

September 15, 2015

Policy & Legislation Division
Ministry of Finance
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Re: Financial Institutions Act & Credit Union Incorporation Act Review – Response to Initial Public Consultation Paper, June 2015 – BC Ministry of Finance

Dear Members of the Review Panel:

Please accept this submission sent on behalf of Genworth Canada, Canada's largest private sector provider of mortgage default insurance. Genworth proudly insures mortgages across Canada, including throughout British Columbia. We also serve more than 230 lenders across Canada, including many BC credit unions. We welcome the opportunity to provide our response to the Consultation.

Mortgage default insurance, commonly referred to as Mortgage Insurance, allows homebuyers to purchase a home with a low down payment. In Canada, most regulated lenders (federal and provincial) are required to obtain mortgage insurance on residential high-ratio mortgages (typically, when a borrower makes less than a 20-25% down payment on a property). This insurance protects the lender in case of borrower default and allows lenders the flexibility to offer borrowers a low interest rate because the default risk is transferred to the mortgage insurer.

There are three providers of mortgage default insurance in Canada. The two private insurers are regulated both federally and provincially. Canada Mortgage and Housing Corporation (CMHC), is a Crown Corporation, and is only subject to federal regulation. In order to enable private sector players to compete with CMHC, the Government of Canada provides a guarantee under the *Protection of Mortgage and Hypothecary Insurance Act*, under which the Government of Canada guarantees that a lender's claim will be paid in the event that a mortgage insurer goes insolvent, less 10% of the original insured amount.

As outlined above, our comments on the review will be from the perspective of a private sector mortgage insurance provider.

Issue 1 Financial Consumer Protection:

Question – Should British Columbia consider adopting a market conduct code for fair treatment of consumers that would apply to financial institutions? If so, should there be one code for all financial institutions or separate codes for different types of financial institutions?

Response – We believe that initiatives aimed at protecting consumers from fraud and/or other misconduct are important. In designing the code, FICOM should recognize that there are different types of products and insured parties. For example, in the mortgage insurance space the *insured* for our product are only sophisticated financial institutions that do not need the same level of protection as consumers. Accordingly, we believe that to ask mortgage insurers to abide by the same requirements as a consumer facing business does not make sense. In this regard, we believe that business-to-business entities should be treated differently than business-to-consumer entities.

As the Government of British Columbia considers its options, we encourage it to be mindful of existing federal regulations and statutes that already exist so as to ensure consistency across federally and provincially regulated institutions while also avoiding duplication and or conflict.

Issue 2 Market Discipline/Public Disclosure of Key Financial Risk Information:

Question – Should FICOM be permitted to publish information it collects from financial institutions online? Are there certain types of information that should not be published or exemptions that should be provided (e.g. to particular types or sizes of institutions)?

Response – As federally regulated institutions, OSFI makes available on its website detailed information about private mortgage insurers.

In addition, private sector mortgage insurers are now required to disclose detailed additional information to OSFI that OSFI makes available to the public. Earlier this year, OSFI implemented a Guideline entitled “Residential Mortgage Insurance Underwriting Practices and Procedures” (B-21). In Part III of the B-21 guideline, OSFI sets out minimum disclosure requirement that it expects all mortgage insurers to comply with as described below:

“FRMIs are expected to make public disclosures related to residential mortgage insurance. Such disclosures should be carried out on a quarterly basis, in a readily understandable format, and in a location generally available to the public.

The disclosures should include, but are not limited to, a breakdown of information for residential mortgage loans insured during the quarter, as well as the total stock of insured mortgage loans (except where noted), with further separation by mortgage insurance type (i.e., transactional- vs. portfolio-insured loans), for the following categories:

- **Volume:** The number and outstanding balance of insured mortgage loans;
- **Loan-to-Value:** A breakdown of insured mortgage loans according to LTV buckets of 5% increments (both estimated current LTV (and LTV at origination);
- **Amortization:** Amortization period ranges (e.g., 15 – 19.9 years, 20 – 24.9 years, ≥ 25 years, etc.) at origination and remaining amortization;
- **Geography:** Geographic breakdown by province and territory; and
- **Delinquencies:** Breakdown of the level of insured mortgage loan delinquencies (as a proportion for the total stock of insured mortgage loans, as at the end of the period)."

As a result, we believe that if FICOM wants to publish information it has available to it, the information that is published should be consistent with the information that OSFI makes available/that OSFI requires mortgage insurers to make publically available. If FICOM were to require additional disclosures it could put private insurers at a disadvantage to CMHC (as Crown Corporations are not subject to provincial regulation), especially if the information were of proprietary interest.

Note, CMHC is subject to OSFI supervision but is not subject to OSFI regulation and is also not subject to provincial regulation.

Issue 3 Financial Literacy:

We believe that Canada's financial services industry is working hard to boost financial literacy. We are also supportive of the Federal Government's efforts in this space. While we believe that the financial services industry – mortgage insurers included – are serving homeowners and perspective homebuyers well, we would welcome additional activity in this space and would be happy to support any relevant efforts the Government of British Columbia would like to undertake in the home buying and homeownership space. Genworth Canada is an active participant in financial literacy initiatives. Some of our key initiatives include:

- Homebuyer resources at www.homeownership.ca – a website that includes articles and videos on homeownership, financial planning and consumer fraud awareness
- Annual Homeownership Education Week and Homebuyer Survey – this initiative includes market research on homeownership trends and behaviours and a seminar for industry professionals
- Financial Fitness Survey and Canadian Association of Credit Counselling Services ("CACCS") Sponsorship – our sponsorship focuses on helping Canadians assess their financial fitness levels and supporting the mission of the (CACCS)
- Facebook GenworthSmartShopper.ca – this tool utilizes social media engagement and education with first-time buyers and mortgage professionals

- HomeOpeners® Product Videos and Own Sweet Home Reality Video Series – these tools helping homebuyers understand mortgage insurance and all stages of the home buying process
- Enactus Sponsorship – Our sponsorship empowers youth to promote financial literacy education in Canadian schools
- Industry Training – We also provide direct training to realtors, mortgage brokers, lenders and other real estate professionals that educates them about mortgage insurance and how to protect the interests of the homebuyers they support

Question 5 Do governments, including the British Columbia provincial government, need to better communicate government policies in area such as earthquake disaster relief? Are there other measures government should be taking with respect to earthquake or catastrophic loss insurance?

Response – Our recent experience with the Alberta floods showed us the importance of there being clear and timely communication by between governments between governments (at all levels) and corporations. We found that affected homeowners needed to know what their options were so that they could make informed decisions as to how they would proceed. At the time a crisis it can be difficult to get accurate information, so the more advance planning and preparation that can be done the better. And overall, collaboration between government and insurers/financial institutions helps FIs identify and assist homeowners potentially in distress.

Issue 4 Technological Change:

Question Are there consumer protection and regulatory issues related to record storage or retention? Should there be limits on what kinds of data can be entrusted to a third party service provider for storage and/or processing?

Response – Our expectation is that issues regarding how sensitive consumer information is dealt with are largely already addressed in existing privacy legislation. We do not think that separate legislation/ regulation is needed.

Issue 6 Regulatory Powers and Guidelines

Question Should FICOM have the ability (i.e., with authority provided in legislation) to issue enforceable prudential and market conduct requirements and standards/rules? If so, what limits on that power and accountability mechanisms are needed (e.g., oversight/approval role for the government, appeal process, etc.)?

Response - As is recognized in the consultation document, there are many instances where federally regulated financial institutions are subject to relevant existing federal regulation – we believe this is one of those cases. We encourage the Government of British Columbia to not create duplicative legislation/regulation that conflicts with the federal standard, and in the case of mortgage insurance, recognize that such prudential or market conduct rules are likely not to be applicable to CMHC.

Other Comments

Capital Treatment of Insured Mortgages

We believe that the treatment of insured mortgages from a capital standpoint should be consistent across the country. For your information attached is an *Ontario Credit Union Legal Bulletin* that outlines how the Government guarantee and insurer credit ratings are taken into account to determine the capital treatment for an insured mortgage. We suggest that BC take a similar approach.

Thank you for the opportunity to comment again.

If you would like further clarification on any points raised in this document please do not hesitate to contact me.

Sincerely,

Kris Barnier

Encl.