



Canadian Life  
and Health Insurance  
Association Inc.

Association canadienne  
des compagnies d'assurances  
de personnes inc.

May 28, 2008

Mr. John Stevenson  
Secretary  
Ontario Securities Commission  
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**MAY 29 2008**

Ontario Securities Commission  
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Mr. Gordon Smith  
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Corporate Secretary  
Autorité des marchés financiers  
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Montreal, Quebec H4Z 1G3

Dear Sirs/Madame:

**Proposed National Instrument 31-103 –Registration Requirements and New Revised  
National Instrument 45-106 – Prospectus and Registration Exemptions**

We are writing at this time to provide the comments of the Canadian Life and Health Insurance Association (CLHIA) with respect to proposed National Instrument 31-103 Registration Requirements and the new revised National Instrument 45-106 Prospectus and Registration Exemptions. Established in 1894, the CLHIA is a voluntary association with member companies that account for 99 per cent of the life and health insurance business in force in Canada.

The CLHIA is generally supportive of the work of the Canadian Securities Administrators (CSA) aimed at streamlining Canada's current securities regulatory system. The industry recommends that the CSA and all governments continue to make it a priority to work co-operatively to reduce regulatory burden and overlap in the regulation of securities and to develop an ongoing system of securities regulation that ensures efficient and effective regulation in the future.

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The CLHIA has some specific comments related to the exemptions for variable insurance contracts included in proposed National Instrument 31-103 and new revised National Instrument 45-106, as well as some general comments relating to the exemptions from securities legislation for individual variable insurance contracts and life insurance company issued annuities.

### **Specific Comments**

Section 8.10 (1) of proposed NI 31-103 states that in this section “contract”, “group insurance”, “insurance company”, “life insurance” and “policy” have the respective meanings assigned to them in the legislation for a jurisdiction referenced in Appendix A of National Instrument 45-106, Prospectus and Registration Exemptions. We have two comments with respect to the references in Appendix A.

- (i) In British Columbia, at present, the definition of “life insurance” is included in the *Financial Institutions Act* and not the *Insurance Act*.
- (ii) In Ontario, the definition of life insurance is now included in a Superintendent’s Classes of Insurance Order rather than section 1 of the *Insurance Act*. Attached for your reference are copies of the Superintendent’s Order and Schedule 1, Classes of Insurance and Definitions for Purposes of the Insurance Act, which are posted on the Financial Services Commission of Ontario website.

As part of your review, we would recommend that the CSA adopt procedures to ensure that the cross references to the definitions of these terms remain up-to-date.

### **General Comments**

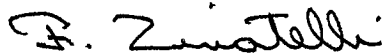
As noted above, we wanted to take this opportunity to comment on exemptions from securities legislation for individual variable insurance contracts and life insurance company issued annuities. National Instrument 45-106 includes an exemption for group variable insurance contracts. However, exemptions for deferred annuity individual variable insurance contracts (IVICs) with at least a 75 per cent guarantee and insurance company issued annuity contracts already exist as a result of exclusions from the definition of “security” contained in the various provincial securities acts.

As you may be aware, in the past year, Prince Edward Island, Yukon, Northwest Territories and Nunavut undertook a project to update their securities legislation using as a basis the Uniform Securities Act released by the CSA in December 2003. The Uniform Securities Act includes a revised definition of “security” which does not contain the traditional exemptions for IVIC contracts with a 75% guarantee and insurance company issued annuity contracts. Fortunately, exemptions for insurance products have been maintained in Prince Edward Island and the Yukon by the adoption of local rules. In the Northwest Territories and Nunavut, the exemptions are being maintained by including them in their new legislation, as exclusions from the definition of a “security”.

With a view to maintaining across Canada the harmonized exemption for IVICs with a 75% guarantee and annuities issued by life insurance companies that have existed for many decades, the CLHIA strongly recommends that, going forward, the traditional exemptions for life insurance products continue to be set out in the definition of a "security".

We appreciate the opportunity to provide the CSA with these comments and look forward to further improvements to the harmonization and efficiency of Canada's securities regulatory framework. Please feel free to contact me at 416-359-2044 or via e-mail at [fzinatelli@clhia.ca](mailto:fzinatelli@clhia.ca) or my colleague James Wood at 416-359-2025 or via e-mail at [jwood@clhia.ca](mailto:jwood@clhia.ca) should you have any questions or wish to discuss these comments further.

Yours very truly,



Frank Zinatelli  
Vice President, Legal Services and Associate General Counsel