed advisors, in the same manner and pursuant to the same regulatory framework as other participants in the industry. Currently, credit unions are permitted to own insurance companies as subsidiaries, and may administer authorized types of insurance, and provide advice about authorized types of insurance. These include: insurance related to a credit card or charge card issued by the credit union; creditors' disability insurance; creditors' life insurance; creditors' insurance for loss of employment; and vehicle inventory insurance; export credit insurance; group accident and sickness insurance; group life insurance; mortgage insurance; and travel insurance.

Advocis is committed to providing a fair and balanced framework that preserves the health and strength of the sector and, at the same time, allows its evolution to benefit all Canadians with an emphasis on ensuring that consumer rights are adequately protected. As such, the expansion of insurance retailing powers of credit unions will not provide adequate protection for consumers.

It will leave consumers without adequate protection from the subtle pressures that arise in the context of tied selling. A consumer's ability to choose an insurance product freely and in a considered way will be lessened as a result of tied selling practices. In times when credit availability is tighter, this pressure may in fact intensify.

The expansion of insurance retailing powers of credit unions will also leave consumers without adequate protection of their privacy rights. If insurance is allowed to be sold in-branch, there is a risk that the personal health information collected for purposes of the insurance application will

be shared or commingled or accessed by loan personnel. If this occurs, a consumer's privacy will be impaired.

Draft of Cost of Borrowing and Disclosure to Borrowers Regulation 2009

In addition, we would like to comment on the proposed *Cost of Borrowing and Disclosure to Borrowers Regulation 2009* (under the *Credit Unions and Caisses Populaires Act, 1994*) and in particular, section 23 "Purchasing Insurance".

This provision is referenced in the federal-provincial-territorial Agreement for Harmonization of Cost of Credit Disclosure Laws in Canada Drafting Template. In order to ensure that the Purchasing Interest provision is consistent with the current restrictions on the ability to sell insurance products and services and does not create any ambiguities, we would propose that the wording be amended as follows:

Required Insurance

"23. (1) A borrower who is required by a credit union under a credit agreement to purchase an Authorized Type of Insurance may purchase it from any insurer who may lawfully provide that type of insurance, except that the credit union may reserve the right to disapprove, on reasonable grounds, an insurer selected by the borrower.

(2) A credit union who offers to provide or to arrange for an Authorized Type of Insurance under a credit agreement referred to in subsection (1) must at the same time clearly disclose to the borrower in writing that the borrower may purchase the insurance through an agent and from an insurer of the borrower's choice.

(proposed changes are underlined).

The above wording is consistent with the wording of a similar provision found in Ontario's *Consumer Protection Act, 2002*.

If the government considers revisions to the proposed General Regulation 2009 so as to expand the ability of credit unions to distribute insurance through credit union branches or changes the existing restrictions, we would appreciate the opportunity to consult with you on the issues we have outlined above.

Yours truly,



Greg Pollock
President and CEO



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