

May 7, 2008

To Chief Executive Officer of
each Insurance Company licensed in Alberta
for the class of Mortgage Insurance

Dear Sir:

On October 26, 2007, the federal Department of Finance sent the attached letter to mortgage insurance companies operating in Canadian jurisdictions. The letter was also sent out to federally regulated lenders.

In part the Finance letter clarifies the federal government's position with respect to arrangements between lenders and mortgage insurers under which consideration flows back to a lender as an inducement for placing its mortgage insurance with an insurer. Related to that issue, the letter asks that insurers and lenders refrain from entering into arrangements involving the rebating of a portion of mortgage insurance premium directly or indirectly to a lender.

Mortgage insurance is required by lenders as part of their risk management practices and in some cases the insurance is required by law. When lenders place a mortgage under the mortgage insurance policy issued to them the lender recoups the mortgage insurance premium directly from the mortgagee as part of the costs associated with the mortgage.

The purpose of this letter is to provide mortgage insurance companies with an interpretation of how a rebate of a mortgage insurance premium to a lender would be considered in Alberta. Under section 531 of Alberta's *Insurance Act* (Act) no insurer may pay any commission or other remuneration or benefit to a mortgagee or to any person in the employ of or on behalf of the mortgagee in consideration of effecting a contract of insurance or renewal of a contract of insurance, under which contract loss, if any, is payable to the mortgagee.

Section 531 also says a mortgagee must not accept and is not entitled to receive directly or through the mortgagee's agent or employee any commission or other remuneration or benefit in consideration of effecting a contract of insurance or renewal of a contract of insurance under which contract loss, if any, is payable to the mortgagee.

May 7, 2008

Page 2

It is my view that when a lender asks that a mortgage be covered under a mortgage insurance policy this is effecting a contract of insurance and section 531 applies to that insurance transaction.

If a mortgage insurer enters into a fee for service arrangement with a lender under which the lender is completing underwriting type services normally completed by the insurer, the amount of the fee must be commensurate with the service provided. As we understand it, the fee paid flows directly from the amount of the premium associated with the mortgage insurance and it is the mortgagor who ultimately incurs the costs of the insurance. As it is the mortgagor who bears the cost of the fee, if the fee exceeds the actual cost of the service this would be considered an unfair practice. This constitutes an unfair practice because the fee is not commensurate with the value of the service provided.

Section 509 (1) (c) of the Act prohibits an insurer from committing any unfair, coercive or deceptive practice. An insurer who contravenes section 509 or 531 is guilty of an offense and subject to a fine of not more than \$200,000 for each separate offense.

Mortgage insurers should ensure their insurance business practices in Alberta are in compliance with the Act and Regulations.

Sincerely,

Dennis Gartner
Assistant Deputy Minister
Financial Sector
Regulation and Policy

Attachment



Department of Finance
Canada

Ministère des Finances
Canada

Assistant Deputy Minister Sous-ministre adjoint

Ottawa, Canada
K1A 0G5

OCT 26 2007

Dear

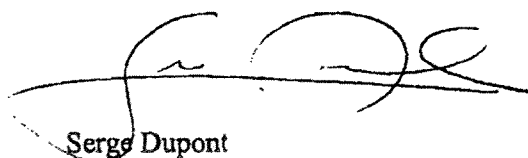
I would like to take this opportunity to clarify the government's position regarding arrangements between mortgage insurance companies and lenders under which consideration flows back to the lender as an inducement to place a larger proportion of its business. One example, which has been scrutinized in both the U.S. and Australia, is a rebate of some portion of the premiums paid by the borrower. Captive reinsurance transactions, which have also come under scrutiny in other jurisdictions, are another example of an arrangement that involves the potential payment of premiums back to the lender.

These arrangements are being examined as part of the broader review of the framework for providing a guarantee to private mortgage insurance companies. I am therefore requesting the cooperation of mortgage insurance companies and lenders to refrain from entering into captive reinsurance arrangements, as well as arrangements that involve the rebating of a portion of the premium income, either directly or indirectly, to the lender or other similar arrangements, until such time as the government has completed its review and provided policy direction in this area.

In addition to captive reinsurance arrangements, the government is examining the treatment of reinsurance transactions more broadly under the guarantee framework. While the government acknowledges that reinsurance may be a desirable tool to help mortgage insurers manage risk, the existing guarantee framework, including the formulae for calculating the risk premium and guarantee fund payments, is not structured to accommodate reinsurance transactions. At this time I would therefore request that you consult with the Department of Finance as well as OSFI before considering any reinsurance or other risk transfer arrangements.

I look forward to your full cooperation in these matters.

Sincerely,



Serge Dupont
Financial Sector Policy Branch

Canada