



Advocis
390 Queens Quay West, Suite 209
Toronto, ON M5V 3A2
T 416.444.5251
1.800.563.5822
F 416.444.8031
www.advocis.ca

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Mr. Gerald Matier
Executive Director
Insurance Council of British Columbia
PO Box 7, Suite 300 – 1040 West Georgia Street
Vancouver, British Columbia
V6E 4H1

Dear Mr. Matier:

Re: *Regulatory Model Governing Distribution of Life Insurance Products and Related Activities by British Columbia Life Insurance Agents*

Advocis appreciates the opportunity to provide comments on the Insurance Council of British Columbia's ("Council") discussion paper on how Council can more effectively regulate the distribution of life insurance products (the "Discussion Paper").

Advocis, The Financial Advisors Association of Canada, is the largest and oldest professional membership association of financial advisors and planners in Canada. Our association was founded in 1906, as the Life Underwriters Association of Canada.

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 are 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 primarily owners and operators of small businesses and create thousands of jobs across the province.

Our nearly 2,000 members in the province of British Columbia provide financial advice and services to hundreds of thousands of British Columbians. They operate in accordance with the requirements of British Columbia's *Financial Institutions Act* and its associated regulations, in accordance with Council's Rules and Code of Conduct, and those that are licensed for securities purposes also operate in accordance with the requirements of the *Securities Act* and its regulations.

Advocis looks forward to working with the Council in order to facilitate and promote an efficient, effective and competitive insurance regulatory system in Canada that serves the public interest.

The Discussion Paper would like to address changes that have occurred in the life insurance distribution system over the last twenty years as a result of the change from the career insurance companies model to the current models of distribution through managing general agencies (MGAs) and life agencies. It argues that the recruitment, training and supervision of life insurance agents has diminished and that the roles and responsibilities of agents, managing general agents (MGAs), life agencies and insurers should be clarified.

The Discussion Paper raises three issues:

1. The appropriate level of supervision for new life agents
2. Possible guidelines for life agencies
3. Possible guidelines for managing general agencies

1. The Appropriate Level of Supervision for New Life Agents

The Discussion Paper states that, once licensed, the life insurance agent is not subject to any mandatory industry oversight, which is different than all other sectors of the financial services sector. A life insurance agent can become licensed and immediately start working without any supervision. It goes on to state that “A new life agent can engage in marketing any insurance product or service without sufficient knowledge or understanding of the specific product and without any oversight.” The only qualification for a life agent’s licence is completion of the LLQP and a qualification exam, and once licensed, the maintenance of annual minimum continuing education requirements.

Advocis is not aware that new agents are providing recommendations regarding products and services that are not suitable to the needs of their clients due to a lack of supervision or knowledge. We would welcome any information from Council that would indicate otherwise. In reviewing the Discussion Paper, there is no evidence presented that is suggestive of a problem in the industry with respect to new insurance advisors. Advocis would like to discuss with Council any issues or problems that have been identified so that Council can arrive at the most effective solution to address any problems. It may be that a supervision requirement would be helpful or there may be other, more optimal methods to address any identified weaknesses. We would like to discuss this with Council and other stakeholders

Advocis believes that a high level of proficiency regarding the principles of investing can best be achieved through a professional platform for the delivery of financial advice, which encompasses professional designations, professional codes of conduct through best practice standards, meaningful continuing education and professional liability insurance. Many of these principles already are part of the regulatory regime that applies to life and health insurance licensees.

Council correctly states that individuals who want to become life agents must complete and pass the LLQP. It should be noted that the LLQP was introduced earlier this decade in order to provide updated and more expanded, rigorous content, thereby raising the professional standard of entry into the profession. Council’s continuing education requirements require a life agent who does not have a designation and who has not had at least five years of experience, to have 15 technical hours of continuing education credits per year. Less continuing education credits are required if the agent is experienced or has a designation.

Advocis supports educational requirements that allow regulators and consumers to have confidence that agents have the necessary knowledge, skills and abilities, stay compliant with the changing regulatory framework and better assist their clients in developing the financial literacy and necessary knowledge to make informed decisions about their financial future.

The Discussion Paper concludes that “The life agent model in British Columbia is inconsistent with similar models in the financial services sector and other similar professions. The ability of an inexperienced life agent to commence work in a specialized field such as life insurance, without supervision or direction, is unreasonable and fails to provide oversight consistent with the types of financial products sold.”

While Advocis agrees that there are differences in the insurance sector from other financial services sectors (such as the securities sector) it does not support Council's conclusion that the ability of the new life agent to commence work in the current model is, as a result, unreasonable. It is important for Council to recognize that there are several significant differences between the life insurance sector and other financial services sectors such as mutual funds which provide greater context in which to view the different approach to supervision. Differences include:

- I. The principles based approach to conduct involving financial intermediaries in their dealings with consumers of financial products and services which has been adopted by insurance regulators¹.

In a principles-based approach to regulation, industry stakeholders have been proactive and a partner with regulators in achieving a progressive, vibrant and competitive marketplace for insurance. In this principles-based regulatory environment, the regulated industry itself has designed rules and procedures or best practices that will permit the standards set by a given principles to be achieved.

- II. The effective implementation by insurers and insurance agents of the three principles for managing conflicts of interest² is an example of the successful adoption of the principles-based approach. All life insurance agents are required to adhere to the following three principles in respect of each recommendation made to a client in order to properly manage conflicts of interest:
 - *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;
 - *disclosure of conflicts or potential conflicts of interest* – consumers must receive disclosure of any actual or potential conflicts of interest associated with a transaction or recommendation; and
 - *product suitability* – the recommended product must be suitable to the needs of the consumer.

The three key principles of the Industry Practices Review Committee (IPRC) of the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO), including product suitability, apply to all life & health insurance products including segregated funds. The agent must apply the principles for each product recommendation he or she makes irrespective of whether they are a career advisor, new advisor, independent advisor or an advisor who operates through an MGA.

¹The Joint Forum of Market Regulators in their 2005 document Principles and Practices for the Sale of Products and Services in the Financial Sector and the Canadian Council of Insurance Regulators and the Canadian Insurance Services Regulatory Organizations in the Industry Practices Review Committee (IPRC) in their development of principles around managing conflicts of interest for insurance intermediaries

² "The Final Public Report: Review of Implementation of the Three Principles for Managing Conflicts of Interest" of the IPRC of CCIR and CISRO dated December 2008 confirms this view. The survey conducted by the IPRC found that "most companies have systems of corporate governance and internal controls to manage conflicts of interest as they relate to the principles...The content of the policies are adequate for managing conflicts of interest and properly monitored for adherence." The survey found that there was a high level of implementation at the agent level – that the majority of agents were providing the necessary disclosure to make an informed decision. The Report conclusions were that support of the three principles are high and are widely recognized in the marketplace. It also concluded that "It appears that no further steps by regulators are necessary at this time to promote general acceptance, except to encourage associations and insurers to increase their efforts in support of the three principles".

The Final Public Report of the IPRC did not identify, and we are not aware, that new agents are not able to implement or are not, in practice, implementing the three principles in a similar manner as the more experienced agent.

- III. All agents must comply with Council's Rules, which includes adherence to Council's Code of Conduct.
- IV. There is a statutory presumption that the agent is the agent of the insurer in the event of a consumer complaint. and
- V. Insurance companies have an obligation to screen agents for suitability and therefore have processes to ensure that agents that represent them, among other things, satisfy licensing requirements and use acceptable sales practices with respect to product suitability.

Advocis looks forward to discussing with Council and other stakeholders the most appropriate solution to address any problems that have been identified as a result of a lack of direct supervision. As stated above, Advocis is not aware that new agents are providing recommendations regarding products and services that are not suitable to the needs of their clients due to a lack of supervision. We would welcome any information from Council that would indicate otherwise. We look forward to discussing this with Council and other stakeholders.

In the absence of an identified problem, it is difficult to make specific recommendations. Nonetheless, we would like to provide the following general comments and analysis.

The BC Supervision Proposal

The Discussion Paper states that the BC Insurance Council is considering a mandatory supervisory requirement for new life insurance agents. The new life insurance agent would be supervised by a qualified agent for the first two years of a new agent's career. The requirement for supervision may be reduced to one year if the new agent has, within one year of applying for his or her license, obtained a recognized designation, such as a CLU or CFP. If supervision is required, we agree with this approach which encourages participation in professional designation programs and a focus towards insurance-related education as a means of providing consumers of life and health insurance with competent and timely advice. Earning a designation raises professional standards which will benefit consumers. Council should also consider whether the supervision requirement may be reduced if a life agent is a member in good standing of a professional association such as Advocis or the Financial Planning Standards Council (FPSC).

Supervision requirements are in place in Manitoba (one year) and Saskatchewan (first two years). In light of the existing regulatory framework for agents which has been described above (such as insurers screening agents for suitability and monitoring their conduct, the effective implementation of the three principles for managing conflicts of interest (ie priority of the client's interest, disclosure of conflicts or potential conflicts of interest and product suitability)) and the lack of any evidence of identified problems with new agents, we would suggest that one year of supervision of new agents (*if at all required*) would be sufficient.

The new agent would be supervised by a qualified (experienced) agent. That is, an agent who has had a minimum of five years' full time experience as a life agent. This is a higher level of experience than is required in Manitoba and Saskatchewan. We encourage the Council to harmonize its requirements with that of other jurisdictions.

It is noted that exceptions to the five years will be considered by Council. For example, an individual with three years' licensed experience, along with management experience with an insurer or having

a recognized designation, could also be considered experienced. We agree that exceptions should be allowed which recognize the professional financial advisor who has a designation, is a member in good standing of a professional association or who has significant managerial experience.

Another important aspect of the supervision model is the process involved in supervision. The Proposed BC approach would be to have the qualified life agent to accept responsibility for the insurance (and any related) activities of the new agent. The supervising agent would have the flexibility to establish and implement procedures her or she considers appropriate to oversee the new agent. We assume that this is a similar model to that in Manitoba and Saskatchewan. We are not clear what “any related activities” mean and would like to discuss how broad the supervision is meant to be and how it would be applied in the situation of the dual-licensed advisor.

If supervision is required, we encourage the Council to take a principles-based approach to the new requirement and allow the experienced agent to have the flexibility to design his or her own procedures to meet the standard set by the supervision requirement in light of the particular circumstances. We note that Council has done this in allowing flexibility the supervising agent’s determination of what an appropriate level of supervision will be and can consider the work experience, length of time licensed, education and demonstrated knowledge by the new agent. For example, an agent may come from another area of the financial services sector where they have considerable financial planning experience, or a great familiarity with financial products and services. In such a situation, the level of supervision required may be considerably lessened.

Aging Insurance Agent Force

The CCIR identified in its Strategic Plan for 2008-2011 that there is a changing demographic in Canada including that the average age of agents and brokers is increasing. Advocis would like to ensure that barriers to entry are not erected that unnecessarily impede new entrants. It is important that Canadians continue to have access to independent financial advisors who can provide professional financial advice, products and services on an individualized and face-to-face basis. Professional financial advisors help Canadians meet their long-term financial goals. No one spends more time with consumers, explaining financial concepts and products, and contributing positively to the financial literacy of Canadians than the financial advisor.

Since 2005 Advocis has convened membership task forces to explore this issue and has initiated discussions with other stakeholders across the financial services industry. We would be interested in discussing this issue further with Council and exploring with other stakeholders whether the requirement of supervision of new agents will create a significant barrier to entry for new agents.

2. Possible Guidelines for Life Agencies

According to the Discussion Paper, a life agency is “an entity that is either a corporation or a partnership, holds an insurance agent’s licence and, as a result, has a properly licensed nominee.” Life agencies can be sole-proprietorships or can have two or more life agents and one or multiple branches.

Council states that its focus is on the multi-agent life agency. Council would like to engage in discussions with the industry to develop guidelines regarding what is the usual practice of the business of insurance as it applies to life agencies and the obligation to properly oversee all insurance business conducted on the agencies’ behalf. Advocis, as a stakeholder, welcomes the opportunity to discuss the activities of life agencies with Council and other industry stakeholders, so that all parties have a complete understanding of the operation of this distribution channel. We commend this principles-based approach to the issue.

3. Possible guidelines for managing general agencies

Council is seeking to clarify the role and responsibilities of the managing general agency (MGA) in the distribution of insurance products and how that relates to their life insurance licence and the oversight by Council. Council defines the MGA “as a licensed life insurance corporation or partnership that holds at least one direct MGA brokerage contract with a Canadian life insurance company.” Presently, MGAs are required to be licensed like any other person engaged in life insurance activities in the province.

Council is looking for industry input on the development of guidelines that will assist in differentiating the role and responsibilities of MGAs from life agents and life agencies. Council is looking for information that will help it understand how the role of MGAs differs from life agents and life agencies; whether MGAs should be subject to a different licensing model than they are currently; and whether there should be restrictions or limits on MGAs activities (for example, whether they should be involved in claims handling).

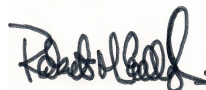
To assist Council in this regard, Advocis is pleased to enclose a copy of a paper it prepared for the Agencies Regulation Committee of the Canadian Council of Insurance Regulators (CCIR) dated March 22, 2010 describing the MGA distribution channel from the perspective of the financial advisor.

Advocis is pleased to assist Council in furthering its understanding of the different life insurance distribution channels. We would welcome the opportunity to discuss any of the issues that we have raised and look forward to working with you.

Yours sincerely,



Greg Pollock, M.Ed., LL.M., C.Dir., CFP
President and CEO



Robert McCullagh CFP, CLU, CH.F.C., RHU
Chair, National Board of Directors