



Canadian Life  
and Health Insurance  
Association Inc.

Association canadienne  
des compagnies d'assurances  
de personnes inc.

Gregory R. Traversy  
President

May 3, 2004

Mr. John Stevenson  
Secretary  
Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> floor, Box 55  
Toronto, Ontario M5H 3S8

Dear Mr. Stevenson:

**Re: OSC's Fair Dealing Model Concept Paper**

The purpose of this letter is to provide the comments of the Canadian Life and Health Insurance Association (CLHIA) with respect to the Ontario Securities Commission's January 2004 concept paper on "The Fair Dealing Model".

Established in 1894, CLHIA is a voluntary association with member companies accounting for about 98 per cent of the life and health insurance business in Canada. The Canadian life and health insurance industry protects about 23 million Canadians, including about 9.7 million Ontarians, as well as almost 19 million people elsewhere in the world. In 2002, the industry paid out \$17.2 billion to Ontarians.

At the outset, it should be noted that life and health insurance representatives in Ontario are regulated by the Financial Services Commission of Ontario. As a result, changes in the OSC's regulatory regime do not directly affect them. However, given that many of them are also registered as mutual funds representatives, the proposed changes are certainly of interest.

Moreover, it is also fundamentally important to note that many of the issues raised in this initial concept paper remain to be developed in a second concept paper to be released at a future date. For that reason, it is extremely difficult to respond fully at this juncture and CLHIA may well comment further and, if necessary, amend the views expressed herein once that second paper is released.

The broad principles outlined in the concept paper are admirable and put in place suitable objectives for a regulatory regime – transparency for consumers with respect to the respective roles and responsibilities of themselves and their representatives and clarity with respect to any conflicts of interest. However, the proposals for implementing these principles appear needlessly prescriptive. Those regulated by the OSC are no doubt better positioned than CLHIA to

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comment in detail as to how these objectives can be most efficiently and effectively met, whether other avenues may already achieve some of these objectives or could be modified to do so, and whether a cost-benefit analysis would fully support the proposed approach. CLHIA's concern, for the moment, focuses on how the proposed approach would impact life agents who are also registered to distribute mutual funds and what, if any, spillover effects this approach would have with respect to their life insurance business.

Although the concept paper states that the sale of life and health insurance is not presently captured by the paper because it is beyond the jurisdiction of the OSC, it does seem to creep into the paper, nonetheless. It is included in the sample Fair Dealing Documents, for instance. As well, informal discussions with OSC staff have conveyed the distinct impression that one objective may be to extend the Fair Dealing Model to regulating the client relationships of life and health insurance agents.

Such a course of action would raise fundamental concerns. Life and health insurance agents are already ably regulated by the Financial Services Commission of Ontario, and their regulatory framework includes licensing, proficiency standards, errors & omissions insurance, holding out to the consumer, and unfair and deceptive practices. To impose additional regulation from another regulator within the same provincial jurisdiction would clearly be duplicative and inappropriate and, by going beyond OSC's mandate, would create serious overlap and confusion with respect to the roles of OSC and FSCO.

The issue of regulatory coordination is also of keen interest, as it contributes to an efficient and competitive marketplace. Indeed, a variety of initiatives are currently being undertaken by the Joint Forum of Financial Market Regulators, the Canadian Securities Administrators, and the Canadian Council of Insurance Regulators, with a common theme of regulatory streamlining and harmonization with a view to ensuring consumer protection in a cost-effective way. It would appear that the Fair Dealing Model is being developed unilaterally by Ontario and has not been adopted by the CSA or by any other jurisdiction at this point. If this remains the case, it would be at cross-purposes to broader harmonization objectives.

CLHIA appreciates this opportunity to comment, and would be pleased to provide any further information or perspectives you may require.

Sincerely,

Greg Traversy