



October 31, 2013

Mr. David Weir
Deputy Director, Insurance
Financial and Consumer Services Commission, Insurance Division
P.O. Box 6000, Kings Place
637 – 440 King Street
Fredericton, New Brunswick
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RE: *Opportunities for Reforming the New Brunswick Licensing Framework for Other-than-Life Insurance Agents and Brokers*

Dear Mr. Weir:

I am writing to you on behalf of the Canadian Association of Financial Institutions in Insurance (CAFII) with respect to the Financial and Consumer Services Commission Insurance Division's Discussion Paper on *Opportunities for Reforming the New Brunswick Licensing Framework for Other-than-Life Insurance Agents and Brokers*.

CAFII commends the Insurance Division for undertaking this consultation and we appreciate the opportunity to comment on the issues set out in the paper released in August.

CAFII's focus as an industry Association is on life and accident and sickness insurance, the sectors of the industry in which our members offer simple, convenient insurance solutions for Canadians through a variety of distribution channels. A shared vantage point among CAFII members is our use of tightly controlled, national bilingual client contact centres, many of which are situated in New Brunswick.

While regulatory reform opportunities related to other-than-life agents and brokers are therefore out-of-scope for CAFII, your transmittal message to stakeholders indicated that some of the issues raised in the paper may also impact other intermediaries. It is in that context that we make this response submission.

Our input – as an Association representing distributors and underwriters of simple, accessible life insurance-related products, sold largely through alternate, non-traditional channels – is intended to address the possible application of issues raised in the paper to life agents.

Our input therefore focuses on several, but not all, of the 10 specific issues raised in the Discussion Paper. In a brief Introduction, we set out the context of multi-jurisdictional licensing challenges faced by CAFII member client contact centres.

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Introduction

Current Market Environment

The life insurance needs of Canadians have evolved dramatically over the past 15 years. The marketplace is now served by new distribution channels, providing innovative products tailored to meet the unique needs of Canadians across the full spectrum of society.

In addition to more traditional distribution channels, such as captive agents and independent brokers, the life insurance market now includes new types of intermediaries, such as corporate agencies and Managing General Agents (MGAs), as well as direct distribution options such as client contact centres and the internet. These changes have shifted the insurance market and improved choice for consumers.

Current CAFII Member Client Contact Centre Licensing Challenges

CAFII members utilize client contact centres to provide Canadians with access to life insurance products across the country. For licensable sales, this means that contact centre staff must hold multiple licenses.

The current regulatory environment requiring multi-jurisdictional licensing presents many challenges:

- administrative cost and complexity;
- consumption of a disproportionate amount of agent, company licensing department, and regulator resources; and
- risks to agents and companies in navigating the system, including the possibility of errors and inadvertent non-compliance.

These challenges give rise to operational inefficiencies and reduced growth in this channel, resulting in reduced service standards and access for consumers. From an operational perspective, some companies choose to simplify their operations by offering products in only certain jurisdictions. Since the jurisdictions selected usually represent larger markets, this may impact availability in those markets and population segments (rural, low and middle income, young families) that are already underserved by the traditional face-to-face channels. As the average age of traditional agents increases and retiring agents are not replaced at the same rate in the face-to-face distribution channel, there is an increased demand for access to life insurance products through client contact centres.

The number of agents in a contact centre that have licenses across the country is limited by the complexity of the current system. In some cases, contact centres will license all agents in key markets, but only a portion of the agents will be licensed across the country. Even if the contact centre uses a model which requires that all agents be licensed in all jurisdictions, there is often a significant time lag in putting all of the licenses in place.

On average, this means that one quarter of the agents in a contact centre will be licensed in all jurisdictions at a given point in time. When a call comes in from a particular jurisdiction, the first agent in the queue may not have the appropriate provincial license, and the caller must wait until an agent with a license for their province is available. In many cases, a caller may be asked to call back later because the queue is too long.

Businesses have not been able to achieve the growth in this channel that customer demand warrants, for reasons directly related to multi-jurisdictional licensing challenges.

Types of Licences; Probationary Licences; Licence Renewals; and Licence Lapses/Reinstatements

Types of Licences

CAFII concurs with the Insurance Division's assertion that today's marketplace has changed, and we support the elimination of New Brunswick's current licensure distinctions between non-residents and residents, and between agents and brokers. Having a level playing field with a single licensure standard for all who sell insurance, regardless of residency and regardless of insurer affiliations, is optimal.

Making this change will better align New Brunswick with the Agreement on Internal Trade, which stipulates that individuals with recognized skills and qualifications should be able to work in their field in any jurisdiction in Canada, without undue impediment. In addition, the increasing use of electronic commerce, in all sectors of the insurance industry, has made physical location increasingly unimportant.

In the life sector of the industry, the Life Licence Qualification Program (LLQP) has harmonized entry-level proficiency requirements for agents in all common law provinces; and the current LLQP modernization initiative will bring Quebec into the fold in 2015. Therefore, for the life side of the industry, a separate non-resident licence no longer seems justifiable.

Probationary Licences

A decade ago, the common law provinces changed the life agent licensing regime from a two tier system to the current single tier LLQP. The objective of the LLQP is to require that all life agents meet prescribed proficiency requirements before they begin interacting with consumers. Given the rigorous entry-level education and examination standards of the LLQP, a probationary period for life agents is not warranted.

CAFII also supports the proposal that the Superintendent should have the power to issue a temporary licence in circumstances where issues pertaining to a licence renewal require investigation and where there is no significant risk to consumers.

Licence Renewals

With respect to licence renewals, CAFII agrees with the observation that New Brunswick's move in 2009 to a two year licence renewal cycle, from the former annual cycle, has improved the process and reduced regulatory burden.

In that connection, CAFII supports the proposal to repeal the requirement that all licence applications and renewals must be sworn under oath. Replacing the sworn oath requirement with a certification as to the truthfulness of the information provided would (a) reduce administrative burden for licence applicants; (b) bring New Brunswick into harmony with all other Canadian jurisdictions; and (c) remove a significant barrier to an online licensing system.

As a further comment on online licensing, especially as it relates to interprovincial harmonization and multi-jurisdictional licensing, CAFII strongly encourages New Brunswick to join in on the Canadian Insurance Participant Registry (CIPR) initiative being rolled out by the Alberta Insurance Council. As an online licensing system intended to be national in scope, the CIPR is an encouraging start on addressing a critical need that CAFII has been highlighting for years.

Few benefits of the modernizing reforms proposed in the Discussion Paper can be fully realized without a commitment to move to a national online licensing system. New Brunswick's position as a hub for national, bilingual call centres demands this.

Importance of Labour Mobility and Mutual Recognition of Licenses in Insurance

Insurance companies are increasingly using direct channels such as the internet and client contact centres to sell coverage in all jurisdictions. Currently, for individual life insurance, contact centres employ LLQP-trained agents, each of whom must hold licenses from all jurisdictions serviced by the centre, typically 12 different licences. Similarly for home and auto, contact centres employ agents who hold P&C licenses in all jurisdictions.

It is administratively very costly and cumbersome to have to manage licensing for 12 separate jurisdictions (including separate background checks; monitoring expiry dates for each jurisdiction; completion of forms; compliance with multiple continuing education, errors and omissions insurance, and notification requirements).

CAFII would like the regulatory model to recognize the importance of the telemarketing channel and alleviate the unnecessary burden imposed by multi-jurisdictional licensing.

The reality of client contact centre operations is that customers may contact a centre several times over the course of a transaction -- to ask questions, complete the transaction, or to change coverage. In each case, if the answering agent is not licensed for the jurisdiction of the caller, the call must be transferred and queued for the appropriate agent, even though the answering agent would be fully competent to handle the caller's needs. This cannot be considered quality customer service

It is also costly and time-consuming to handle compliance with the requirements of multiple jurisdictions. Businesses have not been able to achieve the growth in these channels that customer demand warrants, for reasons directly related to multi-jurisdictional licensing challenges.

The current situation also poses risks to agents and companies in navigating the system, mainly through the possibility of errors and inadvertent non-compliance.

Ideally, if an agent is duly licensed in one jurisdiction, that license should be recognized by other Canadian jurisdictions under a system of mutual recognition, with no further local requirements imposed, other than registration and fee payments.

Licence Lapses and Reinstatements

With respect to licence lapses and reinstatements, CAFII concurs with the Insurance Division's proposal that provisions covering these matters in the other-than-life *Agents and Brokers Regulation* should be brought into harmony with the corresponding regulations that exist for life agents and for adjusters. This would be good for consumer protection and for consistency across all sectors of the industry.

It is our view that the requalification requirement for other-than-life agents and brokers should be a near-parallel to the requirement that a life agent who lapses from holding a licence for a period of two years or longer must re-take the LLQP examination.

Mandatory Continuing Education

CAFII supports the view that mandatory continuing education is a key component of industry professionalism and consumer protection. There is widespread recognition among nearly all professions and licensure bodies that continuing professional development – an embodiment of commitment to career-long learning – is essential to maintaining both the integrity of a profession and its credibility with the public.

Six provinces (British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Quebec) currently mandate continuing professional development for life agents, so New Brunswick would be in good company if it decides to implement this modernizing reform for both other-than-life agents and life agents.

However, it is CAFII's position that continuing education requirements **must** be harmonized across the country. For a number of years, we've been encouraging all provinces to take the optimal approach and harmonize. If New Brunswick decides to mandate continuing education for life agents, we can't envision a reason why you would want to take a unique, go-it-alone position, as doing so would only increase costs and complexity for all stakeholders. Should you decide to proceed down the path of mandatory professional development, we would implore you to engage with regulators from other provinces and pursue harmonization.

Supervision

With respect to the life sector of the industry, four provinces (British Columbia, Saskatchewan, Manitoba and Quebec) currently require that new life agents be supervised, with the duration and nature of the mandated supervision varying considerably.

It's important to note that in the life sector, the insurer is responsible for the sale of its products and therefore must monitor the performance, competence, and overall suitability of its agents on an ongoing basis. Guideline G8 of the Canadian Life and Health Insurance Association, to which all CAFII members also belong, stipulates that agent suitability includes compliance with regulatory requirements and using acceptable sales practices.

CAFII therefore submits that the risk-based, self-regulatory monitoring of agents required under CLHIA Guideline G8 makes mandatory supervision of new life agents unnecessary.

Compliance and Enforcement

CAFII is generally comfortable with and supportive of the modernization reforms being contemplated by New Brunswick in this area. They closely parallel many of the changes proposed by FSCO in its recent "Modernizing Disciplinary Hearings For Insurance Agents and Adjusters In Ontario" initiative, which we supported.

In particular, we agree that it would be appropriate for the Superintendent to

- be able to impose interim suspensions or restrictions on a licence on certain enumerated grounds;
- have enforcement powers over individuals who are no longer licenced, eg. someone who may have surrendered a licence to avoid enforcement action; and
- have additional regulatory sanctions at his/her disposal, such as Administrative Monetary Penalties (AMPs) which have recently been added to the Superintendent's powers in Ontario.

CAFII also concurs that the Superintendent should have the authority to publish disciplinary and licensure decisions, provided that publication occurs only after full due process has run its course, including any right of appeal.

Trust Accounts

CAFII supports the Insurance Division's proposal that, in light of modern day marketplace realities, trust account requirements should only apply to agents and brokers who receive trust funds.

In the life sector, premium and benefits payments generally move directly between insurer and client. For this reason, the requirement to maintain a trust account is also inappropriate for life agents.

CAFII supports the proposal that agents who do have need to maintain a trust account should be required to file an annual trust account reconciliation statement.

Errors and Omissions Insurance

CAFII supports New Brunswick's proposal to introduce a requirement for licence holders to carry errors and omissions insurance issued by an insurer licenced in New Brunswick, and a further requirement to hold fidelity insurance by a licenced insurer.

As is the scenario with mandatory continuing education, six provinces (British Columbia, Alberta, Saskatchewan, Manitoba, and Quebec) currently require life agents to carry errors and omissions insurance.

If New Brunswick decides to pursue mandatory E&O insurance for life agents, we would encourage you to engage with regulator counterparts from other provinces at that time, to see if there is interest in discussing a harmonized approach, which would be optimal.

In keeping with our comments under "Partnership or Corporate Licence" below, CAFII is strongly of the view that if New Brunswick evolves towards the introduction of a Restricted Insurance Agent Licence regime for Incidental Sellers of Insurance (ISI), then federally regulated deposit-taking institutions should be exempt from the requirement to provide proof of E&O insurance, as per the exemptions they have in the ISI regime regulations in Alberta and Saskatchewan.

Duty to Report

CAFII supports the Insurance Division's proposal to introduce a mandatory self-reporting requirement in the *Agents and Brokers Regulation* to compel licensees to report, within 10 days, any disciplinary investigations or decisions, civil judgments involving fraud or breach of trust, and criminal charges or convictions to which they become subject. Timely self-reporting of such information is critical to consumer protection; and this change would also establish consistency across all sectors of the industry.

Partnership or Corporate Licence

CAFII supports the Insurance Division's proposal to introduce regulatory amendments to allow for the licensing of partnerships or corporations, subject to provisions in the Act. We understand that the Act specifies that commissions on an insurance sale can only be paid to a licensed entity; that the proposed amendments would make it possible to pay commissions into a partnership or corporation; and that individuals engaged in insurance sales would still be required to obtain an individual licence.

We view this proposal as a business-friendly modernization, without any negative consequences for consumer protection.

However, when it comes time to consider reforms to the regime affecting life agents, CAFII encourages New Brunswick to consider a grander and more progressive vision, ie. one which would include the introduction of an Incidental Sellers of Insurance regime – akin to the existing ISI regimes in Alberta and Saskatchewan – which would allow corporate entities to be issued Restricted Insurance Agent licences.

Conclusion

As our comments on the issues dealt with above indicate, CAFII believes that many of the Insurance Division's proposals for reforming the licensing framework for other-than-life agents and brokers have implications and possible merit for life agents. If, in future, you decide to consider similar changes for life agents, CAFII would welcome the opportunity to have consultation discussions with you on such changes.

CAFII appreciates the opportunity to comment on this important FCSC modernization initiative, and we look forward to continued communication and input on policy matters. We would be pleased to meet with Insurance Division representatives to discuss our feedback in more detail. Should you wish to arrange a meeting for that purpose, please contact Brendan Wycks, our Executive Director, at brendan.wycks@cafii.com or 647-218-8243.

Yours sincerely,



Jennifer Hines
CAFII Secretary and Chair, Executive Operations Committee

About CAFII

The Canadian Association of Financial Institutions in Insurance (CAFII) is a not-for-profit industry Association dedicated to the development of an open and flexible insurance marketplace. CAFII was established in 1997 to create a voice for financial institutions involved in selling insurance through a variety of distribution channels. CAFII members provide insurance through client contact centres, agents and brokers, travel agents, direct mail, branches of financial institutions, and the internet.

CAFII believes consumers are best served when they have meaningful choice in the purchase of insurance products and services.

CAFII is currently the only Canadian Association with members involved in all major lines of personal insurance. CAFII's full members are the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Financial Security; National Bank Insurance; RBC Insurance; ScotiaLife Financial; and TD Insurance – along with major industry players American Express, Assurant Solutions, and Canadian Premier Life Insurance Company.

In addition, CAFII has 10 Associate members that support the role of financial institutions in insurance.

CAFII members offer travel, life, health, property and casualty, and creditor's group insurance. In particular, creditor's group insurance and travel insurance are the product lines of primary focus for CAFII as its members' common ground.

CAFII's diverse membership enables our Association to take a broad view of the regulatory regime governing the insurance marketplace. CAFII works with government and regulators (primarily provincial) to develop a legislative and regulatory framework for the insurance sector that helps ensure Canadian consumers get the insurance products that suit their needs. Our aim is to ensure appropriate standards are in place for the distribution and marketing of all insurance products and services.