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Dear Sir or Madam:

Re: Managing General Agencies (MGAs) Distribution Channel in the Life Insurance Industry

Thank you for the opportunity to comment on the position paper of the Canadian Council of Insurance Regulators (CCIR) entitled *The Managing General Agencies (MGAs) Distribution Channel in the Life Insurance Industry* (the Position Paper).

EXECUTIVE SUMMARY OF ADVOCIS' COMMENTS ON THE CCIR POSITION PAPER

I. OPENING COMMENTS

Advocis supports the CCIR's approach to risk-based, outcomes-focused regulation, as it is consistent with the fundamentals of principle-based regulation (PBR). The MGA field is an appropriate arena for enhanced PBR, given that its stakeholders generally share the same assumptions about appropriate behaviours and desired regulatory outcomes.

II. RESULTS OF CONSULTATION

1. Functions Outsourced to MGAs

Advocis strongly supports the Agencies Regulation Committee's (ARC's) recommendation for the adoption of the four Best Practices for insurer-MGA relationships. Advocis also encourages insurers and MGAs, when contracting with one another, to consider both the principles underlying and the relevant content of CLHIA Guideline G8, Screening Agents For Suitability and Reporting Unsuitable Agents*. Advocis believes that encouraging actors to adopt the principles contained in Guideline G8 is more consistent with principles-based regulation (PBR) than mandating the wholesale incorporation of the Guideline into contracts between private parties. In contrast to regulators relying on prescriptive rule-making, Advocis believes that it is preferable to encourage industry actors to adopt constantly improving industry best practices and observe guidelines based on foundational regulatory principles.*

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2. Supervision of Representatives

Again, Advocis strongly supports ARC's recommendation that CLHIA Guideline G8 be used as a point of reference for the creation of contracts between insurers and MGAs. Advocis agrees that it is not in the consumer's best interest to move to a one-to-one supervision model, as in the mutual funds industry. Advocis agrees with ARC that MGAs should report questionable acts by representatives to insurers with whom the representative has a contractual relationship or does business. MGAs should have a process for investigating questionable acts by representatives and a related process for keeping the insurer properly informed. Advocis would support the creation of a central database accessible by consumers, MGAs and insurers which would store information about a representative's qualifications, licensing, and disciplinary information of benefit to stakeholders, including the public. With regard to the supervision of advisors, and in the interest of enhanced public understanding, Advocis believes that advisors should disclose to consumers the nature of the MGA business model with which they are engaged. Finally, Advocis strongly supports the proposition that contracting insurers and MGAs draft their contracts in accordance with the principles informing CLHIA Guideline G8.

3. Managing Conflict of Interest Principles

Advocis continues to support the use of the CCIR Principles for Managing Conflicts of Interest *and similar industry codes of conduct. Advocis endorses the conclusion by ARC that an advisor should follow CLHIA Guideline G14:* Confirming Advisor Disclosure*. Advocis believes that proper disclosure by the advisor is both necessary and sufficient for consumers to decide if the product recommendations and advice they receive is objective enough to provide them with the degree of subjective "reassurance" they seek as individuals. Finally, Advocis would support ARC in attempting to determine in what manner, and how effectively, agents are discharging their obligations when providing advice on the suitability of a product.*

4. Role of MGAs in Sales Transactions and Handling of Consumer Complaints

Regarding complaint reporting, MGA-representative agreements should include the obligation for the advisor to report to their MGAs any complaints received. As well, insurers should expect MGAs to require agents to report client complaints and have a documented complaint-handling policy. Advisors should notify potentially affected parties – the insurer, the MGA, and their errors and omissions carrier – about complaints received. Finally, Advocis supports the adoption by stakeholders of ARC's Principle Three, which requires that the insurer-MGA contract clearly delineates the role MGAs have in notifying insurers and providing information to clients. Advocis believes, consistent with the flexibility and shared responsibility characteristic of PBR-focused jurisdictions, that there is a shared obligation on advisors, MGAs and insurers to report complaints.

5. Compliance with Privacy Legislation

Advocis agrees with ARC that no action is required on this front as existing privacy laws address this matter. Any breaches are subject to the jurisdiction of privacy commissioners. Of course, representatives are responsible for ensuring they comply with existing privacy legislation, as are MGAs and insurers. Advocis supports the adoption of ARC's proposed Principle Three, which envisions that the security and confidentiality policies adopted by an MGA be commensurate with those of the insurer and that notification requirements be in place

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in the event there is a breach of security.

6. Who is watching over MGAs?
In contrast to a rigid one-size-fits-all approach to deal with MGAs, Advocis supports the CCIR's existing flexibility-based approach, so that the various MGA business models may continue to flourish under principles-based regulation and fulfil a diverse set of consumer and advisor needs. Advocis understands that the CCIR's approach is feasible as long as regulators are properly informed in a timely manner. Advocis therefore supports ARC and the CCIR in helping regulators develop better systems of identifying and classifying MGAs.

III. ARC RECOMMENDATIONS
By way of reducing the jurisdictional impact of regional differences, Advocis supports the implementation of these recommendations.

Insurer Relationship with MGAs
Advocis supports ARC's goal of harmonizing best practices in the governance and management of MGA agreements by insurers. The principles underlying CLHIA G8 Guidelines should be considered when entering into insurer-MGA contracts. MGAs should be encouraged to follow these standards by way of contractual obligation. Advocis further submits that the CCIR should consider ways in which to ameliorate the compliance costs borne by MGAs and insurance companies of routine insurance company audits of MGAs by encouraging the use of standardized audit forms and the sharing, whenever possible, of audit results. Standardized auditing would benefit all MGAs and insurance companies by reducing the duplication of effort while enhancing clarity and consistency.

Agent Supervision
Advocis supports parties making recourse to the G8 principles of agent supervision when drafting insurer-MGA contracts. Agreements drafted in accordance with those principles and other industry-accepted practices are a primary goal of the regulation of MGAs.

Product Suitability
Advocis supports ARC's further recommendation that regulators be allowed to conduct onsite examinations to ensure companies are in adherence to CLHIA Guideline G8 principles. Regular market conduct reviews should be undertaken by regulators to determine if insurers and their agents are making suitable product recommendations and providing consumers with adequate information to make informed decisions.

Information needs of regulators
Advocis supports ARC's recommendations that regulators be able to access the information needed to better understand the MGAs licensed in their jurisdiction – in particular, their business models and their role in the distribution of life insurance products.

IV. BEST PRACTICES FOR INSURER-MGA RELATIONSHIPS
Principle One – A Clear Strategy
Principle Two – Thorough Due Diligence

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Principle Three – Well-defined Roles and Responsibilities
Principle Four – Active Oversight

Advocis believes that these principles (and the accompanying examples provided by ARC) are sufficiently flexible to provide life insurers with the ability to enter into a wide range of MGA arrangements. Accordingly, Advocis supports their adoption by MGAs and insurers as far as possible.

V. CONCLUDING COMMENTS
Advocis looks forward to assisting the CCIR in enhancing and harmonizing best practices in the MGA distribution channel.

Advocis: Who We Are

Advocis, The Financial Advisors Association of Canada, is the oldest and largest voluntary professional membership association of financial advisors in Canada. From our predecessor associations onwards, Advocis is proud to continue more than a century of uninterrupted history of serving Canadian financial advisors and their clients. Almost all Advocis members are dually licensed to sell life and health insurance and mutual funds and other securities. Many are the primarily owners and operators of their own small businesses that create thousands of jobs across Canada. With over 11,000 members organized in 40 chapters across Canada, and almost 6,200 in Ontario alone, Advocis serves the financial interests of millions of Canadians. Across Canada, no organization's members spend more time working one-on-one on financial matters with individual Canadians than us. Advocis advisors are committed to educating clients about financial issues that are directly relevant to them, their families and their future

As a voluntary organization, Advocis is committed to professionalism among financial advisors, which is why Advocis members are required to put their clients' interests first. More particularly, Advocis members promote advisor professionalism by:

- adhering to the Advocis *Code of Professional Conduct*;
- observing and upholding proven standards of best practice;
- maintaining appropriate errors and omissions insurance to protect consumers;
- obtaining professional designations supported by a comprehensive curriculum and rigorous standards, including Advocis' Chartered Life Underwriter® (CLU) and Certified Health Insurance Specialist™ (CHS), and educational support for the attainment of the Certified Financial Planner® (CFP) designation; and
- participating in an ongoing basis in mandatory continuing education programs.

In terms of this submission, we would note that the CCIR is a key regulatory body for the insurance industry, and so its priorities and activities directly affect a significant number of Advocis members. Our following specific comments of the CCIR's paper therefore reflect the priorities of Advocis' members and their clients. Indeed, Advocis members are

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a resource for insurance regulators and governments due to our long tradition of working cooperatively with regulatory stakeholders to ensure that consumers of financial services are adequately protected, have ample choice and access to professional financial advice, and that the financial advisory business continues to be an important part of Canada's economy. We are pleased to engage regulators such as the CCIR in meaningful dialogue and to work together to develop appropriate solutions to regulatory and consumer protection issues.

I. OPENING COMMENTS

Advocis supports the CCIR's willingness work with industry stakeholders to develop standards for MGAs so that market participants can know what is expected of them.[1] This process began when the Agencies Regulation Committee (ARC) released for public consultation in February 2011 an issues paper, entitled *Managing General Agencies Life Insurance Distribution Model* (the Issues Paper), which canvassed the following issues:

1. Functions Outsourced to MGAs,
2. Supervision of Representatives,
3. Managing Conflict of Interest Principles,
4. Role of MGAs in Sales Transactions and Handling of Consumer Complaints,
5. Compliance with Privacy Legislation, and
6. Who is watching over MGAs?[2]

These six topics remain the focus of the current Position Paper, and provide the basis for its "Issues Identified" text boxes, the four Recommendations, and the four Best Practices principles promulgated by ARC, all of which will be commented on below. For ease of reference, each item is commented on in the sequence in which it appeared in the Position Paper. Please note that throughout this document the terms "financial advisor" or "advisor" are used interchangeably with "agent" and "representative."

Principles-based regulation

In terms of the CCIR's risk-based, outcomes-focused approach to regulation, Advocis offers the following understanding of principles-based regulation (PBR), in order to better illustrate the comments submitted below. PBR involves a re-conception of the regulatory framework, from that of a one-to-one regulator-participant relationship with top-down direction and control, to that of a network of regulatory relationships informed by mutual trust, shared responsibilities and a commonality of interests. PBR is based on the assumption that regulated organizations will act in a manner leading to sanctioned outcomes *if* the regulatory principles are knowable in advance, comparatively relatively easy to adopt, complied with by competitors, and "bad" outcomes are not catastrophic to the financial industry as a whole – i.e., they do not result in unwarranted systemic risk.

[1] See the CCIR's adoption of the Risk-Based Market Conduct Regulation Committee's *"*Approach to Risk-based Market Conduct Regulation*"* (October 2008).
[2] CCIR Issues Paper, "Managing General Agencies Life Insurance Distribution Model" (February 2011), p. 2.

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Advocis believes that MGAs are a suitable target for PBR. MGAs occupy a unique role in the "regulatory field," one which can be used to great effect in a PBR regime: as an intermediary between the insurer and the advisor, an MGA has a special vantage point on the advisor's business relations with a number of companies and therefore can often be the first to detect troublesome patterns of conduct, which may require regulatory review, or simply necessitate further training for the advisor.

PBR: when to regulate

The core tenets that should guide regulatory action on the part of those regulators, trade associations, and professional bodies who are committed to PBR are:

- to act only in the case of market failure, information asymmetries or matters of consumer protection;
- to identify the problem through detailed consultation and analysis; and
- to employ PBR responses unless there is clear evidence that, absent a prescriptive policy response, harm will be done to the market or consumers.

PBR: how to regulate

Once the need to act in a PBR-style-of-manner has been recognized, the next question is *how* to act. In this regard, it should be noted that an effective regulatory regime based on PBR will typically exhibit the following characteristics:

- the creation and adoption of high-level standards and principles which operate at broader level of generality than prescriptive and narrowly conceived rules;
- a reliance on constant improvement and adoption of industry best practice standards and guidelines;
- a commitment to robust stakeholder participation in the design of those standards and principles;
- an acceptance of increased self-regulatory responsibility by senior management of the regulated participant organizations to implement the standards and principles promulgated;
- an acceptance of increased responsibility by trade associations and other stake-holding professional bodies in enforcing established, agreed-upon standards and best practices to fulfill in actuality the regulatory principles; and, ultimately,
- a focus on an outcomes-based approach, which is concerned more with whether a regulated participant reaches a particular outcome that is sanctioned by the promulgated standards and principles (e.g., such as the proper screening of advisors by MGAs) than whether the participant abides by narrowly conceived and universally applied rules (e.g., whether advisors met fulfill the

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appearance of having met the elements of a screening checklist administered by an MGA).

In order for a PBR-based regime to work to its full potential, market participants must be encouraged (and able) to embrace results-oriented principles in their own internal processes. This means that the PBR regulatory authority must tailor the principles to the organizational cultures and internal incentives of its regulated participants.

Under a functioning PBR regime, avoidance of a rule or policy by a regulated participant through a merely technical interpretation of a rule becomes nearly impossible. In this respect, PBR is "smarter" than a rules model of regulation because the regulated community has a greater interest and role to play in developing principles and ensuring that rogue industry participants are brought into line. In short, the regulation that is produced through PBR has a stronger market focus and is typically reflective of good business policy.

In the MGA field compliance has continued to evolve in a PBR-style manner. Awareness among advisors of their responsibilities to the consumer is quite high. The continuous improvement and adoption of best practices by advisors and MGAs to protect both their clients and their businesses is robust. The MGA as an organization provides a privileged level of oversight on its advisors under contract. For their part, MGAs and insurers work together to respond to potential concerns about advisor practices and conduct. Clearly, PBR is working.

II. RESULTS OF CONSULTATION

1. Functions Outsourced to MGAs

Advocis is pleased by the considerable consensus which emerged from submissions from all industry segments that the ultimate responsibility for tasks outsourced to MGAs rests with the insurer.

With regard to outsourcing to MGAs, the Position Paper listed the as identified issues worthy of comment:

Issues Identified

- There may be deficiencies in insurers' screening of MGAs prior to entering into an outsourcing arrangement.
- There may be deficiencies in insurers' ongoing monitoring and assessment of MGAs with whom they have contracts.
- Some existing insurer-MGA contracts may be too vague and generic so MGAs are not always certain of what are the insurer's expectations in respect of any function delegated.[3]

[3] CCIR Position Paper, "The Managing General Agencies (MGAs) Distribution Channel In The Life Insurance Industry" (May 2012) p. 6.

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Advocis' comment: Advocis strongly supports ARC's recommendation for the adoption of the four Best Practices for insurer-MGA relationships (briefly commented on below), and that, at a minimum, insurer-MGA contracts are properly informed by the foundational principles underlying CLHIA Guideline G8.

2. Supervision of Representatives

The supervision of the representative includes assessing agents' suitability prior to entering into a contract (i.e., screening) and supervising their ongoing conduct with consumers (i.e., monitoring). The results of ARC's request for comments on the February 2011 issues paper is an emergent consensus across the industry that oversight of individual agents is currently shared among parties. No single entity – insurer or MGA – holds a complete view of the totality of business dealings of an agent. That, broadly speaking, is the current state of affairs with regard to agent supervision.

The Guideline G8 and the responsibility to screen and monitor

Advocis is pleased by ARC's conclusion that "the prevailing view is that sharing of oversight does not diminish or otherwise alter the ultimate responsibility that an insurer has for the agents who represent it by selling its products."[4]

In this regard, Advocis notes that in Ontario, insurers have a legal responsibility to screen representatives for their suitability to carry on business as an agent, as well as to monitor their behaviour.[5] In other provinces, such as British Columbia, this is not stipulated in legislation or regulations, but is adhered to as a matter of sound business practice.

To help ensure a harmony of standards between provinces, the Canadian Life and Health Insurance Association (CLHIA) has issued CLHIA Guideline G8: *Screening Agents for Suitability and Reporting Unsuitable Agents.* ARC recommends that insurers who are members of CLHIA incorporate this Guideline into their policies and procedures.

In fact, ARC noted, in some jurisdictions there is:

> a legal obligation on insurers to establish and maintain a system reasonably designed to ensure that agents acting on their behalf are suitable to carry on business as an agent, and comply with the duties agents have under law. This applies regardless of the agent being a

[4] *Ibid.*, p. 8.

[5] See O. Reg. 347/04, s. 12 (1), (20 and (3): 12. (1) Every insurer that authorizes one or more agents to act on behalf of the insurer shall establish and maintain a system that is reasonably designed to ensure that each agent complies with the Act, the regulations and the agent's license. (2) The system referred to in subsection (1) must screen each agent for suitability to carry on business as an agent. (3) An insurer shall report to the Superintendent if it has reasonable grounds to believe that an agent who acts on behalf of the insurer is not suitable to carry on business as an agent.

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> career agent, or an independent contractor recruited by an MGA. Consequently, the insurer's compliance system must be tailored to include monitoring agents of all types and at all levels. However, not all jurisdictions provide for this legal obligation, which is where CLHIA Guideline G8 *Screening Agents for Suitability and Reporting Unsuitable Agents* comes into play.[6]

Accordingly, Advocis supports ARC's recommendation that CLHIA Guideline G8 be a starting point in the creation of contracts between insurers and MGAs, in the event that the particular jurisdiction in which the contract is being proposed does not provide for: (1) the legal responsibility to screen advisors for their suitability to carry on business as an agent and, (2) to monitor their behaviour.

Advocis would note here that an *explicit requirement* that the text of CLHIA Guideline G8 be incorporated on a wholesale basis into insurer-MGA contracts is inconsistent with the understanding of PBR laid out above, particularly with regard to the acceptance of increased self-regulatory responsibility by senior management of the regulated participant organizations to implement agreed-upon principles.

Advocis is also in agreement with ARC's finding that:

> Most stakeholders agreed that it is not in the consumer's best interest to move to a one-to-one supervision model. The consensus is that this would not add significantly to the protection provided consumers under the current model but would limit consumer choice by limiting access to the products of a variety of insurers.[7]

Reporting of misconduct

ARC also noted that there were divergent views on who should report advisor misconduct to regulators. The CLHIA and most insurers felt that insurers should be the ones responsible to report misconduct, *after* the insurer has investigated the matter. Conversely, those from the MGA/agent side suggested that MGAs and insurers should both report any misconduct to regulators. ARC concluded that if there is an obligation to report misconduct to the insurer under the MGA-insurer agreement, and an obligation for the insurer to report to the regulator, there is no need to have both parties report to the regulator the same unsuitable behavior. According to Guideline G8, the insurance company does not delegate regulatory reporting of unsuitable representatives.

Advocis agrees with ARC that MGAs should report questionable acts by representatives to insurers with which the representative has a contractual relationship, or does business with. MGAs should have a process for investigating questionable acts by representatives and should have a related process of keeping the insurer informed.

[6] Position Paper*, op. cit.*, p. 7.
[7] *Ibid.*, p. 8.

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However, Advocis also believes that all actors in the MGA field – advisors, insurers, MGAs, and consumers – have a shared obligation to report misconduct to the appropriate party or authority. Indeed, PBR, informed by the various actors' best practice standards and their industry or association codes of professional conduct, demands that the reporting obligation be conceived of as a multiplicity of obligations, with an actor that discovers a questionable act being obliged to report it in a proper and timely fashion.

Creation of a Canada-wide database

ARC noted that stakeholder submissions made pursuant to the Issues Paper also showed strong support for a centralized cross-Canada database for the documentation of misconduct. Such a database would assist insurers and MGAs in considering the suitability of new applicants for contracts. It would also help consumers make more informed decisions about their advisors. ARC noted that CCIR has formed its Disciplinary Information Committee to look into the feasibility of such a database.

Advocis is in agreement with this idea. In the case of misconduct involving a representative who is dually licensed, Advocis believes that misconduct in one sector (i.e., securities) should be reported to the other sector(s) (i.e., insurance) in which the representative is licensed. Simply put, Advocis supports the cross-sectoral sharing of information as a matter of consumer protection.

Advocis therefore would be pleased to support the creation of a central database which would store information about a representative's qualifications, licensing and pertinent disciplinary information of benefit to insurers, MGAs and consumers.

With regard to the supervision of advisors, the Position Paper listed the following issues:

Issues Identified

- Although insurers have statutory and other legal obligations (contract law, agency law, etc.) to supervise their agents, and regulators impose licensing requirements on agents, there seems to be a lack of understanding by the public of the
- safeguards in the system which has led to expressions of concern as to whether agents are receiving adequate and effective supervision.[8]
- When elements of agent supervision are outsourced to MGAs, the requirement to abide by CLHIA Guideline G-8 should be clearly set out in the MGA contract.[9]

[8] *Ibid,,* p. 9.
[9] *Ibid.*, p. 9.

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Advocis' comments: In the interest of enhanced public understanding, Advocis believes that advisors should disclose to consumers the nature of the MGA business model with regard to supervision of advisors. Such transparency can only work to the consumer's benefit.

Advocis would also like the CCIR to make available for review the evidence supporting the statement that "there *seems to be a lack of understanding by the public* of the safeguards in the system which has led to expressions of concern as to whether agents are receiving adequate and effective supervision" (emphasis added). With regard to the consumer's perspective on advisors, only a handful of anecdotal comments were provided to the CCIR in response to its February 2011 Issues Paper. In the main, these comments dealt with the elements of trust and professionalism, and not with consumer concerns over agent supervision *per se*: a representative example of this is the submitted comment that "discriminating consumers" are "genuinely confused as to how they can acquire the professional guidance they now understand they require and want to be able to trust."[10] Advocis would suggest that the public needs to be better educated on the available mechanisms most Canadian provinces have in place to enable consumers to determine if an advisor is licensed and therefore carries the appropriate errors and omissions insurance and, where required, has fulfilled mandatory continuing education requirements.

With regard to the second issue, Advocis strongly supports the proposition that CLHIA Guideline G8 should inform insurer-MGA contracts. Again, however, Advocis wishes to emphasize that it does not believe the wholesale importing of Guideline G8 into an insurer-MGA contract is consistent with the principles of PBR. Advocis' position is that the contracting parties, when drafting an agreement, should be *guided by* Guideline G8, and should *account for* in their contract the various eventualities contemplated within that Guideline which are applicable to their unique situation. But a requirement calling for the automatic incorporation of the entire text of the Guideline into a contract does not suggest to Advocis that the insurer and the MGA will necessarily fully review and make provision for the risks and problems unique to their one-to-one contracting situation. Turning the text of Guideline G8 into boilerplate text which will over time be unthinkingly taken for granted by the contracting parties may perversely cause more problems than it solves. Proper PBR demands a more rigorous and fact-specific coming to terms between the two parties.

3. Managing Conflict of Interest Principles

ARC sought clarity on the application of the *CCIR's Principles for Managing Conflicts of Interest* in light of the prevalence of MGAs as intermediaries in the distribution chain. Those principles are:

- Client's interests come first: Agents must put the interests of policyholders and purchasers ahead of their own;

[10] MGA Paper Submissions. "Stakeholder Submissions regarding Managing General Agencies Paper . (April 27, 2011), p. 13. Accessible at www.ccir-ccrra.org/en/init/agencies_reg/Complete _Package_MGA_Paper_Submissions_2011.pdf

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- Make clear any conflicts or potential conflicts of interest: Consumers must receive disclosure of any actual or potential conflict of interest that is associated with a transaction or recommendation; and
- Ensure products are the right fit: Products recommended must meet the needs of the consumer.[11]

With regard to conflicts of interest, The Position Paper offered the following issue for comment:

> **Issues Identified**
>
> - Although the CCIR Principles for Managing Conflicts of Interest form part of industry codes of conducts and are the responsibility of the insurance agent whether or not an MGA is involved, consumers seem to want additional reassurance that they are receiving competent product recommendations and advice that is free from conflict of interest.[12]

Advocis' comment: Advocis believes that proper disclosure by the advisor is both necessary and sufficient for consumers to decide if the product recommendations and advice they receive is objective enough to provide them with the degree of subjective "reassurance" they seek as individuals. However, Advocis would like to have the opportunity to review the evidence for ARC's conclusion that "*consumers seem to want additional reassurance* that they are receiving competent product recommendations and advice that is free from conflict of interest" (emphasis added). Based on the comments provided to the CCIR in response to its February 2011 Issues Paper, Advocis is unaware of any statistically significant portion of the public which holds the view that consumers "want additional reassurance" in this regard. Indeed, Advocis would like clarification on what is envisioned by the phrase "additional reassurance" for consumers. Advocis would reiterate that a vast amount of policies, requirements and legal documentation is currently in place to provide this reassurance, ranging from provincial insurance acts, insurer-MGA contracts, MGA disclosure documents, MGA compliance manuals, professional associations' codes of conduct, provincial insurance council requirements, and various needs analysis, disclosure and Know Your Client documentation.

Disclosure of commissions will not add to consumer protection

ARC noted that the general view is that these principles form part of industry codes of conduct and are the responsibility of the insurance agent. Stakeholders recognized that that commissions paid to MGAs by the insurer are not currently disclosed to consumers.

[11] Position Paper*, op. cit.*, p. 9.
[12] *Ibid.*, p. 11.

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ARC concluded that the consultation process did not result in evidence that such disclosure would add to consumer protection.

As noted in its comments on the February 2011 Issues Paper, Advocis believes that an advisor should always comply with the three principles for managing conflicts of interest. More particularly, two specific instances arise in the MGA context:

- If an MGA influences the recommendations of an advisors, it should be disclosed to the consumer; and
- If an MGA requires an advisor do a certain minimum percentage of business with it, or if any other compensation mechanism creates a potential or real conflict of interest, then this should be disclosed to the consumer.

Disclosure based on CLHIA Guideline G14: *Confirming Advisor Disclosure*
Advocis believes that an advisor should follow the principles of CLHIA Guideline G14: *Confirming Advisor Disclosure*, which sets out a uniform approach for companies to confirm that advisors make sufficient disclosure. It is worth noting that this level of disclosure is consistent with Advocis' own *Advisor Disclosure Reference Document*; among other things, this approach would mean that an application is not processed by the insurer unless it is "in good order" and includes the client's signature on the application form and the representative's signature on the representative's report. The representative's report serves to confirm that the representative has made appropriate disclosures to the client.

In sum, then, regarding complaint reporting, most MGA-representative agreements include the obligation for the advisor to report to their MGAs any complaints received. As well, insurers have the reasonable expectation that MGAs will require their agents to report client complaints or have a documented complaint-handling policy. Advisors will notify potentially affected parties – the insurer and MGA – and their errors and omissions carrier – about complaints received. All of this is consistent with the mutuality of interest that characterizes and effective PBR regime.

Suitability of product recommendations
ARC found an absence of understanding in the marketplace about the specific obligations of an advisor when providing advice on the suitability of a product. However, Advocis would note that there is a body of case law on the standards expected of advisors in terms of assessing a client's needs and requirements; moreover, industry association codes, insurance council by-laws and codes of ethics do require that advisors first obtain information about a client's needs and only then make recommendations as to what would constitute appropriate insurance coverage.

Nevertheless, cases of unsuitable advice resulting in loss to consumers do occur and receive a good deal of media coverage. This has led ARC to conclude "that it is appropriate for regulators to confirm in what manner, and how effectively, agents are

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discharging this obligation."[13] Given our support of evidence-based policy research, Advocis would be pleased to assist ARC and the CCIR in reaching a determination on the manner and effectiveness of the discharge by advisors of this obligation.

4. Role of MGAs in Sales Transactions and Handling of Consumer Complaints

In sum, ARC found that regarding complaint reporting, most MGA-representative agreements seem to include the obligation for the advisor to report to their MGAs any complaints received. As well, insurers expect MGAs to require agents to report client complaints or have a documented complaint handling policy. Advisors will notify potentially affected parties – the insurer and MGA – and their errors and omissions carrier – about complaints received.

As noted above, Advocis believes that all actors in the MGA field – advisors, insurers, MGAs, and consumers – have a shared obligation to report misconduct to the appropriate party or authority. Indeed, PBR, informed by the various actors' best practice standards and their industry or association codes of professional conduct, demands that the reporting obligation be conceived of in a flexible multi-party manner in which parties share information and responsibility.

That said, Advocis in general supports the interpretations made by ARC on its research into this issue, as well as the resulting principles-based guidance ARC offers, which Advocis sees as in line with its own position on the typical process of complaints handling, which is set out below.

Consumer complaint against an MGA
If a mistake is made by the MGA and a client complains, the client will often first approach the advisor, since the client has a relationship with the advisor and is the client's point of contact. The insurer would also be known to the client and the client may choose to contact the insurer directly.

Consumer complaint against an insurer
If the advisor receives a complaint from a client about the insurer, the advisor will advise the client to contact the insurance company as each company will have a procedure to deal with a consumer complaint. The advisor will assist the client in the process if the advisor determines that the client has a legitimate complaint. If the advisor determines that the complaint is not legitimate, the advisor will explain to the client what process the client must follow in order to proceed with his or her complaint.

Role of the advisor regarding complaints
The advisor will also notify the MGA and insurer of any complaint regarding the advisor, the MGA or the insurer that the advisor directly receives from the client. In addition, the advisor has a contractual obligation through its errors and omissions policy to notify its

[13] *Ibid.*, p. 10.

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errors and omissions carrier. The advisor, therefore, notifies *all* relevant parties regarding any complaint that the advisor directly receives from the client.

The impact of the MGA is consumer-neutral

As noted, Advocis is in agreement with the conclusions reached by ARC regarding the role of MGAs in handling consumer complaints:

> There was consensus that the involvement of MGAs does not in itself create any additional issues in this area – the issues arise because of the independence of agents. Most agree that the presence or absence of an MGA has no bearing on a consumer's ability to report transactional errors. If transactional mistakes are made, consumers would contact the representative with whom they have a relationship first, then the insurer.[14]

With regard to complaint handling, ARC's proposed Principle Three offers specific guidance.

ARC's Principle Three: An obligation on MGAs to notify insurers and provide information to clients

Life insurance companies are expected to address all issues relevant to managing the risks associated with the use of MGAs to the extent feasible and reasonable, given the circumstances, and having regard to the interests of the policyholders. Accordingly, ARC notes that MGA arrangements should be documented by a written agreement that creates well-defined roles and responsibilities. With regard to complaints, the Position Paper's proposed "Principle Three: Well-defined Roles and Responsibilities," states the following:

- *Complaints*
  In the event of the MGA receiving a complaint which is in any way connected to the services provided to the insurer, the agreement should require the MGA to immediately notify the insurer and provide information on the complaint. In addition, the agreement should require the MGA to inform the complainant of the insurer's complaint resolution process and how to [proceed].[15]

Advocis believes that this reporting obligation essentially already applies to MGAs and that, while MGAs should be encouraged to incorporate this reporting obligation into their contracts, mandating it as a contracting term is both superfluous and contrary to the principles of PBR.

Expansion of the OLHI system?

ARC noted that there was no agreement that the OmbudService for Life & Health Insurance (OLHI) system should be expanded to cover complaints against

[14] *Ibid.*, p. 10.
[15] *Ibid.*, p. 20.

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representatives and MGAs. The general view is that complaints against representatives should be taken to the appropriate regulator as it has jurisdiction in these matters. CCIR will follow-up with the Dispute Resolution Committee of the Joint Forum of Financial Market Regulators, who first raised this issue, as to the results of this consultation. Advocis would welcome discussions concerning improvements to the complaint resolution process including the appropriate scope and mandate of the OLHI.

5. Compliance with Privacy Legislation

Client information collected by an advisor flows through the MGA on its way to the insurer. Insurers may also be disclosing personal information of customers to MGAs to process on their behalf. ARC notes that it is unclear whether MGAs are directly retaining client records containing personal information, or retaining client records on behalf of the insurer or the agent who obtained the client's consent.

Advocis is in agreement with ARC's conclusion that no action is required as privacy laws address this matter and any breaches are subject to the jurisdiction of privacy commissioners. Representatives are responsible for ensuring they comply with existing privacy legislation, as are MGAs and insurers. Once again, ARC's proposed Principle Three is relevant here.

ARC's proposed Principle Three: contracting for confidentiality
As noted earlier, ARC's Principle Three recommends that an MGA's arrangement regarding confidentiality and security of client information be documented in a written agreement that addresses all elements of the arrangement. The agreement should be reviewed by the insurer's legal counsel. In terms of confidentiality and security, ARC states that:

> At a minimum, the agreement is expected to set out the insurer's requirements for confidentiality and security. Ideally, the security and confidentiality policies adopted by the MGA would be commensurate with those of the insurer and should meet a reasonable standard in the circumstances. The agreement should establish notification requirements if there is a breach of security. The MGA is expected to be able to logically isolate the insurer's data, records, and items in process from those of other insurers at all times, including under adverse conditions.[16]

Advocis would only note that insurance applications contain provisions to obtain permission to allow third-parties such as MGAs to handle personal information. This occurs when advisors obtain consent from the client to provide information to the MGA either in the engagement letter or as part of the advisor disclosure process regarding third parties to whom the information will be disclosed in order to process an application for products and services. Advocis would be happy to work with the CCIR to ensure that

[16] *Ibid.*, p. 21.

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this is occurring in practice and/or to standardize this disclosure process, if the regulator deems it to be necessary.

6. Who is watching over MGAs?

This section deals with the main element of MGA oversight: regulators' supervision of MGAs. ARC noted that stakeholders confirmed that virtually all MGAs are currently licensed as life insurance agents because their principals write business themselves or because the MGA entity receives commission payments from insurers, thereby making provincial licensing legislation applicable. Such legislation was passed long before MGAs became a central part of the life distribution model, and so there is no specific licensing category for MGAs in any Canadian jurisdiction.

Adovics would note that to a very real extent, and as is consistent with PBR, the MGA field is largely self-policing. The vast majority of brokers, for example, would "vote with their feet" if an MGA was not conducting its affairs in a manner consistent with regulatory policy. MGA principals and advisors would not be able to obtain professional E&O insurance and third party MGA insurance if they demonstrated a pattern of inappropriate, incompetent, criminal or negligent behaviours. Moreover, existing legal or regulatory procedures and documentary requirements – including provincial insurance acts and regulations, Financial Transactions Reports Analysis Centre of Canada (FINTRAC) audits, insurer audits, insurer-MGA contracts, MGA disclosure documents, MGA compliance manuals, professional associations' codes of conduct, provincial insurance council requirements, engagement letters, and the various voluntary and mandated needs analysis, disclosure and Know Your Client documentation – all work to ensure that a strong, multi-party system of countervailing review pervades virtually every aspect of the MGA field.

The MGA field is therefore characterized by a multi-level approach to the monitoring of the overall business practices of its participants. Oversight is provided by the existing regulation pertaining to the licensing of advisors, especially with regard to desired behaviours in terms of product suitability and conduct which accords with the best interests of the consumer. And of course most jurisdictions require professional liability insurance and a continuing education credit requirement as conditions of agent licensing. Next is the due diligence undertaken by MGAs and insurers contracting with a new advisor, which provides another layer of oversight on that advisor's suitability and qualifications, and includes background checks, referencing, and confirmation of appropriate licensing and E & O insurance.

The final level of oversight is that of the professional association: for example, Advocis, The Institute for Advanced Financial Education (IAFE), the Conference for Advanced Life Underwriting (CALU), the Canadian Association of Independent Life Brokerage Agencies (CAILBA), and the Independent Financial Brokers of Canada (IFB) all have codes of ethical conduct to which association members are expected to adhere; in the

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case of Advocis and the IAFE, these include continuing education requirements and the obligation to act in the best interests of the client.

Advocis is pleased that ARC recognizes that there is a multiplicity of differing MGA business models and that the variegation of roles played by MGAs is seen by stakeholders and ARC as a positive. Advocis believes that PBR is best served by recognizing the flexibility of the MGA model, and accordingly agrees with ARC's endorsement that:

> [t]he industry in general does not favor a one-size-fits-all approach to deal with MGAs, but prefers the existing flexibility of various MGA business models to meet a diversified demand in the marketplace. ARC understands the benefits of a flexible approach regarding a variety of MGA business models, and believes this is feasible as long as regulators are informed.[17]

More specifically, ARC believes that to be able to monitor risks and effectively supervise in the marketplace, regulators must be informed about the business practices of their licensees. ARC gave the following examples of necessary licensee information:

- is the licensee licensed as an individual, a partnership or a corporation;
- is the licensee operating as a career agent or an independent agent;
- is the licensee associated to one or more MGAs and who those MGAs are;
- is the licensee an MGA itself, and if so, who are the insurers with whom it has agreements in place, and who are the agents?; or
- is the licensee an AGA, and if so, who are the MGAs with whom it has agreements in place?[18]

Advocis is in agreement with the concept of modifying the existing licensing framework to accommodate a mandated registry or reporting mechanism which would enable provincial regulators to access information ARC believes to be necessary for effective PBR. Minor amendments to current licensing documentation would be sufficient to enable the capture of relevant information (such as that contained in the bulleted points immediately above). Advocis would be pleased to be part of any discussion with ARC and other stakeholders to help ensure regulators have sufficient information to maintain an effective PBR-based MGA compliance regime.

In terms of issues identified in the regulation of MGAs, the Position Paper offered the following:

[17] *Ibid.*, p. 11.
[18] *Ibid.*, p. 12.

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Issues Identified

- Regulators need to be better informed not only about insurers and the MGAs with whom they contract – but also about who are the insurance agents licensed in a particular jurisdiction, what is their business model, and how many of these licensed agents are performing functions that fit the definition of an MGA.[19]

Advocis' comment: In order for a regulator to be able to identify and better understand the MGAs operating in its jurisdiction, it would be of considerable utility to require MGAs to be licensed or registered with the appropriate insurance regulator. Advocis is uncertain as to which jurisdictions within Canada are not at present able to readily identify the licensed agents *qua* agents operating within their purview. Advocis supports ACR and the CCIR in helping developing regulators develop better systems of identifying and classifying MGAs and identifying their principals and agents.

III. ARC RECOMMENDATIONS

In the Position Paper, ARC acknowledged that jurisdictional differences exist across Canada. By way of ameliorating the impact of these differences ARC therefore suggested that provinces considering implementing the recommendations below in a manner which accounts for, when necessary, any regional issues.

Recommendation 1: Insurer Relationship with MGAs. Insurers must have in place effective systems and controls whenever they use the services of an MGA.[20]

Advocis supports ARC's goal of harmonizing best practices in the governance and management of MGA agreements by insurers. The "Best Practices for Insurer-MGA Relationships" in Appendix 1 of the document is an excellent example of a regulator providing guidance in a way that supports PBR.

Insurer auditing of MGAs: costs of compliance
Many MGAs are currently engaged in routine yet resource-intense audits from multiple insurers, which results in a tremendous and inefficient duplication of information without yielding significantly enhanced consumer protection. Accordingly, Advocis strongly urges the adoption of a standardized form to be used in all insurer audits, with a special company-only section in the event that the auditing company needs production of certain specific information.

[19] *Ibid.*, p. 12.
[20] *Ibid.*, p. 13.

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At the risk of repetition, it is worth noting again that such insurer auditing is in addition to existing legal-regulatory procedural and documentary requirements – including provincial insurance acts and regulations, FINTRAC audits, insurer audits, insurer-MGA contracts, MGA disclosure documents, MGA compliance manuals, professional associations' codes of conduct, provincial insurance council requirements, engagement letters, and various mandatory and voluntary needs analysis, disclosure and Know Your Client documentation.

Advocis would like to suggest an expansion of the principle underpinning the CLHIA's reference document *Screening Agents For Suitability and Reporting Unsuitable Agents: CLHIA Standardized MGA Compliance Review Survey (re: Guideline G8*). This document was designed to provide a means for insurers to assess the controls which they have delegated to MGAs in terms of screening and other compliance tasks. By standardizing the documentation required of insurers conducting audits, a significant reduction of the compliance burden on both insurers and MGAs would be realized, and instead of a duplication of auditing efforts, the saved resources of the MGA's and the insurer's compliance staff could be used for other pressing compliance matters.

Proposed streamlining of insurer audits

It was noted in the earlier section of this submission that, in order for a PBR-based regime to work to its full potential, market participants must be encouraged (and able) to embrace results-oriented principles in their own internal processes. This means that the PBR regulatory authority must tailor the principles it seeks to implement to the organizational cultures and internal incentives of its regulated participants.

Standardized auditing would assist all MGAs and insurance companies by reducing the duplication of effort and enhancing clarity and consistency. The use of a standard MGA audit form in periodic auditing by a representative selection of the MGA's contracted insurers would result in the generation of sufficient information for the remainder of that MGA's contracted insurers. The total pool of insurers contracted with that MGA would, on a rotating basis, yield a list of insurers slated to conduct full audits. With the results of these full audits shared with all of an MGA's insurers, inefficiencies due to duplication of effort would be eliminated.

For example, a standardized insurance company audit form could be adopted which indicates that if two or more insurance companies have conducted an audit within the last six calendar months, and if there has been no material changes in how the MGA carries on business (e.g., location, principal(s), overall state of the financial statements), and no triggering event, such as a merger or a substantiated complaint to a relevant regulator, then the need for any further scheduled audits by additional insurance companies of the MGA within the next three months would be considered unnecessary.

The information produced in the last six months could be shared, as appropriate, with those other insurance companies requiring audits as part of their ongoing business

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practices. Obviously, in the event of a triggering action, such as a material change in how the MGA conducts its business, or a substantiated complaint by an insurer or other actor in the MGA field, this streamlined process of audit-sharing would be suspended and the current auditing regime would go back into effect.

The standardized insurer audit form would come with a special company-only section, in the event that a non-auditing company needs production of certain specific information. Each insurer which hasn't done a full audit in the time frame under review would therefore still remain free to do its own audit -- using the special company-only section – for any issues unique to it. This partial audit would be in complement to the shared contents of the MGA's other, fully completed audits.

If the sharing of audit statements among insurance companies is determined to pose too much risk in terms of privacy protection or exposure of business information or practices, then, as an alternative, the CCIR could recommend a model in which, after a company audit, any further audits scheduled within the next three months could be done with a pared-down or simplified audit form. Again, the result would be a lessening of the compliance burden on the MGA and its insurers, with cost savings ultimately passed on to the consumer.

In sum, the standardization of insurer audits of MGAs – and the elimination of unnecessary ones – would reduce unnecessary duplication of effort without sacrificing insurer confidence or impeding the overall monitoring and oversight of MGAs. Insures and MGAs would both share incentives to reach the same outcome, and their internal processes would be oriented toward attaining that outcome – a hallmark of effective PBR. The same regulatory outcome could be achieved with fewer resources – again, another hallmark of effective PBR. The result would benefit the key stakeholders: insurers, MGAs, regulators and consumers and bolster the business efficiency of the industry as a whole.

Recommendation 2: Agent Supervision. Insurers should incorporate the principles in CLHIA Guideline G8 – *Screening Agents for Suitability and Reporting Unsuitable Agents* into all of their business across Canada, including any contracts involving the outsourcing of these functions to an MGA.[21]

As noted earlier, Advocis supports the concept of Guideline G8 principles informing the drafting of MGA contracts. As well, Advocis supports ARC's further recommendation that regulators be allowed to conduct onsite examinations to ensure companies are in adherence with Guideline G8 principles, as is already the case with regulatory audits from FINTRAC and provincial insurance councils. However, for the reasons adduced above with regard to insurer audits, Advocis notes that the benefits from using standardized compliance audit forms and processes cannot be overstated. MGAs should not – and in fact, some cannot – readily accommodate the employment of a different

[21] *Ibid.*, p. 13.

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auditing process from each regulator (or insurer). Advocis therefore urges the CCIR to further explore possible streamlining of regulatory audits for MGAs.

Recommendation 3: Product Suitability. Regular market conduct reviews should be undertaken by regulators to determine if insurers and their agents are providing consumers with adequate information to make informed decisions, and suitable product recommendations.[22]

Given the ongoing and now increasing trends toward product complexity and product convergence, Advocis supports this recommendation. Advocis believes that advisors have an important role in ensuring consumers have access to products suitable for their needs and have the information required to make informed decisions. Advocis is participating in the Joint Forum's current product initiative, phase one of which involves a review of how insurance companies design new products and create marketing materials. Moreover, the Ontario Securities Commission has included in its draft Statement of Priorities a renewed focus on product suitability, especially with regard to how advisors recommend complex products to consumers.

Recommendation 4: Information needs of regulators. Regulators will develop options and an action plan to make sure that adequate information on life agents and MGAs is obtained in a timely manner.[23]

As noted above, to further enhance PBR, Advocis supports ARC's recommendations that regulators be able to access the information needed to understand the MGAs licensed in their jurisdiction – in particular their business models and their role in the distribution of life insurance products. Advocis would be pleased to consult with ARC or provincial regulators to help ensure regulators can effectively gather the necessary market intelligence.

Advocis would support the creation of a central database or registry to ensure regulator access to certain information on MGAs and advisors. In terms of a central facility for reporting and tracking substantiated complaints of advisor misconduct, Advocis submits the following comments:

- a national database for substantiated complaints and disciplinary measures would eliminate existing reporting gaps between sectors and jurisdictions and greatly improve the monitoring of advisors' and MGAs' business practices;
- to better reduce the risk of unwanted outcomes and increase consumer confidence, monitoring should be a shared effort and responsibility of all industry participants – regulators, insurers, MGAs and agencies;
- dually-licensed advisors should have their substantiated misconduct in one sector (e.g., securities) reported to other sectors in which the advisor is

[22] *Ibid.*, p. 14.
[23] *Ibid.*, p. 14.

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licensed (e.g., insurance), since cross-sectoral sharing of substantiated complaints and proven misconduct will only benefit consumers; and
- appropriate safeguards must be in place to ensure that shared reporting of misconduct *only* results in measured and appropriate punitive or disciplinary action being taken against the "bad actor."

IV. BEST PRACTICES FOR INSURER - MGA RELATIONSHIPS

ARC has helpfully identified four best practices Principles[24] for use by life insurers when in drafting contracts with MGAs and otherwise transacting business with them:

- Principle One – A Clear Strategy
  An insurer has a clear strategy for selecting, appointing and managing MGA arrangements as part of its overall distribution plan.

- Principle Two – Thorough Due Diligence
  An insurer carries out thorough due diligence of each MGA prior to entering into the arrangement to provide services.

- Principle Three – Well Defined Roles and Responsibilities
  An insurer has a written agreement in place with each MGA which clearly defines the conditions, scope and limits of contracted services

- Principle Four – Active Oversight
  An insurer proactively manages MGA contracts once in place to ensure compliance with contract conditions.

These principles, and the accompanying examples provided by ARC in the Position Paper, are sufficiently flexible to provide life insurers with the ability to enter into a wide range of MGA arrangements. Accordingly, Advocis believes that this four-part set of Best Practices be adopted by MGAs and insurers as far as possible, and that insurance regulators, where necessary, adjust their own PBR approaches to properly capture the deeper thinking underlying these principles.

V. CONCLUDING COMMENTS

We are pleased to provide the foregoing comments to you in response to the issues and questions raised in the Issues Paper. Advocis is committed to working with regulators and other stakeholders in order to ensure that an efficient and effective regulatory system is in place for the distribution of life insurance which protects consumers and enhances the efficiency of and Canadians' confidence in the our insurance marketplace. Moreover, Advocis looks forward to the assisting the CCIR in enhancing and harmonizing best practices in the MGA distribution channel. We would be pleased to

[24] *Ibid.*, p. 16.

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meet with you to further discuss our issues and concerns. Should you have any comments or questions you wish answered before any such meeting, please do not hesitate to contact the undersigned, or email Ed Skwarek at eskwarek@advocis.ca.

Sincerely,





Greg Pollock, M.Ed., LL.M., C.Dir., CFP
President and CEO, Advocis - The Financial Advisors Association of Canada
Sincerely,

Dean Owen, CLU, CH.F.C.
Chair, Advocis - The Financial Advisors Association of Canada

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June 29, 2012

The Canadian Council of Insurance Regulators
CCIR Secretariat
5160 Yonge Street, Box 85
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Toronto, Ontario M2N 6L9

CCIR Position Paper
The Managing General Agencies (MGAs) Distribution Channel in the Life Insurance Industry

CAFII has reviewed the CCIR's Agencies Regulation Committee (ARC) paper on MGA distribution of life insurance. CAFII has been following and supporting the consultations to date and congratulates the committee on its research and findings. We offer two comments for your consideration:

Outsourcing

We note from the paper that there was a consensus that core insurance functions (including claims handling) are not now and should never be delegated to MGAs. The reason behind this was noted in the paper that such delegation could "result in conflicts of interest and unequal treatment of customers" (page 5). CAFII would like to note that outsourcing of claims handling to parties other than MGAs is an accepted industry practice which provides companies with operational support alternatives and which is beneficial to consumers. While outsourcing to MGAs is not a current practice, existing outsourcing of claims handling to appropriate parties should be considered an acceptable practice to continue.

Information Needs of Regulators

Recommendation 4 notes the need for adequate information on life agents and MGAs. As you may know, the Alberta Insurance Council is proposing to develop a business number database to include important information on licensees which would include any disciplinary actions. This database is intended to have a unique business number for each licensee from all Canadian jurisdictions. CAFII supports a business database as it will provide important information when conducting background checks. As well, the standardization of licensee information will facilitate multijurisdictional licensing. CAFII recommends that the Alberta Council and the CCIR co-ordinate to develop one database that will serve regulators' and industry's needs.

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Once again, CAFII congratulates the CCIR on the MGA position paper. Please feel free to contact CAFII if you have any questions on the points raised.

Yours truly,



Cathy Honor, Chair
Canadian Association of Financial Institutions in Insurance

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June 26, 2012

Re: CAILBA Response to the release of CCIR Position Paper entitled *The Managing General Agencies (MGAs) Distribution Channel in the Life Insurance Industry*

Attention: CCIR Chair

Dear Sir/Madam:

I am pleased to provide you with our response to CCIR's May 2012 Position Paper entitled *The Managing General Agencies Distribution Channel in the Life Insurance Industry*.

We appreciate the effort ARC has placed in enhancing and harmonizing best practices in the MGA distribution channel. I hope our comments on the recommendations would be supportive in this regard.

We would be happy to discuss any of the matters in the Position Paper and our response in detail.

Sincerely,

Paul Brown

CAILBA President

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Canadian Association of Independent Life Brokerage Agencies

CAILBA Response to CCIR Position Paper on Managing General Agencies

ARC RECOMMENDATIONS

Insurer Relationship with MGAs

Recommendation 1: Insurers must have in place effective systems and controls whenever they use the services of an MGA

CAILBA Response: CAILBA acknowledges the need for the harmonization of best practices in agreements between MGAs and insurers that include risk-based systems and controls aimed at protecting consumers.

Agent Supervision

Recommendation 2: Insurers should incorporate the principles in CLHIA Guideline G8 - *Screening Agents for Suitability and Reporting Unsuitable Agents* into all of their business across Canada, including any contracts involving the outsourcing of these functions to an MGA.

CAILBA Response: CAILBA agrees with Recommendation 2 that insurers should adopt CLHIA G8 Guidelines across Canada that include formal rather than implied contractual obligations that are outsourced to MGAs. CAILBA also understands the need for Regulatory review of MGA practices. It is important to CAILBA members that a uniform protocol for conducting these reviews is adopted that is mindful of the continuity of the MGA business and minimizes business interruptions.

Product Suitability

Recommendation 3: Regular market conduct reviews should be undertaken by regulators to determine if insurers and their agents are providing consumers with adequate information to make informed decisions, and suitable product recommendations.

CAILBA Response: Unlike Insurers, MGA's are not in a position to oversee the suitability of product and concept sales. MGAs do not design products or concepts, nor do they always see the full extent of a producer's business with any insurer. MGAs can, however, identify anomalies or unusual patterns of business and report this information to insurers.

CAILBA
Canadian Association of Independent Life Brokerage Agencies

Information needs of regulators

Recommendation 4: Regulators will develop options and an action plan to make sure that adequate information on life agents and MGAs is obtained in a timely manner.

CAILBA Response: CAILBA members will support the Regulators in their efforts to gather market intelligence.

Best Practices For Insurer – MGA Relationships

CAILBA Response:

CAILBA agrees to support and assist Insurers in the design and implementation of each of the four core principles.

On June 12, 2012 CAILBA met with CLHIA, Advocis and IFB to begin discussions that included content comment discussions on the CCIR May 2012 Position Paper – *The Managing General Agencies (MGAs) Distribution Channel in the Life Insurance Industry.* Additional meeting have been booked for both September and December 2012. It is the intent of CAILBA to work with CLHIA, Advocis and IFB, on both a consultative and collaborative basis, with specific focus on each of the Four Principles of Best Practices for Insurers – MGA Relationships.

Canadian Life and Health Insurance Association Inc.

Association canadienne des compagnies d'assurances de personnes inc.

Frank Swedlove
President

June 28, 2012

CCIR Secretariat
5160 Yonge Street, Box 85
17th Floor
Toronto, Ontario M2N 6L9

Sent via e-mail: ccir-ccrra@fsco.gov.on.ca

Dear Madame or Sir,

I am pleased to provide you with our response to CCIR's May 2012 Position Paper, *The Managing General Agencies (MGAs) Distribution Channel in the Life Insurance Industry*.

As is noted in the Position Paper, industry initiatives over the past year have resulted in very positive movement towards addressing the matters covered in CCIR's 2011 issues paper about the MGA channel. The Position Paper states a desire for the industry to continue this work and identifies four key areas in which further attention is recommended.

Our response describes some of the initiatives that are already underway and how we plan to take the recommendations in the Position Paper into account as we proceed with next steps.

We look forward to a constructive dialogue between the industry and CCIR and would be happy to discuss any of the matters in the Position Paper and our response in more detail.

Yours sincerely,

Original signed by

Frank Swedlove

FS:241

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de personnes inc.

CLHIA Response to CCIR Position Paper

The Managing General Agencies Distribution Channel

in the Life Insurance Industry

June 2012

EXECUTIVE SUMMARY

CLHIA welcomes CCIR's Position Paper, *The Managing General Agencies (MGAs) Distribution Channel in the Life Insurance Industry,* and commends CCIR for its thoughtful and thorough study. The paper reinforces and complements industry efforts to increase standardization of industry practices within the MGA channel.

In this submission, we comment on CCIR's four recommendations and expand on industry initiatives intended to bring greater clarity and more robust guidance to roles and responsibilities in insurer-MGA relationships.

With respect to Recommendation 1 (that insurers have effective systems and controls in place for relationships with MGAs) and Recommendation 2 (that insurers incorporate the principles of Guideline G8, *Screening Agents for Suitability and Reporting Unsuitable Agents* into all their business across Canada, including MGAs), we note the role that the CLHIA Standardized MGA Compliance Review Survey and G8 already play in establishing a framework for insurer-MGA relationships, and comment on work that is underway to reinforce those standards and develop a set of overarching principles to describe how the framework is intended to operate.

With respect to Recommendation 3 (that regulators undertake regular market conduct reviews on the subject of consumer information and suitable product recommendations), CLHIA welcomes the opportunity to work with CCIR in this important area. A number of industry initiatives support CCIR's Principles for Managing Conflicts of Interest (which includes the principle of product suitability) and are described.

With respect to Recommendation 4 (that regulators develop an action plan to obtain greater information on life agents and MGAs), CLHIA welcomes the proposals to develop options for a database that would provide information about agents and MGAs.

CLHIA Response to CCIR Position Paper on Managing General Agencies

About CLHIA

Established in 1894, the Canadian Life and Health Insurance Association (CLHIA) is a voluntary trade association that represents the collective interests of its member life and health insurers. Its members account for 99 per cent of the life and health insurance in force in Canada and contribute to the financial well-being of millions of Canadians by providing a wide range of financial security products.

The industry protects more than 26 million Canadians, as well as over 45 million policyholders in other countries around the world, with products such as life, health and disability insurance as well as savings and lifetime income solutions, including Individual Variable Insurance Contracts and annuities.

In 2010, Canada's life and health insurers paid out $64.1 billion in payments to policyholders and beneficiaries.

Introduction

The Managing General Agency (MGA) channel emerged approximately 40 years ago when the industry began diversifying its distribution models. In the past decade, growth of the MGA channel has been extremely rapid so that it now accounts for over one-third of all new premiums. With MGAs established as a mature and important distribution channel, the consultations that CCIR has undertaken over the past couple of years and

the current Position Paper provide a valuable opportunity to better understand this channel and consider how greater standardization and clarity can be brought to its operations.

In 2011, CCIR released an issues paper that sought to gain a better understanding of the MGA channel and determine whether any industry practices within that channel create risks for consumers. In the 2012 Position Paper, the CCIR Agencies Regulation Committee did not find any consumer risks, noted industry initiatives to strengthen and standardize safeguards to ensure the integrity of the sales process and encouraged the industry to continue work in this area.

Since CLHIA responded to the 2011 consultation, several relevant developments have occurred. In April 2011, CLHIA launched a Standardized MGA Compliance Review Survey (CRS). This survey can be used by insurers to confirm that MGAs are carrying out compliance functions that have been delegated to them by insurers (e.g., screening agents for suitability) or are established by statutory requirements (e.g., AML/ATF and privacy requirements). Some companies began incorporating the survey into their on-going compliance monitoring programs in the spring. Use of the survey became more wide-spread following its official introduction to MGAs at CAILBA's Annual General Meeting in May 2011.

Also at its 2011 AGM, CAILBA launched a package of written policies and procedures and related reference materials to assist MGAs in formalizing and describing their

compliance monitoring systems. This package was developed in consultation with insurers and closely follows the questions in the CRS.

The CRS and the package of policies and procedures are working together to encourage a higher degree of standardization. With a view to building on this progress, CLHIA is looking at ways to provide a more robust account of insurer expectations and accepted industry practices. Among other things, this review will consider the relevant Insurance Core Principles described by the International Association of Insurance Supervisors as well as the issues and recommendations in the CCIR Position Paper.

CCIR Recommendation 1: Insurer Relations with MGAs

The CCIR Agencies Regulation Committee recommends that insurers have "effective systems and controls whenever they use the services of an MGA."

The objective of this recommendation is to encourage greater consistency among insurers in their governance and management practices as they relate to MGAs. The specific practices that CCIR contemplates are set out in Appendix 1 of the Position Paper. This appendix borrows heavily from OSFI Guideline B-10 *Outsourcing*[1] *of Business Activities, Functions and Processes*.

[1] It should be noted that 'outsourcing' has a meaning and context for income and commodity tax purposes that makes its general use problematic. While the term is defined broadly for the purposes of OSFI Guideline B-10, this use is not, and is not intended to be, determinative for tax purposes. To avoid any uncertainty, insurers refer to the business arrangement with an MGA as a contractual relationship in which certain functions may be expressly delegated by the insurer to the MGA. For this reason, where the term is used in this paper it will be put in double quotation marks.

This response will expand on industry initiatives in this area and briefly outline some of the future steps that are intended to build on what has already been accomplished. To establish some context for the work that has been done and is planned, it may be helpful to start with a more general discussion of corporate governance as it is implemented by life insurers.

OSFI uses a broad framework of guidelines to advise insurers (and other financial institutions) on a variety of matters generally related to effective corporate governance. A similar framework is provided by the AMF for Quebec-based insurers.

The responsibilities of the Board of Directors are described in OSFI's *Corporate Governance Guideline*. Among other things, the board is expected to take "an active role in the choice, review and approval of broad strategies, business objectives and plans" (p. 6). With respect to risks, it is expected to "have a general understanding of the types of risks to which the financial institution may be exposed and of the techniques used to measure and manage those risks" (p. 9, emphasis added). As noted above, the AMF also provides advice about the responsibilities of the board.

Consistent with this advice, boards of insurers establish high-level policies (e.g., on market conduct, fraud risk management, reputation risk management, compliance management and product pricing) that apply to all aspects of the business, including distribution. The board oversees high-level business strategies (they will be told what

distribution channels are being used for different products), reviews high-level risks and is informed of major problems relating to distribution. In turn, senior management has responsibility to develop, among other things, strategies and policies for specific distribution channels such as MGAs. The board needs to satisfy itself that senior management is carrying out these responsibilities but, except as noted above, it does not ordinarily become directly involved at the level of detail that would be required to approve strategies for specific channels.

To assist insurers in developing effective policies and procedures with respect to contracting with and monitoring agents, CLHIA Guideline G8 *Screening Agents for Suitability and Reporting Unsuitable Agents* sets out industry practices in the area of screening and on-going monitoring of agents for suitability. More specifically, it identifies the factors that an insurer should consider before deciding to enter into a contractual relationship with an agent (i.e., screening for suitability) and evidence insurers should look for on an on-going basis that the agent may not be suitable (i.e., monitoring). The CRS takes the advice in G8 and adapts it for use in the MGA channel.

The Agencies Regulation Committee notes with approval that, under CLHIA Guideline G8, insurers retain ultimate responsibility for ensuring that MGAs carry out compliance-related functions. In its own words, the Guideline states: "In situations where an insurer delegates a screening or monitoring function, the insurer retains responsibility. Accordingly, insurers who delegate screening or monitoring functions should take reasonable steps to ensure that the delegate is capable of carrying out these functions

and is, in fact, carrying out the functions." (G8, p. 2) The Guideline then sets out practices for initially screening agents and then monitoring their on-going suitability and reporting agents who are not suitable. In situations in which the insurer relies on the MGA to carry out these screening and monitoring duties, the CRS can be used by insurers to help them assess the extent to which MGAs have the relevant policies and procedures in place to carry out the functions. To the extent that failure to implement compliance-related practices creates risk for the insurer, use of the CRS is an effective means of assessing and managing this risk in the MGA channel.

The CRS provides insurers with a means of collecting information about MGA practices related not only to screening and monitoring agents, but also with respect to:

- managing conflicts of interest;
- anti-money laundering/anti-terrorist financing; and
- internal audit/independent review of compliance program.

The information collected in the CRS is directly related to the Principles 2 (due diligence), 3 (roles and responsibilities) and 4 (oversight) described in Appendix 1 of the Position Paper.

CLHIA member companies agreed last year to use the CRS with minimal modifications. There is a separate section at the end of the CRS that allows insurers to add a few company-specific questions. To date, insurers using this section typically add two or three questions.

Thus the CRS has the potential to be a driving force for a high degree of standardization within the industry. In the short-term, this consistency in approaches greatly facilitates the insurer's screening and monitoring by describing practices that have been found to be effective. Over the long-term, by using a common language to describe and discuss industry practices, it will be easier to identify best practices.

The CRS plays a significant role in establishing effective systems and controls, and work is underway to enhance the effectiveness of these systems in a couple of different ways. One is to develop overarching principles that apply to the insurer-MGA relationship: this relates directly to Principle 1 (strategy) in Appendix 1. The other, taking into account the recommendations in the four prinicples, is to expand on supporting documentation for the CRS that describes insurer expectations and industry practices.

CCIR Recommendation 2: Agent Supervision

The CCIR Agencies Regulation Committee recommends that insurers "incorporate the principles of CLHIA Guideline G8 … into all of their business across Canada, including any contracts involving the outsourcing of these functions to an MGA."

The rationale for this recommendation, as explained earlier in the discussion under Supervision of Representatives on page 7 of the Position Paper, is that Guideline G8

fills in the gaps created by variations in provincial and territorial statutory requirements related to compliance monitoring. Although the paper notes that insurers have general compliance obligations that arise under the law of agency as well as specific obligations established in statutory insurance law, it seems to imply that these obligations are not met consistently in all distribution channels.

Existing statutory requirements across Canada may actually produce more uniformity than the Position Paper seems to suggest. At a minimum, since all Insurance Acts prohibit insurers from paying commissions to unlicensed persons, insurers need to make sure that agents selling their products satisfy provincial and territorial licensing requirements.

With respect to the specific recommendation that the principles of G8 be incorporated into contracts between the insurer and the MGA, there are two ways to do this. One is to expressly state the principles in the contract. The other is to incorporate them by reference. Each is equally effective. The industry practice has been to incorporate these and other industry standards by reference in the contract.

Examples of the sort of contract clauses used by insurers to incorporate these principles include …

> "... to acquire and maintain all required licenses, permits, accreditations and certificates in order to sell [insurer's name] products in the jurisdictions where the

> MGA carries on business and operate its business in full compliance with all applicable laws, by-laws and regulations and all guidelines prescribed..."
>
> "...Acting at all times in conformity with all regulatory requirements and guidelines, including privacy and anti-money laundering legislation, the Code of Ethics contained in applicable provincial legislation, the [insurer's name] Distributor Code of Conduct, and in accordance with the professional guidelines as adopted by insurance regulators, or industry recognised professional organisations..."

The advantage of incorporation by reference is that it facilitates quicker and more wide-spread adoption of evolving practices. Reliance on express statements in contracts would result in much more inconsistency as individual companies made the necessary decisions to negotiate and amend contracts with all their MGA partners. In contrast, once an updated guideline goes into effect, the new practices described in the guideline are automatically implemented by all the contracts that reference the guideline.

CLHIA is working on ways to clarify the connections between these incorporation clauses in contracts and the relevant practices in Guideline G8 and the use of the CRS.

CCIR Recommendation 3: Product Suitability

The CCIR Agencies Regulation Committee recommends that regulators undertake "regular market conduct reviews … to determine if insurers and their agents are

providing consumers with adequate information to make informed decisions, and suitable product recommendations."

One of CCIR's three principles for managing conflicts of interest, adopted in 2007, is that the recommended product must be suitable to the needs of the client. The guidance of this principle has been helpful in developing industry practices related to effective consumer disclosure and needs-based selling, described below. CLHIA welcomes further collaboration with CCIR on this important matter.

Over the past several years, the industry has taken the lead on a number of initiatives intended to foster a better consumer understanding of its products and services and the public's underlying needs. Among other things, these various initiatives have addressed financial literacy, needs analysis, point of sale product disclosure and advisor disclosure.

At a company level, insurers are continually working to improve the effectiveness of their marketing materials and other information describing their products. Recently, for example, major strides have been made in the area of electronic technology that provides interactive programs that help consumers describe their circumstances and help identify their needs and products that might address these needs.

At an industry level, through CLHIA, insurers have, over recent years, developed or amended several CLHIA Guidelines describing the information consumers require to

make informed decisions. These include Guideline G2 *Individual Variable Insurance Contracts Relating to Segregated Funds*, Guideline G6 *Illustrations* and Guideline G15 *Guaranteed Withdrawal Benefit Illustrations*. These Guidelines have been further complemented by reference documents on such things as needs-based selling and replacement disclosure, aimed at advisors offering advice.

All CLHIA Guidelines and a number of its reference documents are developed in consultation with CCIR and individual regulators. CCIR has established a formal review process, led by the Standards of Practice Standing Committee, to review CLHIA Guidelines and provide comments.

CCIR Recommendation 4: Information Needs of Regulators

The CCIR Agencies Regulation Committee recommends that regulators "develop options and an action plan to make sure that adequate information on life agents and MGAs is obtained in a timely manner."

CCIR's 2011-2014 Strategic Plan calls for an intermediary registration and enforcement database as a means for promoting an efficient private sector marketplace. This initiative is enthusiastically supported by CLHIA as it would greatly streamline screening and monitoring of agents and increase the effectiveness of practices in these areas.

Most provinces now have a web-based system for verifying the licence status of individual agents. In most cases, however, their design does not provide a way to quickly identify licences that have been terminated or suspended. Nor do they provide insurers with a way to easily isolate just those agents with whom they have contracts. Insurers would welcome movement towards a next generation of databases that would address these shortcomings and bring together information from multiple jurisdictions. Further enhancements aimed at including more information along the lines suggested in the Position Paper would also be welcome. Our understanding is that, once developed, this database will become a resource to regulators, industry and consumers alike as they do their respective due diligence before licensing/contracting/working with advisors.

CLHIA is interested in proceeding quickly with the CCIR Agencies Regulation Committee and CISRO to identify the parameters for market intelligence required to assess risk in the marketplace and to develop options for gathering this information and making it accessible.

Conclusion

Three of the recommendations in the Position Paper relate to areas in which industry initiatives are already underway and, as the Agencies Regulation Committee notes, considerable progress has already been made. These are insurer relationships with MGAs, agent supervision and product suitability.

As work continues in these areas, CLHIA will look for ways to augment its Guidelines and other reference materials to more clearly describe roles and responsibilities within the MGA channel and encourage greater consistency in industry practices. The specific recommendations in the Position Paper will be carefully considered in this work. CCIR's consultations on the MGA channel in 2011 and 2012 have been very valuable in helping focus and direct industry initiatives so CLHIA looks forward to continued dialogue with CCIR as this work proceeds.

The fourth recommendation, information needs of regulators, relates to an initiative that CLHIA, on several occasions in the past, has encouraged regulators to pursue. For this reason, CLHIA would welcome detailed discussion with CCIR and CISRO at the earliest convenient time to develop options and an action plan to establish a national data base of licensed agents and agencies.

June 29, 2012

Madame Danielle Boulet
Chair, Canadian Council of Insurance Regulators (CCIR)
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Dear Ms. Boulet,

The Empire Life Insurance Company (*Empire Life*) welcomes this opportunity to provide input to the Canadian Council of Insurance Regulators (CCIR) on its position paper *The Managing General Agencies (MGAs) Distribution Channel in the Life Insurance Industry*.

In business since 1923, Empire Life helps Canadians build wealth and protect their financial security with competitive individual and group life and health insurance, investment and retirement products. The company's vision is to be the leading, independently-owned, Canadian financial services company committed to simplicity, being easy to do business with and having a personal touch.

You will have also received a submission from the Canadian Life and Health Insurance Association (CLHIA), of which Empire Life is an active member. Empire Life agrees with and supports the input that the CLHIA has presented to the CCIR. Given the importance of this issue, we felt compelled to share our insights as well.

Definition of an MGA

There are insurance companies that offer an MGA contract to one individual who may be a large producer, or to a small "producer group" of independent advisors who have no back office and no organized approach to AML/ATF or privacy issues. Any expectation that regulation or industry standards could be applied equally to a one-person operation on the same basis as to a "national" MGA with a presence across the country and a substantial infrastructure, would be misplaced.

We note that a definition of an MGA is not included in the position paper. For the CCIR and other industry stakeholders to develop industry standards so that all market participants know what is expected of them, stakeholders must, as a first step, agree upon a definition.

Insurer-MGA Contracts

The position paper states, "it was confirmed that many existing insurer-MGA contracts are too vague and generic, leaving MGAs uncertain of what the insurer's expectations are in respect of the functions delegated." Before looking at any kind of changes to MGA contracts, insurers need to know the nature of the vagueness the CCIR refers to.

...2

Active Oversight – MGA Review

The position paper states, "at least annually, the insurer should review each MGA to ascertain its ability to continue to deliver the service in the manner expected." If this implies that an annual onsite inspection is required, this recommendation is unlikely to be practical for either the insurer or the MGA as many MGAs have relationships with six or more insurers.

It is worth noting that diligence by insurers should be an ongoing, day-to-day process. It is part of the regular pattern of business to deal with market conduct and compliance issues, and in the course of those events, to participate in regular reviews around many of the issues raised in the position paper.

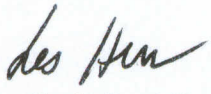
Standardization

The position paper found no evidence that the MGA channel, specifically, presents any consumer protection risks that would require a regulatory solution. We agree.

However, there is certainly room for standardization of the various elements outlined consisting of *a clear strategy* for selecting, appointing, and managing MGA arrangements as part of an overall distribution plan; *thorough due diligence* of each MGA prior to entering into the arrangement to provide services; *well defined roles and responsibilities* in place with each MGA outlining the conditions and scope of contracted services; and *active oversight* to ensure compliance with contract conditions. Most of these requirements already exist somewhere: within OSFI and provincial regulations, within CLHIA guidelines, within Advocis, Independent Financial Brokers (IFB), and Canadian Association of Independent Life Brokerage Agencies (CAILBA) guidelines, and within the insurer-MGA contracts themselves. Bringing greater clarity to these elements via industry standards is something that we support.

Empire Life appreciates the opportunity to provide the CCIR with our comments and looks forward to continued consultation between the CCIR and its stakeholders. Should you have any questions or require additional information, please do not hesitate to contact me at 613 548-1890 ext 3206 or via email at lherr@empire.ca.

Yours sincerely,



Leslie C. (Les) Herr
President & CEO

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June 29, 2012

CCIR Secretariat
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Sent via e-mail to: ccir-ccrra@fsco.gov.on.ca

Dear Ladies / Sirs:

HUB Financial Inc. welcomes the opportunity to provide additional feedback on CCIR insights to develop a risk-based approach to self regulation and improvement of industry ability to serve the public interests.

HUB Financial Inc. is an MGA with offices across the country and is licensed in most provinces. HUB represents independent brokers and Associate General Agencies (AGAs). HUB Financial is also a member of CAILBA and supportive of their initiatives and response to CCIR.

HUB is committed to ensuring our participation in the process to identify and assess potential risks to the consumer with focus on the policies and procedures needed to mitigate those risks. The development and administration of risk management programs that ensure brokers are in compliance with industry and regulatory programs has become increasingly important in today's environment.

Harmonized standards for code of conduct for all will help to provide the appropriate level of protection to the consumer. Our response to MGA Position Paper is included within our response.

Yours truly,
HUB Financial Inc.

Terri Di Florio
President

June 2012

HUB Financial Inc. - Response to CCIR Position Paper on Managing General Agencies

For consideration, following are additional comments to ARC recommendations document.

The MGA distribution model provides Brokers with access to a variety of Insurer products and value added services including; product training, comparison and support; administrative efficiencies pertaining to broker contracting, compensation, new business and inforce policies.

Regulations were implemented to outline and support the requirements and best practices with which a licensed representative will conduct business with clients and Insurers. Harmonized qualifications and standards for code of conduct for all insurance representatives will go a long way to provide the appropriate level of protection to the consumer. Compliance of these best practices is the critical first step in misconduct and fraud prevention.

Have the issues identified been significant and pose continued negative affects to consumers? We should be mindful of the costs (in time and money) spent in compliance of the mutual fund industry. This sector is heavily weighted by regulation and oversight measures which may not necessarily provide significant benefits to the consumers.

It behooves the industry to self regulate and adopt a risk based approach to reduce the number of instances involving breach of market conduct regulations and perceived risks to the consumer to avoid enforcement and oversight by a higher regulator. There is agreement to increase oversight by MGAs and Insurers to protect the best interests of consumers. The industry needs to impose balance and a positive measure of resources spent in compliance oversight to focus on benefits to the consumer.

Brokers are concerned that the implementation and intervention of a regulating body, like IIROC or MFDA, will result in new administrative fees and cuts to compensation due to additional costs attributed due to the technology and staffing requirements which would be required to meet regulator requirements.

Insurer Relationship with MGAs:

Best Practices for Insurer – MGA Relationships:
4 Core Principles:

1. A clear strategy
2. Thorough due diligence
3. Well defined roles & responsibilities
4. Active oversight

Many MGA Agreements were drafted and effective well before most MGAs became independent businesses and distribution partners to the Insurance Company. Former “mom and pop” Agencies have grown and consolidated to become larger organizations with multiple partners with varying business experiences and departments to manage the day to day activities of the Agency. Some Agreements are loosely worded and open to interpretation, allowing the Insurer to make the MGA responsible for provisions they would never have agreed to had the wording been clearer.

It seems prudent that MGAs and Insurers revisit existing MGA Agreements to harmonize the required activities and best practices of all MGAs. MGA Agreements should clearly define the roles and responsibilities of the MGA and detail unified requirements, expected performances, how requirements will be governed and measured for success.

Functions Outsourced to MGAs:

The functions downloaded by Insurers to MGAs need to be consistent in order for MGAs to implement appropriate procedures to meet expectations of monitoring by Insurers. MGAs must be able to implement and support the contracted services, including adequate human resources and policies and procedures to demonstrate effectiveness and meet performance measures. Standardization in the MGA Agreements must be equal amongst MGAs as should the ongoing assessment, oversight and compliance monitoring by the Insurer of the MGAs they have contracts with.

Agent Supervision:

CCIR and the regulators define the role and responsibilities of the MGA and Insurer and their respective obligations and accountability to the consumer. The Insurer has an obligation to ensure that agents selling its products are suitable. MGAs may contractually share this responsibility. The outsourced responsibility for suitability screening must be consistent amongst all MGAs as well as unified monitoring for all MGAs of these requirements.

The Broker is responsible for product suitability and the advice given to the consumer. There are expectations and fiduciary responsibilities of professional business men/women which offer their expertise to a consumer.

The Role of the MGA in Broker Supervision:

MGAs must appreciate that there is a responsibility to have prudent procedures and guidelines in place to provide some oversight of the insurance activities being conducted through their Agency. They must also ensure adherence to their procedures and oversight measures. It makes good business sense for MGAs to improve upon their internal compliance functions and controls to mitigate the risks of doing business with some brokers.

- § Initial and on-going screening measures: The MGA provides first level broker screening and has a responsibility to notify the Insurer when they become aware of any information that may affect broker suitability
- § Determining Broker education and experience: The MGA has a responsibility to make best efforts to ensure the brokers are qualified, competent and reliable
- § Verification of on-going licence and E&O
- Reporting to Regulator: All parties have a responsibility to report possible areas of misconduct. MGAs are required to report all issues or concerns that may affect broker suitability to Insurers (where broker contracts exist). Insurers are generally responsible to report misconduct to the regulators. MGAs have a responsibility to report directly to the regulator where no specific Insurer is involved.
- Termination: The MGA has a requirement to notify the Insurers of termination, although we may argue this requirement should the MGA simply stop doing business with a Broker due to low production.
- Misconduct & Client Complaints: The MGA must make appropriate notifications to Insurer of termination for cause, suspicion of misconduct and/or unsuitable behavior, possible or actual client complaints along with information to evidence the activities or complaints.

- Audit sales practices: It is a good business practice to audit Brokers adherence to industry best practices and codes of conduct.

Enforcement of Representative Misconduct:
Representatives are required to comply with industry standards of conduct. This is enforced by the provincial regulators. Some Regulators are slow in acting on reports of Broker misconduct and Brokers continue to conduct business while investigations are occurring without any alerts to the Insurers and MGAs with whom they are contracted.

Industry participants and consumers would benefit considerably from a central enforcement database which provides information pertaining to representative misconduct. This would allow consumers, Insurers and MGAs to assess and make their own judgment of broker suitability.

Managing Conflict of Interest Principles:
The three principles, including priority of client's interest, disclosure of conflicts of interest and product suitability, form part of industry codes of conducts and are the responsibility of the Broker. Putting responsibility for broker suitability solely in the hands of the MGA would not remove the perception of conflict of interest where it comes to recruiting as MGAs benefit financially from the sales made by its brokers.

The MGA can put increased checks and balances in place to provide oversight of broker business but cannot be held solely responsible for identifying and limiting the success for poor business practices. Insurer obligations issued to the MGA should be reasonable and consistent. MGAs and Insurers can easily adopt the CLHIA G8 Guidelines if they have not already done so. Insurers must provide alerts of past conduct concerns. Regulators must make market conduct concerns available to the Insurer and the MGA. The responsibility of product suitability remains with the representative and the Insurer.

Product Suitability:
The regulators have a duty to ensure that Brokers licensed in their jurisdictions are acting in the public's best interests. The responsibility of this duty is shared with the Insurer and outsourced to the MGA (where applicable). Although the sharing of oversight will likely increase the opportunity to identify misconduct and be enhanced with several parties involved, this will only occur where information is shared with all parties. Shared oversight and sharing of the information discovered can only serve to protect the consumer.

Role of the MGA in Sales Transactions and Consumer Complaints:
- Generally, the MGA is not present during the sales process between the representative and client.
- Presentation of product is the responsibility of the broker. The broker is required to demonstrate both the benefits and risks associated with the product.
- Some MGA contracts share the obligation of consumer complaint handling with the MGA. The MGA will obtain information from the broker but is not required to respond directly to the consumer unless the complaint is received by them directly.
- The Insurer will not always share the client complaint letter and details (due to privacy) with the MGA. Many who involve the MGA during their fact finding process, do not also share their response to the consumer.

- Complaints often speak to the suitability of the Broker and should be shared with the MGA. The MGA is entrusted with client confidential information at time of application. Why would the MGA not be entrusted with these details to allow them to identify possible suitability or market conduct concerns?

Managing Conflict of Interest Principles:
Ensuring products are the right fit and meet the needs of the consumer is the responsibility of the Broker. The Broker must obtain sufficient information about the client's needs to recommend appropriate insurance coverage. The MGA should take reasonable measures to ensure the Brokers are properly educated and equipped to address the client's needs.

A centralized national database will allow all parties, consumer, regulators, Insurers and MGAs to identify those parties who do not share the same commitment to service of the client's interest and reduce or remove their opportunities to inflict more harm by that party. Although we concur that there is no benefit to both an MGA and Insurer to report unsuitable behavior to the regulator, each party should be permitted to report if they have instances or behaviors not in common.

What are reasonable measures and systems to ensure that brokers comply with the laws? It is important to note that the delegation of supervision of a Broker to the MGA cannot remove the risk from Insurer. MGAs can help to reduce risk but are not present during Broker discussions with the client at the kitchen table. A reasonable measure of MGA accountability must be assumed. MGAs do not have crystal ball which allows them to identify when information has been misrepresented or omitted. Some activities may be identified by reviewing reports and trending or in our dealings with the Brokers. Any expectations that require the MGA to verify information with a client should be squashed or we may as well remove the Broker from the sales process and make the sale ourselves.

Information Needs of Regulators:
Although we are surprised at the proposal that the Broker may be required to report the names of all MGAs and Insurers they are contracted with to the Regulators, we would not be opposed to the requirement. It may be beneficial to include information on their business model in the same centralized database along with suitability concerns. Will this database come at a per Broker cost to Insurers and MGAs similar to the NRD database?

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June 30, 2012

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Submitted by email: ccir-ccrra@fsco.gov.on.ca

Dear Sirs and Mesdames:

Subject: The Managing General Agencies (MGAs) Distribution Channel in the Life Insurance Industry

Independent Financial Brokers of Canada (IFB) welcomes the opportunity to respond to the above-noted CCIR Position Paper. IFB has been an active contributor to earlier discussion papers issued by the CCIR on this topic.

We wish to note at the outset, that we applaud the consultative approach the CCIR has employed throughout its research, which has allowed all parties involved the opportunity to describe in greater detail their respective roles in the distribution of life insurance products to consumers and contribute to a better understanding of the issues involved.

Who we are...
IFB is a not for profit, national trade association representing licensed financial advisors for over 25 years. Our association is unique in that membership is available only to those who operate on an independent basis with the companies they are contracted with. This means they are self-employed individuals, often sole proprietors, who are contracted with multiple companies so they can offer clients products from more than one provider. IFB currently has approximately 4,000 members across Canada. The majority are licensed to provide life insurance products and advice and a great many are dual-licensed so they can also offer mutual funds. Many hold complementary licenses and designations as securities representatives, mortgage brokers, deposit brokers, financial planners, etc.

IFB supports the professional standards of its members and helps protect consumers by sponsoring a comprehensive errors and omissions program for individual brokers and corporate entities, promoting good business practices, industry updates and compliant behaviour through its quarterly newsletter, specialized communications and workshops, and providing various large

and smaller educational events where brokers can learn about industry trends, regulations and earn continuing education credits. IFB members must adhere to our Code of Ethics which has as its first priority, members must place the interests of the consumer above his or her own.

Our members share a common belief that they must have access to a distribution system that will support their ability to search for the product(s) most suitable to fit each client's individual needs. In this regard, we are pleased that the CCIR is not considering restricting brokers to place business through a single MGA. We have seen that supervisory model employed in the mutual fund industry – the result of which has been to put increasing pressure on smaller, independent dealers. As evidence, the MFDA regulated 220 dealers when it first accepted members in 2002. It now regulates only 123.

Our comments...
In general, we support the ARC's recommendations in this paper. In particular, we agree with the policy position that, regardless of how insurers choose to promote sales of their products, ultimately, insurers are responsible for how this process is managed, including the market conduct of their agents and brokers. We believe this is appropriate and provides the underpinning for the recommendations contained in this report.

Having said this, if insurers and MGAs adopt measures to strengthen their relationships, in response to the ARC's recommendations, it could result in pressure for independent brokers to place business with a single MGA. Smaller MGAs could be pushed out of the market, which could lead to market concentration or reduced competition. Ultimately, this is not in the best interests of consumers.

For example, our members have told us that often they use the services of multiple MGAs so they can source a policy from an insurer to meet a specific or unusual need of a client that is not more widely available. If brokers were restricted from conducting such independent searches, the client would be disadvantaged.

We are pleased that the CCIR has not seen the need to impose such restrictions. However, we caution that market forces may come into play in reaction to attempts to control perceived 'risk' and streamline relationships between insurers and MGAs which may negatively affect clients and independent brokers. Two situations come to mind. First, many older independent brokers are essentially retired or semi-retired. Despite doing little active business, they retain their life license in order to place occasional business with existing clients, or family members, and to receive renewal commissions from insurers. The second example was referred to above – the broker who needs to seek out a niche market product for a client who is difficult to insure. Our concern is that as efforts to reduce market risk and compliance take hold, being able to conduct these occasional transactions will become difficult or even obsolete. It is not unforeseeable that insurers and MGAs will not want the responsibility for oversight of these 'occasional' brokers and transactions. We believe this could have a negative influence in the marketplace.

The following are our comments on each of the 4 recommendations put forth in this paper.

Recommendation 1: Insurers must have in place effective systems and controls whenever they use the services of an MGA.

The CCIR has identified that the objective of this recommendation is to harmonize best practices for insurers to have in place when selecting an MGA and to manage oversight of the agreed upon services, as provided for in their MGA agreements. To achieve this, the ARC has identified 4 core principles that would provide effective systems and controls. They are, having in place:

1. a clear strategy as to how to incorporate MGA arrangements into the insurer's distribution plan;
2. a process to conduct thorough due diligence of the MGA prior to contracting with it;
3. a written agreement which clearly defines the roles and responsibilities of the services the insurer is contracting to the MGA; and
4. a process to proactively manage the MGA contracts to ensure ongoing compliance with the contract conditions.

We support the ARC's use of best practices and principles, rather than additional regulation. This is consistent with the risk based approach already adopted by regulators in the life insurance industry. A significant feature of such an approach is that it allows sufficient flexibility for insurers and MGAs to adapt how these principles can meet the requirements of their individual contracts, which may differ widely in the services covered in any particular arrangement, while remaining compliant. This flexibility is especially important for smaller, independent MGAs which we do not want to see driven out of the marketplace simply because they do not offer a full suite of services.

Recommendation 2: Insurers should incorporate the principles in CLHIA Guideline 8 – *Screening Agents for Suitability and Reporting Unsuitable Agents* into all of their business across Canada, including any contracts involving outsourcing of these functions to an MGA.

We agree that in order to ensure consistency across all jurisdictions it is important to make certain that consumers are protected against unsuitable agents. We have expressed our support in the past for a central registry to identify agents and brokers who have been disciplined and/or have had their license revoked. This is an important consumer protection tool and will assist MGAs and insurers conduct proper due diligence. We note that, as an interim measure, the CCIR has provided a link on its website to each provincial/ territorial regulator for this purpose. In our view, it is appropriate that company complaint statistics should also be publicly available as a further consumer protection tool.

Recommendation 3: Regular market conduct reviews should be undertaken by regulators to determine if insurers and their agents are providing consumers with adequate information to make informed decisions, and suitable product recommendations.

While we have no specific objection to this recommendation, we caution that often the process of determining a suitable product may be the result of a lengthy process or one in which the client takes a more active role in the decision to purchase or decline to purchase. Some of these factors

may not be readily apparent to a reviewer, but do not necessarily mean the product was unsuitable. In addition, life insurance products are generally long-term acquisitions, and it is realistic to suppose that a client's recall may fade overtime. In general, advice is a trust based business which may make the determination of product suitability more ambiguous.

Recommendation 4: Regulators will develop options and an action plan to make sure that adequate information on life agents and MGAs is obtained in a timely manner.

We agree that regulators should have a clear understanding of those individuals and companies they regulate and have access to timely market intelligence. We look forward to assisting in the development of these tools as this process moves forward.

This concludes our comments. Should you have any questions or require clarification on any of the above, please contact the undersigned.

Yours truly,



John Whaley
Executive Director
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July 13, 2012

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Re: Managing General Agencies in the Life Insurance Industry

Dear Ms. Boulet:

We are writing regarding the Position Paper published by the Canadian Council of Insurance Regulators (CCIR) in May 2012 with regard to Managing General Agencies (MGAs) in the Life Insurance Industry.

I.G. Insurance Services Inc. (IGIS) is a subsidiary of IGM Financial Inc. (IGM, which is a diversified financial services company and, through its subsidiaries, is one of Canada's largest asset managers and distributors of mutual funds and other products, with over $117 billion in assets under management as at May 31, 2012. IGM's subsidiaries include firms, including IGIS, that hold licenses that allow them to offer a range of insurance products across Canada.

The core of our business is providing comprehensive financial planning to people across Canada to help them reach their goals, particularly when it comes to their retirement. Advice is central to our activities.

We support the overall objectives underlying the Position Paper, which we see as being intended to establish principles that apply to the oversight of insurance agents and clarifying the division of responsibility between MGAs and insurers. However we do have comments on the Position Paper, which we would summarize as follows:

1. Variety of Models

As the insurance distribution industry has evolved in Canada a number of models have emerged. MGAs are a key one, but there are others that have an important role, most notably national accounts (National Accounts), such as I.G. Insurance Services Inc. These are firms that have distribution arrangements with one or more insurance manufacturers and may, at least in some jurisdictions that require licencing to perform this function, be registered as distributors. In turn, these National Accounts have insurance representatives associated with them who only sell the products authorized by the National Account. They also supervise all of the insurance related activities carried on by the representatives associated with them.

As is the case with I.G. Insurance Services Inc., National Accounts are often part of a larger financial planning organization, with insurance products forming a key part of the product offering, in conjunction with securities such as mutual funds. As such, these entities have integrated systems in place to address product suitability, anti money laundering and anti terrorist financing rules, privacy principles and other legislative requirements on an enterprise wide basis. In particular, these National Accounts have extensive and comprehensive compliance oversight processes in place to supervise the activities of representatives regardless of the specific product being recommended to clients. In this National Account model, insurance manufacturers often delegate the oversight function to the distributor, where the National Account has both the resources and expertise to carry out this function. This is a very effective oversight model since the National Account has access to the client's entire portfolio from a financial planning perspective and is able to apply uniform and consistent standards and expectations on a comprehensive basis, regardless of the specific product involved.

In developing any rules regarding the division of responsibility between insurers and MGAs regarding the supervision of agents, the management of conflicts of interest and privacy compliance, care should be taken to not subject National Accounts to a potentially duplicative and possibly inconsistent set of rules in these areas. While the requirements that the CCIR is contemplating must take a consistent approach between National Accounts and MGAs, we believe that any such rules must nonetheless recognize that National Accounts should be dealt with separately and distinctly.

2. Clarity Regarding Obligations

As the Position Paper notes, one of the characteristics of the insurance distribution industry is that agents may have relationships with multiple MGAs and multiple insurers. The supervision model proposed in the Position Paper, which contemplates that oversight responsibility remain with the insurer with aspects being delegated by contract to MGAs, has a potential weakness in that no single entity will have responsibility to oversee the activities of an agent on a comprehensive basis. The Position Paper notes that this approach differs from for example, the securities industry where a key aspect of the

control regime is the clear responsibility for supervision resting with one dealer. The position paper concludes that this should not present a practical problem. Given the evolution of the MGA structure in Canada, this may be the approach that best fits the way this part of the industry currently operates, but at the same time care will have to be given to ensure that there are no inherent gaps in the oversight model.

3. Differences Between Jurisdictions

One of the facts noted in the Position Paper is that the regulatory system in Canada varies from province to province. For example, in some provinces MGAs must be registered as dealers while in others they do not. In implementing the oversight model proposed in the Position Paper, regulators will have to ensure similar approaches in this area to avoid inconsistent requirements among jurisdictions, which is particularly problematic for national firms.

We appreciate this opportunity to offer our viewpoint regarding the proposed rules and guidelines. We would be happy to discuss any of these concerns with you at your convenience. In such a case, I would ask you to contact either me or David Cheop at (204)956-8444 or david.cheop@investorsgroup.com.

Sincerely yours,

I.G. INSURANCE SERVICES INC.



John Wiltshire
Chairman of the Board & President

2012

Response to CCIR Position Paper

The Managing General Agencies Distribution Channel in the Life Insurance Industry

Jun 13, 2012

Srivathsan K.M, Sundhararaajan S, & Prakash Kumar S.

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Disclaimer:

The views and opinions expressed in this document are those of the authors and do not necessarily represent the official policy or view of TATA Consultancy Services Limited.

Overview:

This document is in response to the CCIR position paper "The Managing General Agencies (MGA) Distribution Channel in the Life Insurance Industry"

We are placing our views based on our understanding of the insurance distribution channels across the world. We have taken a third person's view of the MGA channel and its functioning. The main objective of our comments is to ensure that comprehensive standards are set, to ensure that the customers' interests are protected and complete transparency is available in the operations of the MGA channel.

ARC Recommendations:

Insurer Relationship with MGAs

Recommendation 1: Insurers must have in place effective systems and controls whenever they use the services of an MGA

We feel that the regulator has to publish separate set of regulations to govern the MGA channel. The basic tenets, in strict adherence to which the channel must function must be specified. The scope of functions that can be entrusted to the MGAs like sales and distribution, underwriting, etc must be clearly defined by the regulator. We feel that the regulator must elaborate on the fiduciary responsibilities mandated for a MGA. We welcome the principles enunciated under best practices for insurer-MGA relationships. Regulator must also stipulate the key issues to be compulsorily covered in the Insurer-MGA binder agreement.

Since the activities performed by MGAs are different from that of an individual life insurance agent, there should be a different licensing condition for a MGA. As the primary duty of MGAs is to the insurers and they act on behalf of the insurers, they have to be treated as financial institutions and regulated based on specifically enumerated conditions. Considering the additional operational risk encountered, MGAs may be insisted to hold an increased errors and omissions insurance.

The regulator should stipulate and insist on mandatory compliance to conditions like

- the minimum capital requirements for MGA
- territory/model of operation vis-à-vis reporting/governance requirements

- the remuneration methods including factoring and other soft commissions payable by the insurers to MGAs/agents
- the maximum remuneration limits
- agent servicing/supervision activities
- transparency and disclosure requirements
- basis of the rates to be charged, etc.,

The disparity in the current territorial regulations with regard to MGAs should be analyzed and uniform regulation should be adopted. As the business model and activities of MGAs working for life & pensions (L&P), property & casualty (P&C) and reinsurance differ; we suggest that the regulator should take a holistic view and provide guidance for each line of business separately.

We feel that periodical review and audit of the tasks entrusted to the MGAs must be performed by the insurers. As MGAs are currently involved in recruiting and training agents, continuous professional development requirements may be specified and insisted for MGAs. MGAs may need to update themselves on the insurance products, processes and the governing regulations. Periodical learning requirements regarding the regulatory obligations of the MGAs may also be specified by the regulator.

Agent Supervision

Recommendation 2: Insurers should incorporate the principles in CLHIA Guideline G8 - *Screening Agents for Suitability and Reporting Unsuitable Agents* into all of their business across Canada, including any contracts involving the outsourcing of these functions to an MGA.

If MGAs are involved in recruitment of agents, they will have to put in place proper policies and procedures in accordance to the regulatory requirements to ensure that only qualified and competent persons are recruited as agents. Insurers and MGAs must collectively ensure that a representative is qualified and competent enough to sell a select product to the customer.

It is the bounden duty of both the insurer and MGA to ensure supervision of the agents. The prime ownership of supervision however must vest with the insurer who has to ensure that the writing/servicing agent is performing his/her role in the best interest of the customer. We feel that both

the insurers and MGAs will have to keep all the checks and balances in place to ensure that a proper supervision is achieved.

If any misconduct is observed, it has to be reported to the regulator either by the insurer or the MGA. However the primary ownership of reporting will vest with the insurer. The regulator must ensure that proper systems are in place to enable proper monitoring by the insurers and MGA. We support the demand to have a centralized cross-Canada database documenting misconduct. However more than just documenting misconduct, the data base should be a complete repository of all the MGA and agent related information including capturing the continuous professional development qualifications, product permissions and other necessary requirements. We suggest that the regulator should maintain a common portal with the details of MGAs and the agents associated with MGAs which can be referred by the relevant stakeholders. This will facilitate consistency of the information available to all the stakeholders.

While the MGAs may not have any direct contact with the customers, the obligations of the agents who route business through a MGA must be elucidated. It must be made imperative for the agents to disclose to the end customers if a sale is performed through a MGA and the reasons for routing a sale through the MGA. The agents must reveal to the customers if the sale is a biased. The agent shall be obligated to disclose to the customers, if they are to receive any additional remuneration either from insurer or the MGA for the sale. If there is a complaint from an agent or end customer about the market misconduct by the MGA, it must be the responsibility of the insurer to address it.

We suggest that an integrated grievance management system should be made available. Every insurer must be mandated to set-up a grievance management system which is integrated to the system of the regulator. The grievances that are not resolved by the insurers within a specific period of time must be automatically escalated to the regulator. The regulator should monitor the grievance management system and intervene either directly or through the ombudsman in case the grievances are not redressed within a stipulated period.

Product Suitability

Recommendation 3: Regular market conduct reviews should be undertaken by regulators to determine if insurers and their agents are providing consumers with adequate information to make informed decisions, and suitable product recommendations.

Ascertaining the product suitability is very critical to ensure that the end customer is not baited into a mis-sale due to the conflicting interest of an agent. Proper guidelines should be in place to govern the pre-sale and at-sale activities. It must be mandated that the agent must do a comprehensive portfolio and need analysis before suggesting a product to the customer. The insurer or MGA may equip the agent with modeling tools which can be used for portfolio analysis and product fitment. However distribution of the modeling tool must not become a cause for any agent bias towards one insurer. The regulator may even provide high level guidance on the information that has to be obtained from the customers for product suitability analysis and the algorithm that needs to be used.

In addition to the above, insurers may perform suitability assessment post the sale. Insurer may use their internal modeling tools to check the product fitment and communicate with the customer. The customers may be contacted to ascertain their objective, priority and preference for the investment and check if the agent has suggested an appropriate product.

As recommended, the regulator may conduct periodical market conduct review to ascertain if the customers are provided with adequate information which facilitates an informed purchase.

Information needs of regulators

Recommendation 4: Regulators will develop options and an action plan to make sure that adequate information on life agents and MGAs is obtained in a timely manner.

The regulator may need to set up a holistic mechanism to collect data pertaining to the agents and MGAs.

a. The regulator may have to set up a comprehensive cross-Canada database of agents which can be accessed by the insurance companies and MGAs. We have elaborated on the database under Recommendation 2. Regulator needs to specify on how MGA/insurer must deal with agents

having a history of misconduct. This will help in preventing unscrupulous agents hopping from one MGA to another

b. The regulator may set up a comprehensive grievance management system which is integrated with the systems of the insurance companies. Through this system, the regulator may have a panoramic view of the complaints from the customers and agents. The regulatory perform in-depth business analytics to identify patterns based on territory, region, group, ethnicity, product, gender and other such parameters. The regulator may intervene if resolution to a complaint is not provided by the insurer within a specific period

c. The regulator may set up a comprehensive data warehouse to collect key information from the insurers. The regulator may be able to obtain deep market insights by performing a thorough business analytics on the data collected. Regulator will be able to discern patterns of market conduct behavior, aberrations and outliers from such analysis