

Insurance Councils of Saskatchewan

General Insurance Council ♦ Hail Insurance Council ♦ Life Insurance Council

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July 18, 2008

To: Letter to Stakeholders

From: Life Insurance Council of Saskatchewan

Topic: Proposed Regulation of Incidental Sale of Insurance "ISI"

In late April of 2007, the Supreme Court of Canada rendered a decision with respect to banks selling insurance. The Supreme Court confirmed that banks are subject to provincial law when it comes to insurance.

In December 2007, the Life Insurance Council of Saskatchewan ("Council") provided notice to banks and other organizations who are involved in the sale of any insurance product that is sold incidental to another product that it intends to regulate these 'ISI' insurance products and invited their comments.

To date Council has received feedback from a number of organizations and thanks them for taking the time to provide their thoughts on this subject.

The most consistent message delivered to Council was that the organizations preferred a national, harmonized approach to ISI regulation. In addition, Council was asked why it was planning to regulate ISI insurance in advance of the Canadian Council of Insurance Regulators ("CCIR") that is engaged in the process of conducting an ISI review.

Council is of the view that the CCIR Working Committee on ISI is in the process of reviewing a much broader set of issues including exclusions, restrictions and limitations written into policies. While Council might have waited for the completion of the CCIR review, it decided that delaying the regulatory process was not prudent or in the best interest of consumers.

The Saskatchewan Insurance Act requires that individuals who transact insurance in Saskatchewan must be licensed as agents. Given the clarity provided by Canada's highest court, Council needs to put a regulatory regime into place that reflects current provincial law.

With this in mind, Council suggested the following approach be used to regulate ISI insurance in Saskatchewan:

1) Develop a provincial regulatory approach that is closely modeled after the existing licensing regime in Alberta.

2) Give consideration to a national harmonized approach once a model is accepted by CCIR and recommended to all jurisdictions.

As such the proposed draft regulation which accompanies this communication is comparable to the regulations used in Alberta to govern ISI.

While Council used the Alberta regulations as a model there are certain provisions related to training, reporting and disclosure which are strengthened in the proposed Saskatchewan regulation.

Council would appreciate receiving your comment regarding the proposed regulation. Please submit your comments in writing by September 30, 2008.

Proposed Draft of Bylaw Regulating the Incidental Sale of Insurance

Issued July 18, 2008

LIFE INSURANCE COUNCIL OF SASKATCHEWAN

SCHEDULE A

PART I

Section 1. Interpretation

- (1) In this schedule:
- (a) "agency licence" means an agent licence granted to a person that uses a business name, or is a partnership or is a corporation;
 - (b) "designated licensee" means the person identified to council by the agency in an application or report to council;
 - (c) "licensee" means a holder of a licence issued by council;
 - (d) "isi product" means insurance that is incidental to and related solely to other goods or services but does not include services offered by an employer for their employees or by an association for their members and the employer or association is not being compensated for the offering of or the sale of insurance;
 - (e) "isi agency" means an agent licence granted to a person that uses a business name, or is a partnership or is a corporation that restricts the agency to transacting isi;
 - (f) "isi seller" means a person who without being required to hold an individual licence is authorized by an isi agency to act in transaction of isi;
 - (g) "management" includes direction and/or control of the operations of an insurance agency or an office location of an agency;
 - (h) "resident" means an individual who resides predominately in Saskatchewan;
 - (i) "supervision" means reasonable and prudent oversight of insurance transactions;
 - (j) "transaction" includes any act, advertisement, or other conduct that pertains to the offering of or the sale of insurance.

LIFE INSURANCE COUNCIL OF SASKATCHEWAN

SCHEDULE A

PART III

Section 1. Requirements for an ISI Agency Licence

- (1) A person applying for an isi agency licence must:
- (a) provide evidence that the agency is registered with the Corporations Branch of the Government of Saskatchewan;
 - (b) designate a person who is employed by the agency to be responsible for the overall management and supervision of the agency and its office locations;
 - (c) have reasonable written policies and procedures to ensure an isi seller is knowledgeable, competent and suitable with respect to the isi product being offered;
 - (d) have a training course and examination for isi sellers that have been approved by council;
 - (e) submit a roster of all persons authorized by the agency to act in the transaction of an isi product. The roster must show the full name of the person, the date the person was added and/or the date the person is deleted and the business location and address from which the person will be acting in the transaction of the isi product.

Section 2. Compliance Responsibilities of an ISI Agency

- (1) An isi agency must:
- (a) promptly notify council if the person designated as required by Section 1, subsection 1, clause (b) is no longer employed by the agency or is unable to discharge the responsibilities expected of the designated person;
 - (b) ensure the reasonable written policies and procedures required by Section 1, subsection 1, clause (c) are complied with;
 - (c) ensure that the training course and examination are kept current and are successfully completed by an isi seller before permitting them to participate in the transaction of isi products;
 - (d) ensure the roster specified in Section 1, subsection 1, clause (e) is current and provide a copy with the agency's annual licensing report;

- (2) An isi agency must not:
- (a) participate in the transaction of insurance products other than the isi product(s) authorized on the agency's licence;
 - (b) permit an isi seller to participate in the transaction of an isi product unless the isi seller is recorded on the roster specified in Section 1, subsection 1, clause (e) and has been sufficiently trained by having completed a training course and passed an examination approved by council that will ensure knowledgeable advice is provided to the consumer;
 - (c) permit an isi seller to tell the consumer that the consumer is required to purchase the isi product;
 - (d) permit any isi seller to advise the consumer that an isi product must be purchased from the agency or through an insurer specified by the agency.

Section 3. Obligations of an ISI Agency to Disclose Information

- (1) An agency must, prior to permitting an isi seller to complete an application for an isi product, ensure that the consumer receives written notice that:
- (a) the consumer is contracting with the insurer and not with the agency;
 - (b) the consumer is not obligated to purchase the isi product;
 - (c) sets out the terms, including limitations and restrictions of the isi product; and
 - (d) sets out the circumstances under which the isi product commences or terminates and the procedures to follow in making a claim.
- (2) In addition to the disclosure set out in Section 1, the following must be provided to the consumer:
- (a) where the insurance premium is included in the loan and is subject to interest charges, a separate comparison of the costs of borrowing with and without the insurance premiums; and or
 - (b) where the isi product may be post underwritten a separate written explanation of post underwriting including the importance of the health questions that are set out in the application and the implications if the health questions are not fully and accurately answered.

(3) An agency must, when an isi product is purchased, ensure that the consumer is sent an insurance policy, or in the case of a contract of group insurance, a certificate of insurance evidencing the isi product.

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Section 4. Requirements for Errors and Omissions Insurance

(1) An isi agency shall maintain and provide annually proof of a valid policy of errors and omissions insurance that meets the following requirements:

- (a) a minimum of \$1,000,000 coverage and a minimum of \$1,000,000 extended coverage for loss resulting from fraudulent or dishonest acts; and
- (b) be broad enough to cover the isi products which the licensee is licensed to sell as defined by The Saskatchewan Insurance Act.

(2) Failure by a licensee to immediately notify council in the event of a cancellation or non renewal of errors and omissions insurance is misconduct.