



CANADIAN BANKERS ASSOCIATION

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Ms. Carol Shevlin
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Dear Ms Shevlin:

I would like to thank you for the opportunity to provide the Canadian Bankers Association's views on the CCIR Industry Practices Review Committee's document *Managing Conflicts of Interest: A Consultation Paper on Enhancing and Harmonizing Best Practices*. The issue of conflicts of interest in insurance distribution first achieved wide attention with the publication, in April 2005, of the Autorité des Marchés Financiers (AMF) document *Commercial Practices in the Québec Damage Insurance Brokerage Sector*. Some of the concerns raised in that document dealt with issues of concentrated business lines (large brokers doing 80% of business with only 2 insurers), financial links between brokers and insurers (23% of large brokers having ownership ties with an insurer and consequently sending most business to that insurer), and methods of compensation. These findings prompted the CBA to write to the AMF in 2005 expressing our concern that customers who rely upon an insurance intermediary to shop the market, and who believe that is being done, might not always realize that such search is not taking place. Consequently their choices might have been unknowingly limited, to the detriment of the consumer.

We are pleased that the CCIR is responding to these concerns. The CCIR has taken a principle-based approach to regulation, rather than a more prescriptive approach and in this regard, the CBA is broadly supportive of the three principles that would guide the behaviour of insurance intermediaries, namely that:

- an intermediary must place the interests of policyholders and prospective purchasers of insurance ahead of his or her own interests,
- consumers must receive disclosure of any actual or potential conflict of interest that is associated with a transaction or recommendation, and
- the recommended product must be suitable for the needs of the consumer.

While each of these regulatory principles has merit in its own right, they collectively help to ensure that the overarching goal – that the best interests of the customer be served – is met.

Serving the best interests of the consumer is precisely what is accomplished by a well functioning marketplace that is characterized by a high degree of competition and a high degree

of consumer choice. The role of regulation should be to complement and enhance the benefits arising from competition in the marketplace, not to be a substitute for competition. In other words, regulation should only be contemplated when there is clear evidence that the market has failed to deliver the desired results – a market solution should always be considered first. The paper's comment that "If regulators' monitoring of the marketplace identify problems in the future that require additional action, further steps can be taken, including the development of more prescriptive rules." is somewhat worrisome, therefore. While it appears reasonable on the surface, it does not take into account the fact that the insurance marketplace is not permitted to function as effectively as it could because customers in the branches of deposit-taking institutions such as banks and most credit unions, are prohibited from obtaining information or referrals to insurance professionals outside the branch, even though the branch might be the best and most convenient location in which to provide that information and referral. More prescriptive regulations might be called for once the market has been allowed to function effectively and principle-based regulation is proven not to be effective in delivering adequate consumer protection.

Expanding consumer options by allowing them to access information where it is most appropriate and convenient for them, and giving them the ability to get a referral from a bank branch to a qualified insurance professional outside the branch not only benefits consumers who use this option, it benefits all consumers because it puts added pressure on all intermediaries to serve their customers well. Thus, while we appreciate the risk-based approach that the CCIR has chosen to take and embody in the three principles, we believe that both regulators and policy makers have paid insufficient attention to the market-based approach to serving customers' best interests.

Allowing the greatest degree of competition in the marketplace is the best way to serve the interests of consumers. In the past, as financial sector legislation was reformed, the banking sector entered new financial market segments (residential mortgages, mutual funds and securities sales) and introduced a new element of competition. Consumers clearly benefited through better service, lower prices and an expanded market. We anticipate a similar result if banks are allowed to better serve their customers' insurance needs.

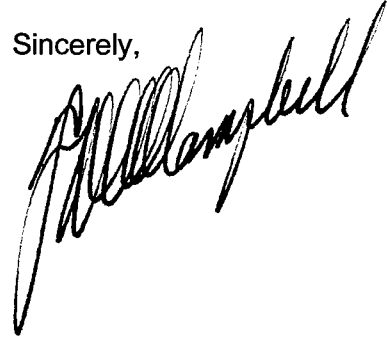
Moreover, an expansion of consumer choices in the bank branch would take place within an environment of a strong consumer protection regime, one in which the banking sector has been a leader. While banking customers are today protected by strong federal privacy legislation (PIPEDA), the banks have their own privacy policies that actually go beyond PIPEDA – those policies contain a blanket prohibition against the sharing of health information, for example. In addition, the banks' independent redress body, the Ombudsman for Banking Services and Investments (OBSI), has been held out by provincial regulators as a model that other financial services would do well to follow. OBSI provides full investigation of a complaint, dealing with all aspects of a customer's dealings with a bank, not only the product itself but also the manner in which it was distributed. Our code of conduct re authorized insurance products, which is overseen by the FCAC, contains provisions relating to training, disclosure, promotion practices and privacy, amongst others. Not only is it consistent with the principles outlined in the CCIR discussion paper, it goes further by specifically stating that banks shall not coerce a person to acquire creditor insurance and instructing bank employees to inform customers about the complaints handling mechanism that is available to them.

In summary, the CBA agrees with the broad principles espoused in the discussion paper. They are drawn from what have been identified as best practices in the industry and are consistent with the way in which bank financial groups operate. Indeed, I believe the banking sector is a leader in establishing a strong consumer protection regime. Having said this though, I would like to reiterate that efficient and effective regulation complements the working of a competitive marketplace. Unfortunately, the insurance consumer in Canada generally does not

enjoy the benefits of such a competitive marketplace, much to the detriment of that consumer. Addressing this restriction is an important aspect to ensuring that the customer's best interests are served.

Once again, I thank you for the opportunity to provide the CBA's comments on your discussion paper.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Campbell", written in a cursive style.