



Credit Union
Insurance
Services
Association

1441 Creekside Drive
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**THE CREDIT UNION INSURANCE SERVICES ASSOCIATION (CUISA)
RESPONSE TO**

**THE CANADIAN COUNCIL OF INSURANCE REGULATORS
AND
THE CANADIAN INSURANCE SERVICES REGULATORY
ORGANIZATIONS**

INDUSTRY PRACTICES REVIEW CONSULTATION PAPER JUNE 3, 2005

The Credit Union Insurance Services Association appreciates the opportunity to provide our comments regarding the fore-mentioned consultation paper.

ISSUE

U.S. Regulators and state governments have recently investigated and taken legal action against a number of insurers, brokerages and individuals, alleging fraudulent, coercive and dishonest practices in the sale of insurance products. Subsequently, The Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO) conducted a review of the relationship between insurers and insurance sales intermediaries, to determine if issues similar to those in the U.S. could arise in Canada, and to identify opportunities to enhance public confidence.

SUMMARY OF FINDINGS

The Insurance Practices Review Committee (IPRC), established by CCIR and CISRO, findings include the following:

General Findings:

- Most insurers have policies and procedures currently in place governing compensation
- No evidence of any illegal insurance related activity was found
- The IPRC believes some current business practices may contribute to a perception of/or actual conflicts of interest in the marketplace and that a reasonable, informed, third party may perceive a bias exists

CUISA RESPONSE

- CUIA agrees with points one and two above, however, we respectfully suggest the current BC model adequately addresses point number three
- The formal relationship between insurers and their intermediaries for the majority are established by contract. Compensation is clearly defined within the contract and governed by contract law
- Current BC guidelines, established by The Insurance Council of BC and The Financial Institutions Commission, are clearly working well. The client is presented with a disclosure statement prior to the sale and this document identifies the relationship between the insurer and the agent



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Specific Findings to P&C:

- The preferred delivery system in Canada is through a broker network
- Insurers have contracts in place with their brokers
- Greater than two-thirds of insurers offer contingent commissions to their brokers
- Minimal non-monetary incentives are used
- The majority of insurers have policies and procedures in place to mitigate conflicts of interest
- More than half of the insurers report having loans, ownerships and other financial relationships with their sales intermediaries

CUISA RESPONSE

- The current broker delivery system serves both the insuring public and the industry well
- The interest of the consumer at all times is the brokers' primary concern. Insurance is based on the principle of utmost good faith
- CUISA maintains contingent commissions are necessary in the current broker delivery system. If these commissions were removed, we doubt insurers would jump to increase the basic commission structure and we would predict a number of agencies would find it is no longer financially viable to operate. This could potentially lead to remote areas within the country without a local insurance agency to serve their needs
- With reference to the last point above, we suggest the current BC model of disclosure adequately serves the insuring public. The current BC disclosure requires the broker to disclose to the client, with whom they are placing the coverage with (insurer) and whether or not the insurer has any financial interest in the agency. CUISA does not feel it is necessary to disclose what the details of the interest may be. Advising the insuring public there is an interest, will prompt those individuals who may be concerned to ask further questions. We believe that the current BC model adequately serves both the public's need for information and the brokers need to operate their business responsibly

Specific Findings to L&H:

- The preferred delivery system is through career agents, managing general agents and brokers
- Insurers have standard contracts in place with their agents and brokers
- Sales incentives, including non-monetary incentives, are universally used
- All L&H insurers in Canada offer bonuses
- More than half the insurers report having loans or other similar financial relationships with their sales intermediaries
- The majority of insurers have policies and procedures in place to mitigate conflicts of interest



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CUISA RESPONSE

- The current delivery system serves the industry well
- Credit union L&H brokers currently provide their clients with a similar disclosure as the P&C broker
- Sales incentives such as contests for learning retreats or golf tournaments typically require a large amount of business to be placed in order to receive the incentive and therefore the broker with many insurers would typically not be in a position to direct enough business to the insurer. An agent with an exclusive relationship would perhaps be in the best position to receive this type of incentive. We would suggest that in such a case the consumer should be aware they are dealing with an agent and not a broker, by way of a similar disclosure statement mentioned above. However, even in this situation, the disclosure requirements should not be so restrictive as to require the minutia of the actual details of the relationship

POSSIBLE POLICY OPTIONS

The consultation paper outlines three possible policy options in an effort to reduce the opportunity for actual or possible conflicts of interest in the marketplace.

- Codify the priority of the client's interest in legislation or regulation
- Restrict performance-linked benefits by introducing legislation or regulation
- Enhance transparency of compensation, ownership and other financial interests by legislation or regulation. Develop best practices for disclosure in consultation with the insurance industry on a Canada-wide basis

CUISA RESPONSE

- As suggested on page nine of the consultation paper, an intermediary's duty and obligation towards the client is governed by the licensing requirement. The Insurance Council of BC publishes their code of conduct for all insurance agents within the province. Section 7 of this code, addresses dealing with clients.
 - Under **section 7.1 Principle** it reads "*Under the Code, a client includes anyone who might reasonably be expected, in the circumstances, to rely on your professional advice or actions in relation to his or her insurance. You are required to put the best interests of the client as your first concern, as befits the role of a fiduciary*"
 - It further clarifies this requirement under section **7.3.11 Duty of Care** "*The clients interests take priority over your interests and should not be sacrificed to the interests of others. You must not engage in practices that place the interests of others ahead of the client's interests*"



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CUISA's believes this adequately addresses the intermediary's fiduciary obligation. While we could support a similar requirement to be written into legislation or regulation, we feel this issue is currently addressed by the Insurance Council of B.C. Similar code of conducts may be in place across the country

- Restricting performance-linked benefits as we previously suggested, may potentially lead to remote areas within the country without a local insurance agency to serve their needs, as some agencies would no longer find it financially viable to remain. Principle-based legislation or regulation could potentially cause confusion as to what is and what is not allowed, while compliance-based legislation or regulation, may be too restrictive
- Enhancing transparency of compensation, ownership and other financial interests as suggested on page 11 and in the subsequent appendix 1, would undoubtedly be cumbersome in the course of the sales transaction. While we agree a disclosure statement serves the needs of the client, to what degree of disclosure is the real question. We would suggest the need of the client to know and the interest of the broker and insurer should be balanced. The suggested disclosure elements in Appendix 1 we believe would be of little interest to most clients. While the burden of the suggested enhanced disclosure elements would undoubtedly extend the time required to complete the transaction. We doubt most insured's would view this enhanced disclosure requirement as a benefit

The Credit Union Insurance Services Association (CUISA) applauds CCIR & CISRO for proactively consulting with industry stakeholders and we appreciate the opportunity to provide our comments above. We look forward to the next step in this process.

CUISA represents member insurance brokerages that are owned, controlled or affiliated with B.C. credit unions. Our members employ approximately 750 brokers at 162 locations across the province, and write approximately 20% of the property and casualty insurance in British Columbia.

Yours truly,

Lesley H.H. Maddison
Executive Director