

**Canadian Council of Insurance Regulators (CCIR)  
and  
Canadian Insurance Services Regulatory Organizations (CISRO)**

**IPRC Implementation Review Project**

**REPORT ON THE ACTION OF IPRC PRINCIPLES  
BY INDUSTRY ASSOCIATIONS**

**March 2007**

## EXECUTIVE SUMMARY

On February 13, 2006, the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO) released *Managing Conflicts of Interest: A Consultation Paper on Enhancing and Harmonizing Best Practices*. The consultation paper presented the following three principle-based recommendations focusing on marketplace outcomes:

- Priority of the client's interest;
- Disclosure of conflict or potential conflict of interest; and
- Product suitability.

Comments were requested for the three principle-based recommendations intended to enhance and harmonize best practices in the management of conflicts of interest in the insurance industry.

The period for receiving submissions ended on March 24, 2006. The CCIR Secretariat received forty-three submissions, of which thirty-five were from industry associations. The submissions were then forwarded to the Industry Practices Review Committee (IPRC). The IPRC selected eleven national industry associations for a more detailed review. In this report, the IPRC is presenting to the CCIR the results of the information gathered from these eleven national industry associations as of October 27, 2006.

The IPRC found the following:

1. Priority of the client's interest: Although eleven industry associations are supporting this principle, not all associations have implemented sufficient documentary guidance showing support for all elements of this principle.
2. Disclosure of conflict or potential conflict of interest: All eleven industry associations support this principle but only five are supporting substantially all elements of this principle with tools. The other six industry associations are supporting this principle but they have yet to implement tools.
3. Product suitability: Only one industry association supports substantially all elements of this principle with tools. One industry association does not support this principle. The other nine industry associations are supporting this principle with no supporting tools.

While the results indicate general support for all three principles, there still remains work to be done to ensure the implementation of the principles by the associations. In the summer of 2007, the IPRC plans to continue to monitor the implementation of the IPRC principles in the marketplace.

## THE RESULTS

The period for receiving comments on the consultation paper ended on March 24, 2006. A total of forty-three responses were received by the CCIR Secretariat, which were then forwarded to the IPRC for review. The results below represent the comments received from the eleven national industry associations reviewed by the IPRC. These eleven national industry associations included seven national insurer associations and four national intermediary associations. The results are grouped under the three principles recommended in the consultation paper.

All of the associations support the priority of client interest and the disclosure of conflicts of interest principles. All but one of the eleven associations supports the product suitability principle.

### Principle No. 1 – PRIORITY OF THE CLIENT’S INTEREST

To achieve this principle, the intermediary must place the interests of policyholders and prospective purchasers of insurance ahead of his or her own interests. This is the paramount principle.

Examples of expected conduct or practices:

- A broker or agent must:
  - not knowingly prejudice the interests of a consumer for personal gain;
  - not take advantage of a client’s or an insured’s inexperience, ill health or lack of sophistication;
  - be both candid and honest in advising the client or consumer; and
  - act with integrity, competence and the utmost good faith.

#### a. Support for the Principle

All eleven industry associations support this principle. The particulars of this support are as follows:

- One national industry association proposed to support an initiative to develop standardized language for this principle.
- One national intermediary association has a code of ethics that follows the recommendations of the Joint Forum of Financial Market Regulators. This code requires a broker to place the client’s interest before the broker’s interest. The code requires a broker recommend a replacement of an insurance policy only if it is in the best interest of the client.
- One national insurer association requires its members to conform to a specific code of ethics.

## b. Support for the Principle with Tools

None of the eleven national intermediary associations are supporting this principle with tools.

## c. Implementation Issues

- One national insurer association stated that it will endorse and recommend that its members to adopt this principle.
- Two national insurer associations are willing to support some form of harmonization; however, only one of them proposes to harmonize its code of conduct to the language adopted by CCIR/CISRO.
- One national intermediary association proposed a common wording for the wealth management industry and risk management industry. This association also advocates performance-linked benefits to provide greater incentive for brokers to prudently represent the best interests of their clients.

## **Principle No. 2 – DISCLOSURE OF CONFLICT OR POTENTIAL CONFLICT OF INTEREST**

To achieve this principle, consumers must receive disclosure of any actual or potential conflict of interest that is associated with a transaction or recommendation.

Examples of expected conduct or practices:

- A broker or agent must disclose:
  - name of insurers represented;
  - name of insurers with which a significant volume of business is placed;
  - extent of search for competitive price and product suitability;
  - method of compensation: salary, commission or others such as bonus, contingent profit commission;
  - other relationships that may cause actual or potential conflicts of interest: ownership, financial links.

## a. Support for the Principle

All eleven industry associations support this principle. Six of these associations (four national insurer associations and two national intermediary associations) submitted the following comments:

- One national insurer association strongly supports the education of its members and recommends that members inform and educate their brokers.
- Two national insurer associations support this principle in that disclosure should be brief and relevant to the purchase decision. Such disclosure should be flexible

and tailored to the circumstances. Members of one of these two associations have rolled out the guidelines nationally. In doing so, certain best practices are being used to address the gaps identified in the IPRC's November 2005 paper entitled *Summary of Responses on the Consultation Paper on Relationships Between Insurers and Sales Intermediaries - Achieving Best Practices*.

- One national intermediary association has guidelines stating what information a broker is to disclose.
- One national insurer association informed that it supports disclosure of actual conflicts of interest. The disclosure is to contain certain required information.

b. Support for the Principle with Tools

Despite the above general support, only five industry associations (three national insurer associations and two national intermediary associations) support this principle with tools (i.e. interactive web-based tools, reference documents). The particulars of the comments received were as follows:

- Four associations (one national insurer association and three national intermediary associations) have developed a reference document covering disclosure of conflicts of interest. The document can be tailored to suit the situation, while still meeting the minimum disclosure requirements for this principle.
- One national intermediary association also has a web-based electronic tool. This tool assists in transactions and generates disclosure letters, contributing to the harmonization standard of practices across the country.
- One national intermediary association has a conflict of interest letter template on its website for members to use. This association's quarterly newsletter reinforces the importance of using such a written disclosure tool. This association requires such disclosure tools be used in Ontario but it recommends their use across Canada. This association also holds educational sessions promoting the importance of disclosing conflicts of interest to clients.
- One national insurers association has a code of conduct that promotes standards for voluntary website disclosures on compensation and financing. This code is available for all members across the country.

c. Implementation Issues

Comments on the following implementation issues were received:

- *Disclosure of Compensation* - Most of the eleven national industry associations support disclosure of compensation but they admitted that there were some

implementation issues based on the uniqueness and complexity between life and health insurance and range of compensation between them.

- *Disclosure of Conflicts of Interest* – The following implementation issues on disclosing conflicts of interest were received:
  - *Disclosure of Actual Conflicts of Interest* - One of the submissions noted the differences between the property & casualty insurance sector and the life & health insurance sector and suggested that these sectors be assessed differently. Another submission suggested that disclosure should not prevent an agent or broker from conducting business where there is a conflict of interest. The submissions also suggested that insurers who employ a captive or career sales force should disclose this fact, and for uniformity, details of point of sale disclosure should be done on a province by province basis.
  - *Disclosure of Potential Conflicts of Interest* - Two national industry associations indicated that potential conflicts of interest may be difficult to implement.

The IPRC found that all associations have implemented this principle. Others intend to implement this principle in the future. For example, one association has taken steps to define the terms of disclosing conflicts in the life insurance industry and is working with the industry. Another association advised that it will continue to monitor best practices in different jurisdictions.

### **Principle No. 3 – PRODUCT SUITABILITY**

To achieve this principle, the recommended product must be suitable for the needs of the consumer.

Examples of expected conduct or practices:

- A broker or agent must:
  - have adequate fact finding and assessment of insurance needs
  - recommend a product that meets the client's needs
  - explain and document product recommended

#### **a. Support for the Principle**

One national industry association does not support the principle, while the others supported the principle. One national intermediary association has a code of ethics that requires members perform a client needs assessment prior to recommending products or services.

## b. Support for the Principle with Tools

One national intermediary association supports all elements of this principle and has also developed tools such as a web-based disclosure template. The disclosure template produces product suitability letters that may be tailored to each client. This association also has a best practices manual on its website.

As for the future activities by the associations, only two associations (one national insurer association and one national intermediary association) have made proposals for any future action. The particulars are as follows:

- One national insurer association believes the advice given to clients needs to be appropriate to the client's needs and the language should be specific to the securities environment. This necessitates the development of a different approach to accommodate the unique characteristics of life and health insurance products and markets. The association has initiated a consultative process with other industry stakeholders to develop such an approach.
- One national intermediary association expressed a willingness to work with other stakeholders in the life and health insurance industry to assist agents and brokers in compliance matters and to work through managing complexities. This association stated that it will participate in developing future guidelines and procedures to advance the IPRC principles and recommendations. In addition, this association indicated through its newsletter and educational sessions that relevant information can be shared with both member and non-member agents and brokers.

## c. Implementation Issues

The industry associations identified the following implementation challenges:

- The relationships of consumers and intermediaries vary from simple transactions to complex financial planning.
- The range and complexity of life and disability insurance products make some suggestions on product suitability difficult to satisfy immediately.
- An approach must be taken that accommodates the uniqueness of life and health insurance products and markets.
- The rules or regulations should be assessed separately for the property & casualty insurance sector and the life & health insurance sector as they offer different products, terms and pricing mechanisms.

## **ACTION TAKEN AFTER OCTOBER 27, 2006**

Following the consultation period, four of the eleven national associations took action to further endorse the three principles. For example, the following occurred:

- Four associations (three national intermediary associations and one national insurer association) prepared a letter on disclosing conflicts of interests. The letter covered the following:
  - A uniform conflict of interest disclosure protocol for advisors to use in dealings with clients;
  - A requirement for documenting disclosures; and
  - A protocol for dealing with provincial insurance regulators and companies in routine audits.
- One of the four associations (a national intermediary association) developed an interactive web-based tool that addressed the key elements for the implementation of the product suitability principle.

All eleven national industry associations generally support the principles of Priority of the Client's Interest and Disclosure of Conflict or Potential Conflict of Interest. Despite the broad support for the principles, there were implementation challenges and issues raised for each principle.

## **NEXT STEPS**

The IPRC will:

1. Conduct and report on round table discussions with national industry associations on the uptake of the IPRC Principles.
2. Develop methodologies for an implementation review of insurers and sales intermediaries.
3. Follow-up with industry associations about their implementation proposals.
4. Achieve a harmonized approach to implementation and continue to monitor the achievement of these principles in the marketplace.
5. Starting in 2007, conduct a two stage implementation review of the IPRC principles in the marketplace for agents and then for insurers.
6. Report back to CCIR/CISRO.