AUTORITÉ DES MARCHÉS FINANCIERS

Address by

Mrs. Danielle Boulet

Superintendent, Solvency

Autorité des marches financiers

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It is with great pleasure that as Chair of the Canadian Council of Insurance Regulators (CCIR), à titre de Surintendante de l'encadrement de la Solvabilité and as the AMF's representative that I've accepted to meet with this afternoon.

As you have requested I will give you an update on projects and undertakings by both CCIR and the AMF.

Since early this year, CCIR has been working at developing a new strategic plan. I truly believe on the importance of being connected to the industry and as such, one of the first steps we took was to ask stakeholders, to ask you not only for input but for comments: the positive and the not so positive.

A number of stakeholders expressed various levels frustration toward CCIR. Frustration translated in the perception that we, CCIR, did not "deliver" according to expectations – especially the expectation that CCIR can deliver harmonized solutions to issues ; solutions that all jurisdictions should follow.

Since receiving that input, CCIR has been taking a hard look at who we are, what we CAN (and CANNOT do), and what we SHOULD do.

A key element I'm not sure is well understood is the fact that CCIR is comprised of officials, not ministers. What does that mean?

We, the superintendents, we the CEOs, in our provinces or territories, we do not make the laws. We manage and enforce a body of laws that our respective legislative bodies have voted for. Two important words: MANAGE, ENFORCE. It is therefore, unrealistic to think that CCIR can impose anything – much less a single solution that must be followed.

Even when CCIR members agree on a common response to an issue, this does not necessarily translate into common behaviour. Each jurisdiction has its own legal and

regulatory environment that may lead to differences in how policies and regulations are implemented.

Is harmony out of the question then? By no means. Is CCIR powerless? Not at all.

Governments across the country look to their regulatory bodies – the CCIR members – as their primary advisors on insurance issues. The work that CCIR does, to research, consult, draft, propose, recommend, review issues of common interest, that work assists regulators in forming the advice they take to their governments. We might not make rules, but we can take strong positions and make recommendations that are taken seriously by regulators and governments. In most cases this results in regulation that is less discordant and more harmonious than might otherwise be the case. It may be imperfect at times; however, any amount of harmonization is bound to pay off for the industry in decreased costs of compliance.

We hope to have a draft Strategic Plan ready in the next few months. As it is likely to be quite a different kind of plan, we are planning to send the draft to the industry for comments before finalizing it. This has not been our practice to date, but we hope that this will help bridge the gaps that exist between industry expectations and what CCIR can deliver.

Now, let me reflect on some of the main issues that preoccupy us these days; focusing of course on those that affect CAFII members, starting with Credit Scoring.

Mostly because of the ham-handed actions of some insurers around their use of credit scoring, this topic has engendered considerable political interest in a number of jurisdictions. It is likely that those jurisdictions will take action, and it does not look like it will be harmonized.

CCIR had hoped to be finished by now with its review of the use of credit scoring in insurance, but there have been some delays. The Credit Scoring Working Group is now hoping to have an issues paper ready for consultation in the spring of 2011.

This paper will outline the results of our research and will include an overview of the action taken to date on this issue by regulators both in Canada and in other countries. As an issues paper, it will not be proposing regulatory action. Rather, its purpose will be to stimulate debate and launch a process of consultation as well as to educate and to build a common understanding of the topic in both regulators and stakeholders.

A second area of interest to both CAFII and CCIR is the expanded Complaint Reporting System.

We just recently began to run reports from the expanded system. As usual with all new system, we've encountered some bugs in the reporting module; bugs that are being corrected. However, once the reporting module will have been corrected and historical data developed, we do fully expect that the information gathered will assist regulators in focusing their market conduct reviews on areas where risks were flagged.

Once we have gain more experience with the system, we should be initiating a project to revisit the data points and definitions intrinsic to the system. No precise timing has been set for this review, but I can assure you that the industry will be fully informed and involved when the review eventually takes place.

CAFII members may also be interested in knowing that our Electronic Commerce Committee, with its new chair Eric Stevenson from the AMF, is actively working on a paper dealing with some thorny issues affecting consumers; issues like electronic beneficiary designations and electronic delivery of proof of automobile insurance cards (the lovely pink ones).

It is also looking at a comprehensive review of the capacity of the current regulatory framework to adequately protect consumers obtaining insurance products online. And finally confidentiality, identity verification and record maintenance will also be on their agenda.

Now, allow me to talk about surveys! We know how much our surveys are appreciated! As you have told us many times, there has recently been a proliferation of regulatory surveys on a variety of topics.

And before you groan too loudly, I want to point out that, in a way, the increase in the number of surveys is a good thing! It means we care! Mostly, it is evidence that CCIR's approach to Risk-Based Market Conduct Regulation is taking hold.

Beyond any sarcasm, let me tell you how useful surveys really are for regulators. Surveys are one way regulators can quickly gain an overview of what is happening in the industry on a specific issue.

However, we definitely have heard the pleas for help from compliance officers, who seem to be buried under multiple survey requests. You have told us that these survey requests from regulators – and, not just CCIR but the regulators themselves - overlap as to subject, overlap as to completion date, use different formats and in some cases are pretty unclear as to what the point of the exercise is.

CCIR is working to resolve this issue. We have drafted some Survey Standards, that is, best practices for regulators to follow when considering a survey. They are currently being translated and will be published for industry comment later this fall.

One issue on which CCIR is focusing at this time is the move by the industry from career agency forces to independent agents, working through managing general agencies, or "MGAs".

CCIR's Agency Regulation Committee has drafted a paper, now being finalized, paper that evaluates possible risks to consumers and regulatory gaps that might be arising from the fact that MGAs have now become to represent most of Canada's insurance distribution.

As a result, the supervision of agents is not as straightforward as it once was. In the past, when there were indications that an insurance agent was misbehaving, regulators could go to the agent's employer and insist that action be taken. This is no longer necessarily the case.

Our evaluation of the issues associated with MGAs will hopefully answer some fundamental questions: For example question like, now that there is an additional player wedged between the insurer and the customer, are companies still as connected to the customers and marketplace? Question like: are insurance companies still providing appropriate training to agents and are they supervising them adequately? And with these additional players in the market, who is responsible for agent supervision?

During the consultation period for this paper, which will hopefully be late fall to early winter, we have plans to meet with stakeholders - in person or with our new communication tool the webinar – to discuss and clarify the issues.

Now, as I previously mentioned, this is an evaluation of possible risks. Therefore, there may or may not be any recommendations arising from this review, depending on the results of the evaluation and of the consultation.

At our fall meeting a few weeks ago, we did agree to move forward with an initiative to create a facility – perhaps a data-base, perhaps some kind of internet search solution – to that would be a Central Source on Disciplinary Actions. While individual CCIR and CISRO members publish information on disciplinary decisions, there is no centralized source of this information. Having some form of central source would definitely assist

regulators, insurers, MGAs and consumers to research more effectively the suitability of an intermediary without having to go through a number of sources.

The AMF is chairing this committee, and we hope to make significant progress over the next year.

Well, to conclude my CCIR briefing, I was able to bring a better understanding of what CCIR is and what we can do. Again, let me be clear, I don't expect you to minimize your expectations with respect to CCIR; I would rather invite you to modulate them, keep the channels open, and understand the kinds of harmony that we can deliver.

Si vous n'avez pas d'objection, passons maintenant à des priorités et projets de l'AMF qui sont importants pour les membres de votre organisation.

Let's start first with a status on our commercial practices guideline. First published in November 2009 for public consultation, the guideline was the object of numerous comments from industry including yours. Like they say we did listen and the guideline will be amended to reflect some of the comments received. Once reviewed it will be republished for a second consultation; probably sometimes in the first quarter of 2011.
In our defense, the Commercial Practices Guideline is the first Canadian initiative on this particular issue. As no benchmarks existed, I must admit it was challenging for us internally. It was challenging to bring under one guideline the requirements of the Act respecting insurance and the "Act respecting the distribution of financial products and services".

Basically, with our guidleine we are aiming at fostering a "treat the customer fairly culture (TCF) throughout the industry.

As a member of the IAIS Market Conduct Subcommittee, we are actively participating in the development of a Standard and Guidance Paper on "Conduct of Business". And in the near future, the OECD will also publish a paper on the protection of consumer of

financial products and services.

These two papers will be a valuable source of information for us and will be used to update our own guideline.

Now let's move on to the topic Distribution without a representative. Prescribed by the Act respecting the distribution of financial products and services, it is as you know an exceptional regime for the distribution of financial products and services.
Under this regime, an insurer can offer insurance products or secure a client's adhesion through a distributor, provided that:
the distributor's business is not in the field of insurance;
the insurance product offered is incidental to the good that is being sold and,
the insurer has prepared,submitted a distribution guide.

Some of the areas where we are finding issues associated with the distribution without a representative regime are:

- Disclosure of information to consumers
- Cancellation of the contract
- Supervision of distributors
- Disclosure of distributors' remuneration
- Financed single premiums
- Use of telemarketing

When it comes to the disclosure of information to consumers, we find that in many instances, the guides in their current form do not achieve the disclosure objectives that are desirable to properly protect consumers.

Another area of concerns is the Cancellation of the contract. In the context of Distribution Without Representative, Québec legislation allows for a period of 10 days during which the consumer may request cancellation of the insurance coverage. We

find that consumers are generally not aware of the existing cancellation process, or the duration of the cancellation period.

Another issue is that distributors are the second main source of disclosure of information to the consumer but we find that they do not always play a complementary role to the guide with respect to the disclosure of relevant information to consumers.

The Act respecting the distribution of financial products and services requires distributors to disclose their remuneration to consumers if it is over 30%. Moreover, a distributor that offers more than one insurance product for the same goods must inform the consumer of its remuneration for the sale of each of those products. However, the Act is silent as to the form that the remuneration and the disclosure should take. The data gathered in many instances, leads us to believe that disclosure measures are not well understood, are often not applied and that they are sometimes even bypassed by the industry. If the fulfillment of this obligation is not clear, or not controlled, the tendency will be to omit to disclose…

In the case of insurance products with financed single premiums, it appears that it is difficult for consumers to evaluate the real cost of the premium, because the interest is added to it. We also find that consumers are unfamiliar with the methods used to calculate the reimbursement of such premiums in the event that the insurance contract is being cancelled. And thirdly, the reimbursement does not correspond to the premium paid, less the number of months that have elapsed. In conclusion, it appears that these methods of calculating the reimbursement of premiums in the event that the insurance policy is being cancelled, can compromise the cancellation process and render the consumer captive.

In telemarketing situation, it is impossible to give the consumer a copy of the guide prior to the buying of the product and the application of the cancellation period can also cause a problem. In these circumstances, we are facing the fact that the guide does not fulfil its disclosure role bringing us to conclude that the distribution without a representative

regime is ill suited for telemarketing.

A third topic I would like to bring to your attention is compliance with Quebec's regulatory regime. The Act respecting insurance requires that insurer adheres to sound and prudent management practices. The same act also empowers the AMF to issue guidelines pertaining to management practices. As such, our Compliance Guideline is based on principles and exposes our expectations in terms of sound management practices. It promotes the establishment of a compliance culture within financial institutions doing business in Québec.

In that sense, compliance is an approach that goes beyond the "classic" concept of compliance to laws and regulations; it includes compliance to the regulator's guidelines, to its notices and also, compliance to internal code of conduct, policies, and procedures. The main principle underlying our supervisory approach is "accountability". The institution is responsible and accountable for the implementation of management and control functions, among which the compliance function. The institution must implement strategies, policies and procedures to manage its compliance.

Supervisory activities linked to compliance are done both off and on site :

During the time of implementation, our off site supervision is mainly the review and analysis of the biannual report filed the insurer. The report outlines a status on the institution's implementation of strategies, policies and procedures in order to be ready to achieve compliance with the guideline's principles in April 2011.

On site, in evaluating the quality of the compliance management function we look for:

- formal and by formal we mean documented, approved framework of compliance management, including strategies, policies and procedures;
- the independence of the comliance function;

- “Powership” of the function;
- Staff competence;
- Communication and follow up processes.
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Following our supervisory assessement, the compliance management function is rated (strong, satisfactory or unsatisfactory). This assessment (for internal purposes only – e.g. no disclosure) influences the institution’s risk profile.

It is to be noted that in instances where the assessment is unsatisfactory, the supervisory report will include a recommendation. The institution will then have to provide a corrective action plan including a timetable to achieve compliance.

We do follow up and if necessary, some progressive actions may be taken as provided for by the Act respecting insurance.

And last but not least, what are we having in our guidelines pipeline?

We are active member of the IAIS Governance and Compliance Subcommittee. We also lead the drafting team rewriting the IAIS Core Principle, Standards and Guidance on Suitability of persons (fit and proper requirements). The final version of the Core Principle pertaining to Suitability of persons will be presented for its approval at the IAIS annual meeting at the end of October. The work done as part of the drafting team, as you can imagine will serve as input in the development of the AMF guideline on Fit and proper.

The planned guideline will be an integral part of the “foundation stones” already developed– Governance –Risk Management – Compliance (GRC). Together, they contain our expectations with regard to the sound and prudent management practices for financial institutions doing business in Québec;

The planned guideline on the other hand, will outline our expectations on fit and proper requirements for board members and senior management of financial institutions (insurers and deposit taking).

We are planning on publishing the draft for consultation in the first quarter of 2011.

In May 2009, the Basel Committee on Banking Supervision (BCBS) issued Principles for sound stress testing practices and supervision. Stress testing as you all know, is a critical tool used by banks as part of their internal risk management and capital planning. The guidance sets out comprehensive principles for the sound governance, design and implementation of stress testing programs for banks. Stress testing also is a key component of the supervisory assessment process that assists supervisors in identifying vulnerabilities and evaluating banks' capital adequacy.

Last year, OSFI issued for comments a draft version of its Guideline E-18 – Stress Testing. Last December, the final form was published. It sets out their expectations with respect to the use of stress testing by all federally regulated financial institutions.

Our expectations on sound practices in the use of stress testing are spreaded out throughout small sections of various guidelines. Therefore, we are planning to issue a guideline on stress testing in 2011.

It will outline our expectations on sound and prudent management practices while using stress tests for all financial institutions (deposit-taking and insurers).

Our new guideline on Individual Variable Insurance Contracts relating to Segregated Funds differs from any of our other published guidelines. It stresses the execution, rather than the interpretation, of the legal requirement, with the purpose of ensuring harmonization of the rules developed by the industry and rules recognized by CCIR.

In order to provide consistent framework to life insurers, it is largely harmonized with the G2 guideline of CLHIA on Segregated Funds. In addition to the information to be disclosed prior to sale, the Guideline covers different aspects, including continuous disclosure, disclosure in advertising and contractholder rights. It also discusses certain specific expectations, such as administration of funds, investments, accounting and audit requirements.

It is also closely linked to a “Regulation to amend the Regulation respecting information to be provided to consumers” which was published for consultation at the same time. It is up for consultation until October 25. After which, it will then be presented to the Minister of Finance for consultation in order to be effective as of January 1st, 2011.

From our big pipeline we also recently published an update of the Outsourcing Risk Guideline. We did update our requirements to introduce a new appendix outlining: “Example of centralized list of material outsourcing arrangements”. The draft updated guideline was published on our Website for consultation. As no comments were received, the draft guideline will be presented to the Minister of Finance for consultation to be effective January 1st, 2011.

Two more and we’re done.

We did publish for comments some proposed amendments to the Guideline on Capital Adequacy Requirements. This guideline is intended for life insurers that are governed by the laws administered by the AMF. The amendments aim to clarify our requirements pertaining to the calculation by the insurers of a target ratio of capital and to include various modifications, including harmonization amendments.

The updated draft guideline was published for a consultation period ending on September 24. It will be amended to reflect some of the comments received and the new version will be presented to the Minister of Finance for consultation in order to be

become effective January 1st, 2011.

And finally. we will also be publishing for comments proposed amendments to the Minimum Capital Test Guideline. This guideline is intended for P&C insurers that are governed by the laws administered by the AMF. Like the previous one, the amendments aim to clarify our requirements pertaining to the calculation by the insurers of a target ratio of capital and to include various modifications, including harmonization amendments.

The draft guideline will be published for a consultation period from October 8 through November 12 of this year. Following the consultation period, comments will be taken into consideration and the new version will be presented to the Minister of Finance for consultation in order to be effective January 1st, 2011.

A titre de Surintendante, je suis particulièrement fière de la place donnée à l'AMF par nos représentations au plan national et international. L'équipe de l'encadrement de la Solvabilité travaille très fort à identifier, étoffer, présenter et souvent défendre les besoins spécifiques de nos assujettis. As for CCIR, it is important that we keep our channels of communication open. As chair of CCIR, I do also work very hard at finding the proper way for your voices to be heard. We are currently trying to use the web to increase the frequency, the quality of our meeting with theindustry.

La surintendante vous invite à participer à nos rencontres, à nos roads shows, tenus par la surveillance, et la direction des normes. Vos commentaires, nous sont importants. Do not hesitate to contact us. Mario Albert the Superintendent of Distribution and his team are as eager as we are in Solvency to make sure that we give the industry the regulator it deserves. Thank you