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I want to thank CAFII for inviting me to speak to you today. As Chair of the Canadian Council of Insurance Regulators (CCIR) and as Quebec's Superintendent of Solvency, it is an honour to be with you again this year.

This my third year as CCIR Chair and I always find it valuable to meet industry members to share what is on our minds as regulators and to learn what is on your minds.

You know all by now what CCIR is all about so before I get into what we are currently up to, I want to look at some the lasting effects of our work.

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 Seoul. The conference had participants from over 100 countries.

I was speaking about “Market Conduct: Supervisory Practices and Challenges for Protecting Consumers,” an area where Canada has made some significant progress.

The international regulatory community is 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 and consumer publications throughout our industry, and are still quoted in the press.

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. 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 think 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.

When we asked the industry early in 2010 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 recently 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 includes 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 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 we had some 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. 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**.

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.

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 increase confidence in the insurance industry 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 lists **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 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 initiative 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.

First, I am pleased to announce two new CCIR committees formed at our meeting in September, both chaired by the AMF. The first is a committee to look at the implementation of the newly adopted (October 1, 2011) insurance core principles – ICPs – of the International Association of Insurance Supervisors.

The committee's mandate has two goals: first, to ensure that all the core principles are being met in Canada, particularly those concerning fair treatment of customers, and, second, to develop a supervisory and regulatory framework that could be implemented across Canada that will meet international standards.

The second new committee is a Solvency Forum. The Forum will be working to ensure that those regulators with provincially incorporated insurers are using up-to-date methodologies for solvency monitoring. They will also be developing tools and delivering training for possible closure of a provincial company.

Now, to update you on some ongoing projects:

Our **Agencies Regulation Committee** has a mandate to review the regulation of managing general agencies, wholesale agencies and brokers, and third party administrators and consider risks to consumers and legislative and regulatory issues.

Earlier this year, they published a well-received issues paper on the Managing General Agents distribution model in the life insurance industry. The committee is now working to finalize recommendations from the industry consultation on that paper.

Once that is complete, they will be doing research on the role and governance of **P&C managing general agencies, wholesale agencies and wholesale brokers**. We expect an issues paper to be developed for consultation, probably in the first half of 2012.



We have another project underway which will have in an issues paper published later this 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.

And, yes, it covers beneficiary designations. I do want to thank CAFII members for their valuable input on that issue, hopefully, this paper will help to resolve it. We hope too have the paper published for comment very soon.

CCIR is also reviewing the results of the consultation we conducted over the on the ***Use of Credit Scores by Insurers***. The issues paper documented CCIR's understanding of insurers' use of credit -based insurance scores. There are differing views between jurisdictions and between stakeholders regarding the use of credit-based insurance scores.

Some groups have proposed eliminating its use arguing it is not fair to consumers, while others defend its use as a valid actuarial tool to underwrite and price insurance. The paper is neutral and makes it clear that the question of whether or not to ban the use of credit-based insurance scores goes beyond the scope of CCIR's review.

Frankly, there will be no harmonized policy on use of credit information in underwriting. Some jurisdictions feel it is a valid tool to underwrite and price insurance, but other jurisdictions have banned its use already and still others are moving to do so.

Ultimately, this is a government decision dependent upon a combination of political and socio-economic conditions within a jurisdiction, and a jurisdiction's level of tolerance in relation to any potential risk identified.

If I may, let me now switch to my AMF hat and present recent developments with regards to Distribution other than through a representative (or Distribution without a

representative), the Sale of insurance through the internet and news with regards to some new and less new guidelines

Throughout the years, the AMF has noticed a few problems regarding the application of the DWR. In light of this, we have has produced a report of our observations and suggestions on how to improve the efficiency of the regime.

On November 26<sup>th</sup> 2010, we published a report, titled “**Issues and Consultation Paper on Distribution of Insurance Other than through a Representative**” in order to receive comments from both the industry and the public on the proposed suggestions.

The consultation period ended on February 25<sup>th</sup> 2011, at which point we had received approximately twenty memoirs.

The analysis of those memoirs is now completed, and we are currently working on solutions, taking into account comments received.

The report submitted for consultation addressed the 6 following issues:

1. Disclosure of information to consumers;
2. Rescission of the contract;
3. Supervision of distributors;
4. Disclosure of distributors’ remuneration;
5. Financing of single premiums;
6. Use of telemarketing.

The issues observed and the proposed solutions to remedy them will most likely require legislative amendments in order to, amongst other things:

- simplify the distribution guide
- tighten the supervision of distributors and,
- rethink the rules in terms of disclosure of the distributors' remuneration.

On another topic, the Internet has become an indispensable part of our daily life. Electronic commerce is booming and, although to a lesser degree, insurance e-commerce is also posting robust growth.

Given this rapid pace of development, we have undertaken a review of the on-line distribution of insurance products in order to better identify and understand this activity and its associated issues.

Our preliminary work spanned nearly a year and consisted in the following:

- Meeting with industry stakeholders;
- Analyzing the mechanics of an on-line transaction and the measures taken by insurers and firms;
- Determining the characteristics of on-line insurance offerings;
- Identifying, based on a sample, the characteristics of on-line insurance offerings by firms;
- Conducting comparative research of frameworks in place around the world that oversee on-line insurance offerings;
- Examining the legal implications of on-line insurance offerings.

The review has enabled us to analyze the appropriateness of the current oversight framework and evaluate ways in which it could be improved.

We are currently building a consultation document which should be published in early 2012. This document should, amongst other things, address the following subjects:

- Growth in on-line distribution of insurance products
- Internet insurance offerings in Québec
- Advantages and risks for consumers
- Regulatory oversight
- Proposed framework

As I said earlier, the CCIR is also working on a national consultation which should be published in early 2012 as well.

## **GUIDELINES**

As you may be aware, we have recently published for consultation 3 new Guidelines.

The first one is the Guideline Governing Integrity and Competency Criteria which was published on October 24, 2011. The consultation period ends on December 30, 2011.

This Guideline sets out the AMF's expectations regarding the criteria to be met by members of decision-making bodies of financial institutions with respect to the integrity and competency expected of them.

More specifically, the members of decision-making bodies refer to members of boards of directors as well as to senior management (including those in charge of oversight functions: Compliance Officer, Chief Risk Officer, Internal Auditor, Appointed Actuary, etc.).

In issuing this guideline, the AMF seeks to ensure that financial institutions follow sound and prudent management practices as regards these criteria, particularly by ensuring that individuals appointed to strategic positions within financial institutions are honest and competent.

The second one is more technical in nature as it relates to Stress Testing. It is published for consultation until January 20, 2012.

The financial crisis of 2008-2009 highlighted certain weaknesses in stress testing frameworks, chief among them the fact that stress testing was not adequately incorporated into the integrated risk management and decision-making processes of financial institutions.

Stress testing should therefore be an integral part of an institution's integrated risk management policy. In light of this, financial institutions should implement a stress testing program to identify the sources, types and scope of risks to which they are exposed.

With respect to insurers specifically, the AMF acknowledges that dynamic capital adequacy testing ("DCAT") is one component of stress testing. This new guideline does not present stress testing as replacing DCAT, but rather as a complementary tool used, for example, to introduce more severe scenarios and approaches underlying scenario testing.

The last one being under consultation (until January 20, 2012) is the Financial Crime Risk Management Guideline. This Guideline is quite unique in its scope, as it favours a proactive approach aimed at reducing the risk that a financial institution will be involved in financial crime activities.

The guideline favours a priori the need for financial institutions to have effective governance and to implement risk management practices in order to prevent and detect activities associated with financial crime.

Since financial crime can expose a financial institution to various risks, including operational, legal, regulatory and reputational risks, we expect financial institutions to have processes and procedures in place to adequately manage and mitigate those risks.

Finally, let me quickly update you on our Commercial Practices Guideline. The review of the more than 170 commentaries received from the industry is finalised and we are in the final stretch before its final publication, no later than March 31<sup>st</sup>, 2012.

I want to take this opportunity to thank CAFII for its constructive and relevant comments. Many of them were taken in consideration in the drafting of the final version of the Guideline.

I want to end with my sincere good wishes to you for a happy holiday season. 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.