

# Life Insurance Council of Saskatchewan

## Summer 2008 Newsletter

### LIFE INSURANCE REPLACEMENT DOCUMENT

The Life Insurance Council of Saskatchewan (the "Council") has adopted a **new life insurance replacement document (LIRD)** for use in Saskatchewan. The schedules which accompany the Council Bylaws were amended effective May 27, 2008.

The new LIRD is the culmination of several years of work by a national committee of insurance regulators. It was recommended for use in each provincial jurisdiction. Each province will implement the LIRD in accordance with its laws.

The change to the bylaw means that licensees will no longer need to provide a replacement disclosure form to either the new insurer or the existing insurer.

Licensees must complete the LIRD and provide a copy to the consumer. A copy must also be retained in the consumer's file whenever a life insurance policy is being replaced.

Council will accept either the new LIRD or the old life insurance replacement document for the purpose of disclosure related to the replacement of a life insurance policy until January 1, 2009. After that date, only the new LIRD will be acceptable.

### FINES AND COSTS

The **Life Insurance Council Bylaws** were amended effective May 27, 2008. This will allow Council to assess fines and costs related to the investigations.

1. A fine not exceeding \$5,000 for each finding and \$15,000 in the aggregate for all findings; and
2. The costs of the investigation and hearing into the licensee's conduct and related costs, including the expenses of the complaints and investigation committee and the discipline committee and the costs of legal services and witnesses; and
3. If a licensee fails to make payment in accordance with items (1) and (2) above, the licensee's licence will be suspended.

### CRA ADVANCE TAX RULING

Council has been made aware of a Canada Revenue Agency Advance Tax Ruling that clearly defines what an Eligible Funeral Arrangement (EFA) is for income tax purposes.

The ruling document number is 2007-0228701R3 and the information circular number is IC 70-6R5, Advance Income Tax Rulings.

The ruling will be of interest to life insurance agents and life insurance agencies that are selling insurance policies that are to be used for the payment of funeral services.

In order for an insurance policy to be considered to be an EFA under the tax laws it must meet the requirements of Section 148.1 of the Income Tax Act.

"Eligible Funeral Arrangement" at a particular time means an arrangement established and maintained by a qualifying person solely for the purpose of funding funeral or cemetery services with respect to one or more individuals, and of which there are one or more custodians each of whom was resident in Canada at the time the arrangement was established.

"Qualifying person" means a person licensed or otherwise authorized under the laws of a province to provide funeral or cemetery services with respect to individuals.

"Custodian of an arrangement" means where a trust is governed by the arrangement, a trustee of the trust and in any other case, a qualifying person who receives a contribution under the arrangement as a deposit for the provision by the person of funeral or cemetery services.

The ruling will mean that Council will hold that an agent selling a life insurance policy and telling the consumer that it is an EFA is guilty of misconduct unless the life insurance policy meets all of the requirements of an EFA.

If you require further information, please contact CRA directly.

## ISI INSURANCE

The Council provided notice to affected parties of its intent to regulate the offering of insurance that is sold "incidental to" the sale of other products.

**Incidental selling of insurance ("ISI")** includes, but is not limited to, any group insurance plan, certificate, policy or coverage sold by a member of your association that provides insurance to a customer that insures the customer's ability to make payment(s) on a loan. In addition, it includes any form of property insurance that is sold incidental to a loan.

Unlike all other forms of insurance, ISI has not previously been regulated.

A recent Supreme Court of Canada Decision (Canadian Western Bank v. Alberta, 2007 SCC) has clarified some of the uncertainties concerning the regulation of the marketing of ISI products. As a result of this case, insurance regulators in other jurisdictions are reviewing the regulation of ISI products.

The Superintendent of Insurance has overall responsibility for the regulation of insurance in Saskatchewan and has delegated his authority to the Insurance Councils to regulate the sale of insurance by agents or salespersons of agents.

The Superintendent has informed the Insurance Councils that The Saskatchewan Insurance Act applies to the marketing of all insurance products, including ISI.

Council is in the process of determining the level of regulation that will be appropriate to ensure that ISI is marketed in the best interests of the consumer.

## LICENCE FEE INCREASE

As a result of increased operating costs including a major redevelopment of our licensing system, Council will increase all licence fees in 2009 and 2010.

The following licence fee increase is scheduled for implementation effective January 1, 2009.

Life and/or A&S Agencies	\$10 increase in 2009; and a further \$10 increase in 2010
Life and/or A&S Individuals	\$10 increase in year 2009; and a further \$10 increase in 2010

The Life Insurance Council of Saskatchewan has maintained the same licence fees for the past thirteen years.

## ERRORS & OMISSIONS INSURANCE EXTENDED REPORTING PERIOD COVERAGE

Errors and Omissions insurance covers you for errors and omissions you make while doing your job as an insurance agent and giving advice to your client. Errors and Omissions insurance is often referred to as Professional Liability insurance.

As an insurance advisor you are susceptible to liability claims brought on by the consumers' heightened expectations regarding the services they receive and their willingness to take their grievances and dissatisfaction through legal channels.

If you are not renewing your coverage due to retirement or cessation of business, you may have an option to purchase an Extended Reporting Period, also known as tail coverage, through your E&O carrier. An extended reporting period is an optional provision found in claims made insurance policies allowing an insured to present a claim after the policy period for events which occurred prior to the expiration of the policy.

There may be time limits in which the extended coverage must be purchased, so contact your E&O carrier for further information.

## AGENCY REQUIRED TO FILE ERRORS & OMISSIONS INSURANCE

As a condition of licensing, the **schedules to the Life Insurance Council Bylaws** require all active licensees to maintain Errors & Omissions insurance (E&O) insurance. The schedules require:

1. Life including Accident & Sickness agencies; and
2. Accident & Sickness agencies; and
3. Life including Accident & Sickness individual agents; and
4. Accident & Sickness individual agents unless they are sponsored as a salesperson by an Accident & Sickness Agency (in this instance the agencies E & O will extend to the salespersons),

are required to maintain E & O with a minimum of \$1M coverage and a minimum of \$1M extended coverage for loss resulting from fraudulent or dishonest acts; and be broad enough to cover all insurance products which the licensee is licensed to sell as defined by The Saskatchewan Insurance Act.

If the coverage is held by an agency, the agency must ensure the exact name of the licensed agency is identified as an insured, or additional named insured or have the E & O carrier confirm coverage extends to the agency.

All licensees must ensure that the \$1M extended coverage for loss resulting from fraudulent or dishonest acts forms part of the policy issued for the agency.

## BYLAW AND SCHEDULE UPDATE

The bylaws and schedules have been amended with respect to disclosure, supervision requirements, fines and costs.

A copy of the amended schedules and bylaws can be obtained on the Council website at <http://www.skcouncil.sk.ca/lifbylaw.htm>.

## AUDITED FINANCIAL STATEMENT

The December 31, 2007 Audited Financial Statement is available by contacting the Council office.

## OTHER BULLETINS

Licensees may access all Council bulletins (All Classes, Adjuster, Travel and Hail) from the main page of the Council website.

Past issues of all bulletins are also available on the website.

## DISCIPLINARY SECTION FOR ALL LICENSEES

### September 1, 2007 – May 1, 2008

Any licensee who uses information in this bulletin to discredit another licensee or any other person will be guilty of misconduct.

**Donald Benjamin Beveridge, Carolyn Ann Beveridge and Ascent Financial Services Ltd.** representing The Equitable Life Insurance Company of Canada were on September 13, 2007 found to have offered inducements to a client that caused a client to make decisions that were not in the client's best interests. As well, they were found to have placed their interests before that of the client and in doing so potentially harmed the standing of licensees. The conduct involved one client who invested in a business owned by the licensees. A joint recommendation on penalty made by the Complaints and Investigation Committee, the client and the licensees was accepted by the Discipline Committee and was made an order of the Discipline Committee and the following conditions were applied to:

"The licence of Donald Beveridge is hereby subject to conditions imposed by the Discipline Committee of the Life Insurance Council pursuant to a penalty order dated

October 22, 2007. In the event the licensee breaches a condition imposed by the penalty order, this licence will be immediately suspended and remain suspended until all conditions are met.

The licence of Carolyn Beveridge is hereby subject to conditions imposed by the Discipline Committee of the Life Insurance Council pursuant to a penalty order dated October 22, 2007. In the event the licensee breaches a condition imposed by the penalty order, this licence will be immediately suspended and remain suspended until all conditions are met.

The licence of Ascent Financial Services Ltd. is hereby subject to conditions imposed by the Discipline Committee of the Life Insurance Council pursuant to a penalty order dated October 22, 2007. In the event the licensee breaches a condition imposed by the penalty order, this licence will be immediately suspended and remain suspended until all conditions are met.

In making the order the committee wants to make it clear to all licensees that borrowing money from a client is never an acceptable practice. Further, it should never be assumed that the repaying of the monies, once discovered, will resolve the matter for the licensee.

In the matter before the committee there were exceptional circumstances that caused the committee to accept the penalty agreement that did not carry a suspension or cancellation of licence for the licensees involved. The main factor the committee carefully considered in arriving at its decision was the irreparable damage to the consumer from non reimbursement that would ensue if the agreement was rejected in favour of a licence suspension or licence cancellation."

**Gerhard Bosman** representing The Canada Life Insurance Company entered into a consensual agreement on August 13, 2007 in which he agreed to the cancellation of his Life and Accident & Sickness Licence.

In the consensual agreement he acknowledged that he had accepted a premium payment in the amount of \$7,000 from a client which he did not give to the insurance company but used for his own expenses. He then misled the client about the investment the client believed they had by providing false investment updates.

Mr. Bosman was charged with theft as result of Canada Life's investigation and on April 9, 2008 was convicted under Sections 332 (1) and 334 (a) of the criminal code. He was sentenced to 9 months imprisonment in the community.

### **Failure to maintain Errors & Omissions Insurance**

Licenses, as a condition of licence, are required to maintain Errors & Omissions Insurance and where a licensee has not renewed their errors and omissions insurance, they must immediately notify Council of that fact.

1. **Craig Stephen McCrystal** of Regina SK representing The Equitable Life Insurance Company of Canada received a 30 day suspension.
2. **Cheryl Ann McLean** of Regina SK representing the American Income life Insurance Company received a 30 day suspension.

All of the above licensees waived their rights to a Disciplinary Hearing and entered into a consensual agreement accepting a suspension their licence.

## **CONTACT SECTION**

### **Council Staff**

Ernie Gaschler, Executive Director

Penny Barlow, Licensing

Annette Graff, Manager of Licensing

Diane Lindsay, Licensing/ Continuing Education Coordinator

Cindy Swales, Licensing

John Waugh, Director of Compliance

### **Contact Information**

Licensing 306.347.0862

Complaints 306.352-7870

Fax 306.569.3018

Email [info@skcouncil.sk.ca](mailto:info@skcouncil.sk.ca)

Insurance Councils of Saskatchewan  
310, 2631 – 28<sup>th</sup> Avenue  
Regina SK S4S 6X3

### **Council Members**

The names of the Council members may be obtained from the web site at the following addresses:

### **Life Council**

[www.skcouncil.sk.ca/life\\_council.htm](http://www.skcouncil.sk.ca/life_council.htm)

## **EXAM AND STUDY MATERIAL SECTION**

Ingrid Stroeder, Examination Coordinator

Exam scheduling 306.525.5900

[www.ibas.sk.ca](http://www.ibas.sk.ca)

RETURN TO

Insurance Councils of Saskatchewan  
310 – 2631 – 28<sup>th</sup> Avenue  
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