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World Federation of Insurance Intermediaries

Eidg. Finanzverwaltung
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Reg.-Nr.

Eidgenössische Finanzverwaltung
 Rechtsdienst
 Bernerhof
 3003 Bern
 Switzerland

22 June 2009

Ref: Statement to Revision of the Swiss Insurance Contract Law

Dear Sirs,

WFiI, the World Federation of Insurance Intermediaries, represents through its members in 5 regions in the world, the insurance agents and brokers from over 100 national associations (in over 80 countries) across the world.

WFiI membership includes, BIPAR, the European Federation of Insurance Intermediaries, the Financial Intermediary Association of South Africa, FIA, the Council of International Insurance Brokers Associations, CIIBA, the Confederacion Panamericana de Productores de Seguros, COPAPROSE, the (US) Council of Insurance Agents and Brokers, CIAB, the (US) Independent Insurance Agents and Brokers of America, IIAA, the Insurance Brokers Association of Canada, IBAC.

We write to you today after reviewing the proposed legislation with our highly-regarded Swiss member association, SIBA, member of BIPAR, which represents insurance brokers in Switzerland. They have informed us about the proposed amendments of the Swiss Insurance Contract Law.

According to the proposal, these amendments would result in a market practice change that would eliminate the broker's current remuneration via commissions from the carrier and allow remuneration to be paid only by the policyholder. It dictates that any payments received from the insurer must be handed over to the policyholder. It then allows, the policyholder to relinquish this right in writing but only if these payments are used as credit for the broker's agreed fee.

According to this proposal the broker must also inform the policyholder of its duty to pass payments received from the insurer on to the policyholder and provide information about any such payment received from the insurer that is directly or indirectly related to the policyholder's contract.

As a world-wide organization which represents the interests of insurance intermediaries we kindly urge you to refrain from adopting such a requirements via your legislation. We do not believe this proposal will benefit the consumer or the industry and can affirm to you that this type of regulation does not exist in other non-life insurance markets around the world.

We believe that some of the negative impacts of this proposal are as follows:

- The introduction of such regulation would create a barrier to fair competition.
- The system as proposed in the draft law does not take into account the costs of implementing and monitoring such a system. We believe that these costs would outweigh any expected benefits. This system would enormously increase the operation cost of broker-driven insurance placements.
- The above-mentioned rules would significantly hamper the free flow of transactional insurance business which will restrict access for Swiss companies to the most competitively price insurance products to support their continued growth.

Our other area of concern is that the proposed amendments completely ignore the value of an insurance broker in any transaction. An insurance broker, somewhat uniquely, renders services to both the client and the insurer. For example, the broker:

- Clearly acts for the client in recommending the type of coverage and in assisting the client in selecting suitable insurers.
- Explains complex insurance issues to the client.
- Sometimes collects and passes the premium between the insurer and insured
- Drafts, in some complex cases, the policy wording.
- Arranges surveys prior to the acceptance of a risk by insurers.
- Transmits instructions, in some cases, from insurers to adjusters or solicitors in the event of a claim.

These activities carried out also in the interest of the insurer make the market more efficient and reduce costs while protecting the insured's interests. We believe the key issue is that the client should be properly informed about the nature of the services the broker is providing. The client should have the right to ask and receive information about services being provided by the broker at any point in the relationship. We believe that transparency can answer all your concerns in a more efficient and less costly way. However, it is a reasonable expectation that a broker can receive a fair remuneration from insurers for these services rendered.

In 2003, in line with free market principles, WFII adopted the following principles related to remuneration:

- Principle 1: Every insurance intermediary has the right to be remunerated fairly for his or her services.
- Principle 2: Any remuneration or compensation for services of an intermediary should be considered as an issue between the parties.
- Principle 3: Legislation or concerted market agreements (or behaviour) limiting or imposing the rate or the means of remuneration is considered by WFII as a serious infringement of basic free market principles and would be against international market practice.
- Principle 4: Intermediaries may charge fees in addition to, in lieu of, or in combination with, commissions. In such case, the customer should be informed.

These principles on remuneration reflect that insurance intermediaries play a valuable role in the insurance process and the overall economic development of a country. To allow intermediaries to continue to provide needed insurance products and services to customers and the market, WFII believes that regulation should be aimed at encouraging a competitive market.

We also believe that the foundation of any insurance relationship is trust and in the insurance transaction, insurance intermediaries have responsibilities and obligations to both the insurance customer and the insurer. Managing those relationships in an open and transparent manner ensures that trust and upholds the integrity of the insurance business and the value intermediaries provide to customers and society.

WFII therefore believes that insurance intermediaries should provide insurance buyers with sufficient information to make informed decisions about the purchase of insurance products and services and communicate information to them in a way which is clear, fair and not misleading.

The proposed regulation is, however, in contradiction with the freedom of remuneration which is a basic right of entrepreneurs in any sector of the economy in every free market.

The existence of insurance brokers allows insurance carriers to extend their geographical and client reach without having to incur the fixed costs of a fully-fledged distribution network. This aspect is well recognized by all observers. The wider reach of each carrier increases the competition in the business insurance marketplace as it increases the choice of carriers for clients. Insurance intermediaries also encourage competition by making it easier for insurers to enter new markets or segments of markets, both within the country but more particularly across borders.

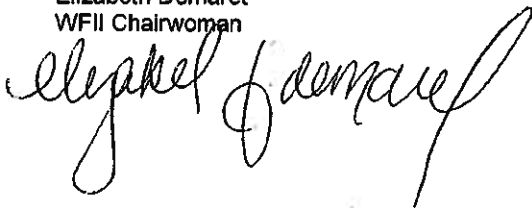
The proposed amendments to the regulation would limit choice and restrict insurance brokers in the development of their business models. In a free market, clients and intermediaries (or entrepreneurs in general) should have the opportunity to agree on the terms of their relationship and services in an open and transparent way. The amendments in your law would reduce the range of choice available to consumers and business in agreeing about the service and remuneration model. It would further reduce efficient ways of finding competitive coverage and solutions for Swiss clients in the international insurance placement market.

This letter is on behalf of federations and associations who represent the interests of insurance intermediaries from around the world and should be considered as a sign of solidarity with the Swiss insurance intermediation community but also as a sign of important concern that the basic rules of free entrepreneurship would be breached in an important and sophisticated free market such as Switzerland.

We thank you for your attention and remain at your disposal for further clarifications if wished.

Yours faithfully,

Elizabeth Demaret
WFII Chairwoman



Nic De Maesschalck
Director WFII

