

January 10, 2014

Mr. Scott Moore  
Deputy Superintendent of Financial Institutions - Insurance  
Financial Institutions Regulation Branch, Manitoba Finance  
1115-405 Broadway  
Winnipeg, MB R3C 3L6

Dear Mr. Moore:

The Canadian Association of Financial Institutions in Insurance is pleased to respond to your December 9, 2013 e-mail correspondence and provide our comments on the second draft of *Part 2, Restricted Insurance Agent Licences*, of Manitoba's *Insurance Agents and Adjusters Regulation*.

We commend the Financial Institutions Regulation Branch for the consultative approach taken in developing a restricted licensing regime for incidental sellers of insurance in Manitoba. We acknowledge that several of the recommendations contained in our July 5, 2013, submission on the first draft of the Regulation have been reflected in the new draft, and thank you for those amendments.

As you may recall, CAFII has had discussions and corresponded with both the Insurance Council and the Superintendent's Office about Manitoba's proposed Incidental Sellers of Insurance licensing regime on several occasions going back as far as 2010. We appreciate very much the opportunity for consultation and dialogue provided as you've progressed in development of the draft Regulation.

That said, there remain some significant issues of concern for CAFII members, as major incidental sellers of insurance across Canada, with respect to the draft Regulation, as follows:

- roster requirement;
- statement of number of persons to be transacting insurance on initial licence application;
- Superintendent's pre-licensing approval of some requirements; and
- definition of "incidental sellers of insurance."

With respect to these and other issues, we thank you for the clarifications you provided in telephone conversations with CAFII Executive Director Brendan Wycks in October and November 2013.

### **Roster Requirement**

Thank you for the reassurance you provided, over the phone, that incidental sellers applying for a restricted licence will not be required to submit a roster with their initial application, nor at the time of renewal. You indicated that instead, to achieve an appropriate level of consumer protection, Manitoba's intention is that restricted licensees must be in a position to make their roster information available upon request.

We therefore stress that the information requirement at the root of the proposed roster can be achieved without requiring an ongoing roster *per se*, as is currently done in Alberta and Saskatchewan.

The proposed roster requirement has been a central point of concern expressed by CAFII in every meeting our Association has had with Manitoba regulatory authorities and in every written submission we've made going back to before 2011, as illustrated by this excerpt (in italics) from our January 20, 2011 letter to the Insurance Council's Committee on Incidental Sales of Insurance:

*Clause (e) providing "a roster of all persons authorized by the agent to act in the transaction of an ISI product": In Saskatchewan, the roster concept is not applicable to Deposit-Taking Institution (DTI) licensees who file at the maximum tier. We recommend that Manitoba's ISI regime harmonize with Saskatchewan on this aspect of the roster requirement. A roster requirement is particularly problematic for DTIs employing large numbers of employees. Thousands of branch staff and call centre staff offer ISI products. As a result, such a requirement would place an enormous and unnecessary administrative burden on the DTIs as well as on regulators. It is important to reduce regulatory burden and red tape with which businesses must comply. Should the provincial regulator need information about a specific employee, this could be obtained by contacting the licensee's designate.*

In the Alberta and Saskatchewan ISI regimes, consumer protection is achieved through regulatory oversight of the restricted licence holder. The organization holding the licence is responsible and accountable for the actions of its employees. Each restricted licensee names a designated representative who acts as the primary liaison with regulatory authorities. When a consumer complaint arises, the regulator contacts the designated representative for the information it requires. It is important to note that while a roster requirement was present initially in the conceptual thinking for both the Alberta and Saskatchewan ISI regimes, it is not present in either today.

In Alberta, a roster was initially required. But early on, the Alberta Insurance Council discovered that a roster did not contribute to meeting its objectives of protecting consumers and supervising restricted licensees. The roster requirement was therefore abandoned in the early days of Alberta's ISI regime.

Saskatchewan dismissed the concept of a roster requirement before finalizing its ISI regulation.

The regulators in these provinces concluded that requiring the maintenance of a roster does not provide additional consumer protection; and the compliance burden and overhead requirements that it places upon both restricted licensees and regulators force a sub-optimal deployment of scarce resources.

To elaborate on the compliance burden for restricted licensees that we see in a roster requirement,

- this is a new unique requirement that doesn't exist in other jurisdictions. Therefore, companies may not have the systems in place to capture the information required. To implement this, IT, HR, and other systems changes will be required;
- the extensive details required for each person will make it difficult to maintain complete records; and
- fairly steady employee turnover in the roles involved (entry level positions which people leave for other jobs within the same company or other organizations) make it difficult to maintain a current record. Even diligent efforts on the best systems will not prevent a consistently out-of-date roster.

We strongly encourage Manitoba to reconsider the roster requirement. Given that the restricted licence holder will be responsible and accountable for the activities of its staff and those of any designated entities it uses, and given that the regime will also require each restricted licence holder to have a designated representative, it is unclear how a roster requirement will further protect consumers.

In terms of implementation, in the event that the roster requirement remains, insurers and licensees will require a substantial amount of lead time, up to 18 months, to put in place the necessary systems. If the roster requirement is removed, we believe the implementation timeframe can be shortened to six to 12 months.

### **Statement Of Number Of Persons To Be Transacting Insurance On Initial Licence Application**

Clause **26(2)(c)** provides that an application for a restricted insurance agent licence must be accompanied by a “statement of the number of persons who will be authorized to negotiate, solicit or transact insurance on behalf of the applicant when and if the licence is issued.”

To parallel the approach followed in the Alberta and Saskatchewan ISI regimes, CAFII strongly recommends that restricted licence applicants in Manitoba be required to provide a numerical range for the number of employees who will be authorized to transact insurance, rather than a precise number.

### **Superintendent’s Pre-Licensing Approval Of Some Requirements**

The draft Regulation includes two provisions that appear to require the Superintendent's pre-approval at the time of application. Thank you for the clarification, in phone conversations with Mr. Wycks, that neither is intended to create a pre-approval requirement.

In that connection, CAFII strongly recommends that you revisit subclause **26(2)(d)(ii)** and subsection **27(2)** with a view to amending the language to clarify that pre-approval by the Superintendent is not intended or expected. We note that given that its thrust is covered elsewhere under clause **30(1)(a)**, deletion of subclause **26(2)(d)(ii)** would be a quick and effective way to remove the possibly misleading reference to pre-approval by the Superintendent.

If for some reason you find that you are not in a position to clarify the language in the draft Regulation itself, CAFII would encourage you to provide the industry with a written interpretation that the Regulation is not intended to require the Superintendent's pre-approval under the above-noted provisions as a prerequisite to licensing, and that the documents referred to therein are to be provided to the Superintendent only upon request.

### **Definition Of “Incidental Sellers Of Insurance”**

Your December 9, 2013 transmittal letter confirms that you intend to proceed with using the stated definition of “incidental sellers of insurance” to identify participants in Manitoba’s ISI regime, which means that certain products will fall outside the regime.

In our July 5, 2013, submission, we highlighted that subsection **26(6)** of the draft Regulation, which references subsection **380.1** of the Act, seems to exclude personal accident insurance and personal travel insurance, as these products are generally not sold incidental to another product or service.

In addition, CAFII member employees don't "sell" coverage; rather, they "enrol" the client in the financial institution's plan. Enrolment is not addressed in either the Manitoba Insurance Act's definition of an ISI agent or in the draft Regulation.

We continue to recommend that Manitoba harmonize with Alberta and Saskatchewan by introducing a restricted licensing regime – particularly given that Part 2 of your draft Regulation is titled "Restricted Insurance Agent Licences" – which does not rely on defining incidental sellers of insurance. Such an approach would give your province the flexibility to include the products that are currently excluded. This remains an important issue for CAFII members which, in the interest of harmonization, we hope can be resolved in the near future.

In our July 5, 2013 submission, we suggested two possible approaches to removing the limitation created by defining "incidental seller of insurance" and we commend those to you for review and consideration.

In any event, you may also want to consider including definitions for "personal accident insurance" and "personal travel insurance" in the draft Regulation; in that connection, the definition found in section 15.1 of Saskatchewan's Regulation may provide a useful reference.

### **Closing Remarks**

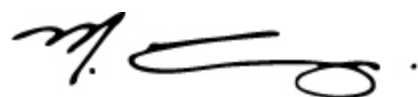
CAFII has long been a proponent of harmonization and consistency of rules across jurisdictions. We view the established licensing regimes for restricted insurance agents in Alberta (since 2000) and Saskatchewan (since 2010) as effective and efficient models for other provinces to follow. We therefore urge Manitoba to harmonize to the maximum degree possible with the ISI requirements in Alberta and Saskatchewan, which were similarly developed following thorough consultation with CAFII and other industry stakeholders.

We very much appreciate the changes made to the Manitoba draft Regulation following the initial round of industry consultation; the verbal clarifications that you have provided; and the opportunity to provide feedback on the second draft at this time.

That said, CAFII would like to meet with you to discuss our continuing concerns about the draft Regulation and our related feedback, before the Regulation advances to the next stage. We would be prepared to meet in-person in Winnipeg or by teleconference, as you prefer. Please contact Brendan Wycks, our Executive Director, at [brendan.wycks@cafii.com](mailto:brendan.wycks@cafii.com) or 647-218-8243 to arrange a mutually convenient meeting.

We look forward to continuing to work with you toward a practical, efficient and effective restricted insurance agent licence regime in Manitoba.

Yours sincerely,



Mark Cummings, Chair  
Canadian Association of Financial Institutions in Insurance

## ***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 banks – 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 across Canada. 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.