



February 11, 2021

Insurance Council of British Columbia
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Sent by email: consultation@insurancecouncilofbc.com

Subject: Guidelines for Managing General Agents – Role and Responsibilities in the Distribution of Life Insurance in British Columbia – consultation draft

Independent Financial Brokers of Canada appreciates the opportunity to provide the Insurance Council of BC ("Council") with our comments on the proposed draft guidelines.

IFB is a national, not for profit professional association with 3,000+ members. IFB members are licensed financial professionals. Most are life/health insurance agents and/or mutual fund representatives. All provide tailored financial advice and planning for individuals, families, and businesses in communities across Canada.

IFB supports its members' professional needs by providing accredited education, comprehensive professional liability insurance, regulatory updates and compliance tools, support for industry best practices, and advocating on their behalf with regulators, and other industry stakeholders. IFB members must agree to adhere to IFB's Code of Ethics as a condition of membership.

IFB is the only association exclusively dedicated to representing advisors and firms who operate in the independent distribution channel. IFB does not represent career agents or employees of financial institutions. Some IFB members own firms which would be considered to be an MGA, or AGA, or both under certain circumstances. As independent life agents, most would place business through one of these entities (a small number may contract directly with an insurer).

IFB has commented on MGA issues in previous consultations, and continues to work with the CLHIA, CAILBA, and Advocis to develop industry solutions, where possible, to regulatory concerns.

As a national association, it is always our preference that initiatives such as this be dealt with at a national level. Having a consistent framework endorsed by CISRO and the CCIR ensures that the many agents, MGAs, and insurers who contract in multiple jurisdictions do not face different standards and practices. Importantly, it ensures a more consistent experience for consumers regardless of where the transaction takes place.

However, we recognize that individual jurisdictions may have set priorities which need to be addressed. Therefore, IFB wishes to support Council's intent to update and clarify the role and responsibilities of MGAs in the distribution of life insurance, and we trust our comments will be helpful.

As a general comment, we wonder if this redrafted guideline may be affected by Council's upcoming review of its Rules.

Q. 1. Do the draft guidelines provide a clear understanding of the MGAs' role and responsibility?

Some of the guidelines present some practical considerations that would make it difficult, or in some instances impossible, for an MGA to comply. This is troubling since the draft states that "failure to adhere to the guidelines will be viewed as a breach of the usual practices of the business of insurance and could result in disciplinary action".

No standardized MGA contract: MGA contracts vary by insurer. There is no standard. As well, depending on the size and complexity of the MGA, and/or its relationship to the insurer (MGA vs AGA), the expectations of an insurer when establishing a contractual relationship with the MGA should be quite different. Clearly, a smaller MGA is less likely to be able to provide the same level of contracting, onboarding and oversight of agents as a larger MGA with a more sophisticated corporate structure. An insurer's contract with a given MGA should be consistent with the MGA's ability to fulfill the terms of the contract.

Insurer responsibilities and role: Some of the requirements set out as an MGA's responsibility rest with an insurer, over which an MGA has no control. These include:

- Training and education of agents on insurance products (as opposed to facilitating educational opportunities). Insurers design and underwrite products and are responsible for ensuring agents who sell their products are proficient to do so, and that they understand the target market and the particular product they recommend.
- Audits of agent files and AML compliance. We understand that some insurers conduct Advisor Practice Reviews, as do regulators, as part of their risk-based oversight. While an MGA may have a role, the responsibility rests with the insurer. Because MGAs are not client-facing, they are not considered to be reporting entities under the *Proceeds of Crime (Anti-Money Laundering) and Terrorist Financing Act*, unlike insurers and independent life insurance agents. While an MGA may assist by having an agent attest to having documented AML and Privacy procedures, it cannot oversee compliance. Insurers should be checking for such compliance during their audits and advisor practice reviews.

The guideline does not address instances where an agent, who may have an MGA contract, can deal directly with an insurer or an insurer proceeds to process an application despite the MGA having identified an area of concern. In each of these cases, the transaction can occur without the knowledge of the MGA or bypasses it altogether.

Greater acknowledgement of the role of the insurer: In our view, the draft guideline does not set out the relationship between the insurer and MGA as clearly as the 2012 Notice did. Specifically, many of the sections which circled back to place responsibility on insurers have been deleted. We think Council should consider a statement on the role of the insurer, such as, "Council believes insurers are ultimately responsible for all the functions contracted to and completed by MGAs."

The 2012 version stated, "Insurers are ultimately responsible for all aspects of their products including design, performance and all marketing material (paper or electronic)." However, the draft guideline adds that "as MGAs distribute marketing material on behalf of the insurer, an MGA is responsible for

ensuring the material is a clear and accurate representation of the product.” While we agree that MGAs may distribute marketing materials on behalf of the insurer, this additional wording places a responsibility on MGAs that would be impossible for them to meet. MGAs do not develop marketing materials, nor do they have the capability to determine if the material is a clear or accurate representation of the product. It is the responsibility of the insurer to develop product materials that reflect who the intended target audience is having gone through an internal vetting process which would include actuarial input. Identifying MGAs as having a role in sales support is more feasible.

Know your Agent: The duty to “Know Your Agent” could be strengthened by all those involved in assessing an advisor’s initial or ongoing suitability by placing less reliance on attestations. Council has the opportunity to request more information on an initial license application or upon renewal given that agents renew their license every year. Council could add to the renewal Rule 3(2) an explicit requirement to provide documented evidence. Similarly Rule 7(3) requires issues affecting suitability to be reported within 5 business days. These are important opportunities to strengthen the due diligence by all.

Q. 2. Do the guidelines provide enough direction for what is expected of life MGAs? Should it be more or less prescriptive?

As noted in our response above, we have some concerns about the expectations being set out for MGAs.

Q. 3. Is any information missing that would contribute to the clarity of the guidelines?

The 2012 Notice required that an MGA’s licensed nominee should have experience as evidenced by having been licensed for the past 5 out of 7 years. There is no such requirement in the draft. Does Council no longer believe that an experience requirement is necessary?

As mentioned, IFB recommends that the document outline the duties of the insurer to the MGA, as well as the MGA to the insurer.

MGAs that deal mostly, or entirely, in group insurance have a different business model. This should be considered against the guideline to ensure the guideline is equally applicable to their business model.

There is no mention of the role of the MGA in compensation or chargebacks which can put MGAs, as well as the agent, at financial risk.

Q. 4. Do the requirements and guidance provided by the draft guidelines support consistent application by all types and size of life insurance MGAs?

Clearly, there is a wide diversity amongst MGAs in both size and complexity. This may vary by insurer. For example, an MGA may play a greater role with an insurer it does a lot of business with, and a lesser role with an insurer it is contracted with but does not have the same production. There has been some convergence in the industry with smaller MGAs being acquired by larger MGAs. In a more recent trend, some MGAs are now owned by insurers.



Q. 5. Is there sufficient guidance provided for how MGAs should approach assessing an agent's suitability?

CLHIA Guideline G8 sets out a framework for insurers to establish and maintain a system to screen, monitor and report advisors. G18, Insurer-MGA Relationships, clarifies the roles, responsibilities and accountabilities for insurers and MGAs. While these Guidelines provide a sound basis, an MGA does not have the final say if an insurer approves a contract with an advisor.

Q. 6. Is there any information in the guidelines that is confusing or which conflicts with other regulatory requirements or practices?

As noted in our response to Q.1, we think there should be a clearer delineation of the insurer's responsibilities. The duty of the MGA is to the insurer and it is subject to the insurer's oversight.

We would be pleased to discuss or answer any questions. Please contact the undersigned or Susan Allemang, IFB's Director of Policy & Regulatory Affairs (email: sallemang@ifbc.ca).

Yours truly,

A handwritten signature in black ink that reads 'Nancy Allan'.

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