



**Independent Financial Brokers of Canada**

740-30 Eglinton Avenue West, Mississauga, ON L5R 3E7

June 19, 2018

FIA & CUIA Review  
Policy & Legislation Division  
Ministry of Finance  
PO Box 9470 Stn Prov Govt  
Victoria BC V8W 9V8

Submitted by email: [fiareview@gov.bc.ca](mailto:fiareview@gov.bc.ca).

**Subject: FIA & CUIA REVIEW – PRELIMINARY RECOMMENDATIONS - FINANCIAL INSTITUTIONS ACT & CREDIT UNION INCORPORATION ACT REVIEW SECOND PUBLIC CONSULTATION PAPER**

Independent Financial Brokers of Canada (IFB) submitted comments to the initial consultation paper, issued in 2015, and we are pleased to do so again.

IFB is a national, professional association representing approximately 3,500 licensed financial advisors. The majority of IFB members are life insurance licensed and many reside in BC. IFB supports its members, and the financial services industry more generally, by providing the professional tools advisors need. These include access to high quality online and in-person educational events, comprehensive professional liability insurance for individuals and firms, compliance resources and regulatory updates.

An important part of the work IFB does is to engage with government, regulatory bodies, industry stakeholders, and others to ensure access to independent financial advice remains a viable choice for consumers.

Our comments on the specific questions that are relevant to our members follow.

**OVERALL FRAMEWORK ISSUES**

Market Discipline

*Recommendation #10*

*Provide FICOM with clear authority to share information with the existing national insurance reporting database and/or the proposed new national market conduct database.*

IFB supports the ability of BC to share information and participate in the national insurance complaints reporting database. This would bring BC in line with all other jurisdictions and is important to ensuring an effective regulatory framework.

Financial Literacy

*Recommendation #17*

*Do not amend the legislation to require financial institutions to make investments in financial literacy.*

IFB supports the value of financial literacy and believes that industry and governments together can contribute to better awareness of financial matters for average Canadians. Having said that, we agree



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that financial institutions have made significant contributions to financial literacy and will continue to do so, and there is no need to require it through legislation.

#### *Recommendation #19*

*If necessary, clarify that financial institutions have the authority to report suspicions of financial abuse to a designated agency under the Adult Guardianship Act (AGA).*

This is an issue of concern for IFB members who are often at the forefront of identifying suspected cases of financial abuse. Advisors would welcome guidance on how they should best proceed to report such cases, including who they should report to. This is a serious problem that all those dealing with clients need to be well-informed about.

## **INSURANCE SECTOR**

### Insurance Retailing and Licensing Exemptions

#### *Recommendation #44:*

*Expand the restricted licensing regime currently applied to travel agencies to other incidental insurance sales, similar to the approach used in Alberta, Saskatchewan and Manitoba.*

IFB believes that anyone selling life/health insurance to the public should be properly licensed and subject to regulatory authority for the advice provided to consumers. Incidental insurance products have become more common place and more complex, which increases the risk of consumers purchasing insurance products they do not understand or are suitable.

Indeed, such scenarios were the basis of a CBC Go Public investigation and subsequently evidenced in the Financial Consumer Agency of Canada's *Review of Domestic Bank Retail Sales Practices*. The Review devoted an entire section to the weaknesses it found in both the underwriting process and selling of such products.<sup>1</sup>

In one of its Key findings, the FCAC stated:

**“Certain products, business practices and distribution channels present higher sales practices risk.**

The system of incentives and rewards is more developed than the controls to mitigate sales practices risk for mobile mortgage specialists, cross-selling, creditor insurance products and third party sellers”.<sup>2</sup>

While this example pertains to banks, as noted, there have been other cases of consumer harm.

We note that BC is proposing to introduce a restricted licensing regime, which will harmonize with that in place in Manitoba, Saskatchewan and Alberta. While IFB supports full licensing of all sellers of insurance, sellers of incidental insurance should, at a minimum, be subject to some form of licensing, regulatory oversight, proficiency standards and disclosure as licensed brokers. Consumers should have access to complaint mechanisms, and restricted agents should be required to carry E&O in addition to mandatory ongoing education.

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<sup>1</sup> Financial Consumer Agency of Canada, *Domestic Bank Retail Sales Practices Review*, March 2018. Pp13-15

<sup>2</sup> Ibid. page 2



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*Recommendation #45*

*Provide FICOM with the authority to issue guidelines requiring insurers to provide more direct oversight of exempt sellers and/or sellers under a restricted licensing regime.*

Per our comments above, IFB supports greater oversight of those operating under a restricted licensing regime and agrees with this Recommendation.

*Recommendation #46*

*Maintain the current regulatory oversight of the insurance activities of travel agents.*

IFB agrees that oversight should remain with the Insurance Council.

*Recommendation #47*

*Place restrictions on the sale of insurance products sold on a post-claims underwriting basis by exempt sellers and/or sellers under a restricted licensing regime.*

IFB agrees that consumers may be denied coverage for products when a post-claims underwriting process is used, and that this can result in negative consumer outcomes. Along with additional education (training) and more prominent disclosures to help inform consumers, IFB believes agents should carry liability insurance as an added consumer protection feature.

Consumer Protection

*Recommendation #48*

*Require insurers to treat consumer fairly; delegate authority to FICOM to develop a code of conduct for insurers and to develop rules based on the code.*

As is mentioned in the paper, CISRO and the CCIR are currently consulting on a guidance document on the conduct of insurance and fair treatment of customers. In Ontario, FSCO has introduced a separate Superintendent's guideline for consultation, outlining its expectations for treating consumers fairly.

IFB agrees that a national code of conduct would be preferable. Today, there is a CLHIA Code for member companies and individual insurers have their own codes of conduct which may not fully align with the current trend to entrench the fair treatment of consumers throughout the product's lifecycle.

*Recommendation #50*

*Do not require insurance agents/brokers to have membership in an ombudservice.*

IFB agrees with this recommendation. The requirement for agents/brokers to carry errors and omissions insurance provides consumers with a valuable and affordable recourse to monetary restitution in the event of a complaint. We note, however, that the policy provisions in professional liability plans are not consistent. These differences can lead to variations in coverage. Regulators may wish to consider whether gaps in coverage exist that may lead to reduced access for consumers

Regulation of Insurance Intermediaries

*Recommendation #54*

*Expand the number of Insurance Council members appointed by the LGIC from eleven to thirteen by adding two additional independent agent representatives.*



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IFB supports the addition of 2 independent life insurance agents. We agree that increasing the number of representatives of independent insurance agents will promote more effective and representative regulation of insurance intermediaries. Members of Council should be knowledgeable about the industry, and committed to the principles of good governance, fairness (for the public and regulated entities), transparency and be accountable (based on formal measurement criteria) both for their actions, and the actions of Council. Having various industry representatives will ensure Council receives balanced and informed input.

IFB would be pleased to work with Council on identifying potential candidates to fill the independent life insurance agent positions.

#### *Recommendation #55*

*Implement technical changes to Insurance Council tools and powers as identified by Council and Ministry of Finance staff.*

Re c): We are unclear what circumstances would warrant the need to “allow Council to assess investigation costs even where no other disciplinary action is warranted (any such investigative costs order would remain subject to appeal to the Financial Services Tribunal)”. We would like further clarification on this proposal.

Re d): IFB agrees that Council should be able to publish its decisions on its website. Such disclosure is an important consumer and industry protection tool. It is unclear which “other websites” Council decisions would be published on. We suggest this be limited to websites of other regulators.

#### Technology

##### *Recommendation #57*

*Draw on the CCIR’s recommendations to put in place a flexible legal framework that enables insurers to offer their products online while protecting consumers.*

We agree that there are some individuals who prefer to purchase products, including insurance, online. This provides flexibility and convenience for the purchaser, although s/he does so without advice. In line with the CCIR recommendations, purchasers of online insurance should be able to pause the transaction and receive advice from a properly licensed agents at any time. It must be clear to consumers that if they do not exercise this option that they are not receiving advice; however, access to complaint mechanisms are still available.

##### *Recommendation #58*

*Do not prohibit the promotion of insurance on credit union websites.*

IFB supports proposals that are in line with the Bank Act for credit unions. Therefore, we do not agree with this proposal.

#### Long-term Disability Plans

##### *Recommendation #59*

*Pending further consultation, require employee long-term disability (LTD) plans to be insured, with exemptions for certain employers with low risk of insolvency.*



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IFB agrees that employees can be at risk when the employer's LTD plan is not insured. IFB members help place group benefits plans with employers and would be able to contribute to this further in a future consultation. IFB can reach out to these members for input, when FICOM moves forward with this consultation.

#### Rebating

##### *Recommendation #60*

*Cap rebates at the lesser of 25 percent of the initial year's commission and 25 percent of the initial year's premium.*

IFB does not endorse rebating, irrespective of the amount or percentage. The life insurance market is very competitive and is no less so in the jurisdictions in Canada that prohibit rebating. Competition in pricing should focus on the price charged to the consumer for the product being sold, and its affordability, rather than a 'hand-back' of a premium. Most provinces do not permit rebating and we recommend that BC discontinue the practice as it has no sound consumer value.

##### *Recommendation #61*

*Continue to allow insurance licensees to make referral payments but require them to disclose the amount of any referral payment.*

Referrals are an important part of many insurance agents business and IFB is pleased that FICOM is not considering limiting this. At the same time, we agree that there is an increased focus on helping consumers understand the costs they incur when purchasing a product or receiving advice. In this respect, there may be circumstances where a referral fee is paid or received which does not affect a particular client's account. Where it does affect a particular client, IFB has no objection to the client being apprised of the amount of the payment. Many financial advisors are dual-licensed and this type of disclosure has become the norm since the introduction of CRM2. More details of this proposal will be needed for us to comment further. This may be an opportunity for the CCIR to consider a harmonized approach to such disclosures.

IFB appreciates the opportunity to provide our comments. Should you wish to discuss our comments further, or have questions, please contact the undersigned, or Susan Allemang, Director, Policy & Regulatory Affairs, (email: [sallemang@ifbc.ca](mailto:sallemang@ifbc.ca)).

Yours truly,

A handwritten signature in cursive script that reads 'Nancy Allan'.

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