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CCIR Update

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I've been looking at the conference agenda. Later today we will have the opportunity to hear the CCIR members from the Atlantic Provinces discuss specific market conduct issues. Also, after my presentation Grant Swanson from the Financial Services Commission of Ontario will be addressing this forum. All those regulators plus OSFI and my AMF colleagues, make a majority of CCIR members. I think that must be some kind of record for one conference, and certainly speaks to our mutual commitment to open dialog and understanding between regulators and the regulated – our stakeholders. I want to thank J-P and the rest of the CLHIA for making this possible.

This is the beginning of my third year as CCIR Chair and my second opportunity to present the CCIR update to this conference. In preparing for this talk, I was looking at my notes from last year's presentation and I can only say: "What a difference a year makes!"

Before I get into what CCIR is currently up to, I want to look at some the lasting effects of the work of the CCIR. Our industry is changing at a rapid pace and regulators are changing with it. As I go to international conferences of regulators, it is always gratifying to find that we in Canada are ahead on issues that others are now facing and that our system works well where others have challenges.

I was honoured give a presentation – wearing both my AMF and CCIR hats - at the International Association of Insurance Supervisors annual conference last October in Dubai. The conference had participants from over 100 countries. I was speaking about the "state of insurance market" in Canada post-economic-crisis. Virtually all the other regulators spoke of challenges and problems and troublesome issues going on in their marketplaces; as well as the need for major reforms. But I was fortunate enough to have a success story to tell about stability, prudential solidity, proper enforcement and balanced supervision in the Canadian insurance marketplace. Our insurance system is the envy of many parts of the world. A significant part of the story I told, a significant

factor, I believe, in the success and stability of the Canadian Insurance marketplace is the work of the CCIR.

The international regulatory community is just now working on developing standards for Risk-based Market Conduct Regulation. CCIR completed our project on this over three years ago. Since then have been implementing a risk-based approach in everything we do. We don't just react - we identify and assess risks first. We focus on the outcomes needed and how to accomplish them, not on rules and forms. We recognize that the best control is self-control, so we work with our industry stakeholders to develop industry standards so that all market participants know what is expected of them.

Speaking of industry standards, we are also quite proud of the three **Principles for Managing Conflicts of Interest** that we published in 2006 and which form the basis for Codes of Conduct throughout our industry. These Principles - Priority of the client's interest, Disclosure of conflict or potential conflict of interest, and Product suitability – have stood the test of time. They are still quoted in the press and we referenced them in our recent MGA paper. The development of these principles was a very early example of CCIR focussing on desired outcomes.

CCIR seeks to build on these successes.

When you live through extraordinary events – like the recent economic crisis – it is necessary to reflect upon them and consider what steps are required to prevent their reoccurrence. Internationally, regulators are redefining their roles. I am pleased to say that CCIR is well aligned with this international trend: as good as we are, we do not rest on our laurels. We are redefining ourselves, too, though perhaps in a more modest and measured way than some other regulators.

CCIR has taken considerable time over the past year to consider our appropriate role in the Canadian insurance system. I say “system” and not “industry” to include not only

insurers and representatives but also the policy makers in government who make laws governing insurance as well as we regulators who administer those laws.

When we asked the industry what CCIR could do better, one of the major themes of the replies was that we were not delivering harmonized laws across the country. And it is true that we do not do that, because we CANNOT do that. It is beyond the mandate of most of our members to decide policy for their jurisdictions. And policy decisions and making laws SHOULD be beyond the mandate of regulators (however bright and well meaning we may be) because such things belong in our system of government to the people we elect to govern us.

The development of our soon to be released Strategic Plan took a more fundamental philosophical turn than is normally the case. We worked to address the expectation gaps that appear to exist between what stakeholders expect CCIR do and what is actually within our power to do, and to respond to the changing regulatory environment. We determined that the way we had defined CCIR's mandate and mission in the past were part of the problem. As part of this rethinking, the new CCIR Strategic Plan will include some subtle but important changes to our Mandate, Mission and Vision that will assist us in focusing both the work CCIR undertakes and our approach to the other players in the insurance system.

Let's start with the CCIR **Mandate** – a very fundamental statement of why we exist. The old **Mandate** said that CCIR “facilitates and promotes an efficient and effective insurance regulatory system.” We have both simplified and refocused this. The mandate now says that CCIR exists “to collaborate among themselves and with others to **improve insurance regulation** to serve the public interest.”

The focus here is on **regulation** – the administration of existing law. We certainly hope that improving insurance regulation will make the regulatory system more effective – otherwise it would be hard to call it an “improvement.” However, improvements to

regulation may or may not make the system more efficient – and even then that might depend on your point of view.

The **Mission** has two significant changes.

First, we updated what we do from “address common regulatory issues” to “work ... toward development of solutions to common regulatory issues and promote harmonization.” CCIR doesn’t just “address” issues; this isn’t a debating society or a book club. We work to find solutions to them.

We have also added a regulators definition of harmonization, as there was reason to think that some stakeholders thought about that term differently than we do. To us, harmonization means national coordination and alignment where possible, with respect for jurisdictional differences. Not locked-in conformity. And, though we cannot promise that common solutions will always be found or that they will be implemented everywhere: common solutions are what we strive for.

And that’s where the second change to the Mission comes in. As stated earlier, CCIR is made up of regulators who, in many jurisdictions are NOT the policy makers, so we have specifically added **collaborating with Policy Makers** to the Mission to emphasize their important role in harmonization and implementation of common solutions.

This is an aspect of our Canadian insurance regulatory regime that many people miss: **regulators do not make policy**. As much as some of us might like it, insurance regulators do not have the rule making authority that securities regulators enjoy. So we have to focus on educating, building understanding and getting the best information we can into the hands of the decision makers. As well, it is the regulator’s responsibility is to actively bridge the gap between policy makers and the industry as regulators have a unique window on the industry.

The new **Vision** states more clearly the fundamental goal of regulation: **to support consumer protection and enhance confidence in the Canadian insurance marketplace.**

The theme of this conference is “Conducting Your Business in a World of Risks.” Well, consumer confidence is the overall grade point average for how the industry is seen to be dealing with risk. This is where you measure not only the effectiveness of regulation, but more fundamentally the reputation of the industry as a whole. Confidence in the insurance marketplace can only be achieved with a balance of regulatory protection and good business.

We are distressed watching the increasing disregard the public has for the insurance industry. It seems to us that there is an erosion of the credibility of the insurance promise that is not based on any rational thinking, but which has gained credence throughout our society. This speaks to the need and intent of the CCIR to redefine relationships in our strategic plan. Not “you tell us, we tell them.” But an elevation of the level of engagement of all parties – policy makers, regulators and industry members – to make improvements that will halt that erosion and return the insurance industry to the trusted position it once held, and deserved to hold, in the minds of the public.

Together these changes clarify what CCIR CAN and CANNOT DO, but perhaps more importantly, they are a guide for what we SHOULD DO and how we will go about doing it.

The Strategic Plan will have **4 Strategic Priorities**, differing quite a bit from our previous priorities and reflecting our new focus.

The First Strategic Priority is to maintain, and, where necessary, build, a **Strong Regulatory Capacity**. There are two main aspects to this:

First, we must **build on our relationships with international regulatory organizations**, such as NAIC in the U.S. and the International Association of Insurance Supervisors (IAIS) to ensure that the Canadian regulatory system meets all internationally agreed upon standards as well as to keep informed on emerging issues that may be identified outside Canada.

Second, within Canada, we will work to **increase collaboration among regulators**. CCIR is looking at ways to coordinate training for regulatory staff, to increase member communication through electronic tools such as webinars, to conduct more combined examinations, and to build mechanisms for identifying and managing systemic risk.

Our Second Strategic Priority is to enhance **Policy Maker and Stakeholder Engagement**.

As in the Mission, for the first time CCIR has decided to make it a strategic priority to **pursue effective involvement with policy makers**. That is, we are going to focus more on ways that we can more profitably engage the policy makers in insurance issues. One of our thoughts on how to accomplish this is to build relationships with influential policy organizations, such as Institutes and think tanks; another is to have CCIR members engage the policy makers in their jurisdictions on CCIR issues earlier in the process.

And, although we believe that we are pretty good at this already, we intend to **enhance stakeholder consultations** by improvements to our website, and by increasing our use of technology, such as webinars, to communicate with stakeholders.

Our Third Strategic Priority joins together two priorities from our previous Strategic Plan: harmonizing regulation and decreasing regulatory burden. We are now focussing on the positive goal of **promoting an efficient private sector marketplace.**

So, to the extent possible, we will be working toward developing and implementing common forms, a common Intermediary registration and enforcement database, harmonized licensing applications, and common capital tests. We will also be coordinating efforts in dealing with compensation funds and looking at coordinating implementation of the agreement on internal trade.

This is also the initiate under which you will find most of the projects CCIR works on, including our work on managing general agencies, third party administrators, electronic commerce, corporate governance standards for market conduct, catastrophic event readiness, and acting on recommendations of federal financial literacy task force.

Our Fourth Strategic Priority is to **Identify and address common emerging issues in a timely manner.** We don't know what these issues will be, but we know they will arise and we will keep a lookout for them and when they do, CCIR will be ready.

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Now, let me update you on a few of the issues that CCIR is currently looking at.

Earlier this year, we published an issues paper for consultation on the **Managing General Agents** distribution model in the life insurance industry.

One of our goals with this MGA paper was "to stimulate debate about the issues noted in this paper." It certainly did THAT. We received more paper press on this that we usually do for CCIR projects, but there were also two **internet video interviews** about the paper, Investment Executive magazine held a **webinar for advisors** to update them

on the paper, and the Independent Financial Brokers Association of Canada held an online survey about the issues in the paper: we have certainly joined the 21st Century! In the end, we received 23 responses to the MGA paper - from advisors, MGAs, and insurers, as well as the industry associations representing them – including the CLHIA. All the responses have been posted on the CCIR website for those interested.

Another goal of the MGA paper was “to educate and to build a common understanding of the topic and issues for both regulators and stakeholders.” We think we have come a long way on that goal as well. Though the committee responsible for the paper – the Agencies Regulation Committee – is still working on their recommendations to CCIR, I can say that we have learned a great deal from the process thus far. We were very pleased with the depth of the information sharing that has taken place among all the industry participants and with the thoughtfulness and goodwill shown in the responses. It is also gratifying to see that the major industry players have already gotten together to deal with some of the issues raised by this paper, as well as our previous study regarding agent suitability oversight of Segregated Fund annuity products. The *CLHIA Standardized MGA Compliance Review Survey* is a very good step forward.

Researching Life MGAs was just the first part of the mandate of the Agencies Regulation Committee. After this, they will be will be working for a while on the P&C side, but, after that, they will be delving into the world of group life and health insurance as they research Third Party Administrators – TPAs.

Not unlike MGAs, the use of TPAs has grown over the years and several regulators have received complaints from consumers about the claims handling practices of some TPAs. For instance, some TPAs appear to be reluctant to inform policyholders that they have a right to access the insurer’s complaint handling processes if their claim is denied. There are even rumors that some TPAs receive bonuses for keeping claims ratios low. Whatever the truth of this may be, CCIR has decided we need to know more about TPAs, how they work, who they work for, what their contracts look like, and

so forth, to determine if there are risks to consumers or regulatory gaps that need to be corrected.

As you may know, the regulators from Alberta have already started asking some questions about TPAs as they work on their new regulations. They have already agreed to share the results of this work with the Agencies Regulation Committee, which demonstrates one of our new *Best Practices for Regulatory Surveys* in action – using data other regulators recently surveyed instead of asking for it again. There are a number of best practices for surveys that we have developed to both increase their efficacy and reduce the burden they impose. Our paper on these *Best Practices* is currently posted for comment on our website. We encourage you to look the paper over and send in your comments by the end of June.

We have another project underway which we hope will result in an issues paper being published in the fall. It is on **Electronic Commerce** and deals with issues arising from the use of the phone, fax, internet, or any other non-face-to-face method that may one day be used for the completion of transactions regarding all aspects of insurance – sales, changes to policies, claims, etc. The topics to be dealt include the thorny subject of beneficiary designations made electronically. As this will certainly get the lawyers involved, I'm sure this has the capacity to become as interesting for us as the MGA paper has been.

One final project that is dear to my heart, as AMF is chairing the newly constituted Disciplinary Information Committee – the D I C. We are looking at ways to make insurance disciplinary data across the country available from a central source to regulators, industry and the public. Although many provinces already publish some disciplinary information in one way or another, we do not have a central source for this information like the system the securities regulators - Canadian Securities Administrators (CSA) – just instituted. Putting together any system like this for

insurance also requires close cooperation with CISRO as this information is kept by Insurance Councils in the western provinces.

The first step in this process is to develop a common ground on the principles and definitions across the country to make eventual amalgamation of the data possible, so we are currently surveying ourselves (makes a change, I know). The DIC survey runs to 10 pages and over 40 questions, and, of course, we followed best survey practices. Once the common ground is established, the DIC will progress to review legal and technical issues related to this project. The committee will eventually also have to consider whether there is any interest in combining the insurance disciplinary information with that of securities regulators. So, there is a lot of work to be done on this project, but we hope to move ahead quickly.

I've talked a lot about CCIR and its committees in generic terms, but in reality, CCIR is people, and we are only as good as the sum of our parts. It is the engagement of the Superintendents from all the provinces and territories across Canada, and the magnificent effort by their staff members, giving their time to CCIR committees, that really makes CCIR work.

For instance, the few CCIR committees I've mentioned here – Agencies Regulation, Electronic Commerce and Disciplinary Information - include regulatory staff from Newfoundland and Labrador, New Brunswick, the Yukon, Ontario, Manitoba, Saskatchewan, Alberta and British Columbia, as well as several CISRO representatives from various jurisdictions. This is a pretty impressive list, I think, and shows well the inclusive and collaborative nature of the CCIR.

I would like to thank you for your time and conclude with my sincere good wishes to you all for a successful conference. I look forward to working with you to improve, not only insurance regulation, but the confidence of Canadians in an industry that we can all continue to be very proud of.

I look forward to your questions, and to talking to at least some of you during the rest of the conference.