



18 June 2018

Mr. Patrick Déry
Chairman

Canadian Council of Insurance Regulators
5160 Yonge St., Toronto, ON, M2N 6L9

ccir-ccrra@fsco.gov.on.ca

Dear Mr. Déry,

Re: CCIR/CISRO Guidance – Conduct of Insurance Business and Fair Treatment of Customers

Introduction

CADRI appreciates the opportunity to participate in consultations to refine CCIR's guidance to industry on the fair treatment of consumers. Treating consumers fairly is of utmost importance to CADRI members. Each has internal codes of conduct, policies, procedures and has made a significant reputational investment in ensuring its employees put customers' needs first.

First, let us congratulate CCIR and the Canadian Insurance Services Regulatory Organization (CISRO) in joining forces behind the guidance. This will encourage a consistent experience for consumers and is a step toward much-needed regulatory harmonization. We are very supportive of CCIR and CISRO's intent to create a national standard for a principles based approach to the fair treatment of consumers. We also understand that publishing these guidelines will place Canada in compliance with international standards.

CADRI was invited to review a draft of this guidance earlier this year. At that time, we focused on four areas of concern:

1. Harmonization of compliance between CCIR and its members,
2. Recognition that the guidance details activities governed by existing legislation and regulations,
3. Clarification of the term intermediaries and the scope of the guidelines as they pertain to outsourcing to partners in the value chain, and
4. Assumptions rooted in traditional rather than contemporary business models.

In the majority, the guidance is the same as originally circulated. To that extent, our comments, dated March 8th 2018, stand. At this point we will restrict our observations to new developments in the guidance.

CCIR's amendments and questions

Does the guidance present contradictions with existing or future instruments related to fair treatment?

It is hard to forecast how this guidance might contradict future instruments. We know that the Financial Services Commission of Ontario has guidelines in development. The very fact that Ontario is contemplating a separately-developed and differently-structured set of guidelines sets in place duplicative, and possibly contradictory expectations, for insurers.

Does the guidance strike the right balance between the roles and responsibilities of insurers, distribution firms, agents and representatives?

CADRI had previously raised issues about CCIR's intentions relative to the terms "intermediaries" versus outsourcing to preferred partners in the insurance supply chain.

On the question of Agents and Representatives' responsibilities, we understand that the definition varies between CCIR and the international body, the International Association of Insurance Supervisors (IAIS). Moreover, in the IAIS guidelines – Insurance Core Principles -- there is clarification that the insurer is not the "ultimate risk carrier" (CCIR) but that "the good conduct in respect of the relevant service(s) is a shared responsibility of those involved" (ICP). We, therefore recommend that CCIR revisit the definition to better align with the ICP to ensure that all parties – intermediaries and third-party suppliers – bear equal responsibility for consumer protection.

Relative to outsourcing, we have noted that CCIR has qualified the functions against which the guidance may apply. However, the inclusion of "policy servicing" is still broad enough to lead us to question whether insurers are being asked to regulate their preferred partners in health care, auto repair etc.

Certainly, we support, and it is good business practice to "re-assess ... existing arrangements upon renewal to ensure they contribute to the achievement of fair Customers outcomes."

CCIR and CISRO are mindful that in some industry sectors the introduction of this guidance may raise questions about the possibility that intermediaries may be subject to multiple audits... CCIR will address the need for clarification and invite stakeholders to comment.

CADRI embraces CCIR's intent in the section on "Relationships between insurers and intermediaries". However, the spectre of "multiple audits" of any participant in the insurance value chain is duplicative and adds cost to operations and ultimately to the expense paid by consumers.

In conclusion

Treating consumers fairly is a principle that underpins the insurer-customer relationship.

We continue to urge CCIR to encourage its members to adopt this guidance instead of developing their own codes.

In addition, we submit that CCIR's guidance would greatly benefit from recognition of the respective risk-bearing responsibilities of the players throughout the insurance value chain. In this light, we recommend that CCIR align its definitions with the IAIS Insurance Core Principles.

Finally, whether through outsourcing or preferred partner networks, CADRI members seek to mitigate reputational risk from questionable business practices. Therefore, the marketplace encourages ethical treatment of consumers. However, seeking to have insurers regulate these partnerships remains unfeasible. We continue to recommend that CCIR review the guidance as it pertains to outsourcing with the intention of narrowing its scope to a practical framework which applies to activities under direct control of the insurer.

CADRI appreciates the opportunity to comment on the guidance developed by CCIR to conform to international standards.

Yours sincerely,



Alain Thibault
CEO and Chairperson

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