Findings Report

USE OF CREDIT SCORES BY INSURERS

Credit Scoring Working Group

November 2012

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This document does not necessarily represent the official position or views of any provincial, territorial or federal government or agency.

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1. Introduction

The Canadian Council of Insurance Regulators (CCIR) is an inter-jurisdictional forum of provincial, territorial and federal insurance regulators with a mission to work cooperatively among themselves and with other financial services regulators, policy makers and stakeholders, toward solutions to common regulatory issues.

In the spring of 2009, there was considerable media attention about the use of consumer credit information by insurance companies. The CCIR decided to establish a Credit Scoring Working Group (CSWG) with a mandate to research and gather the facts surrounding credit-based insurance scores and how they are used in today's regulatory environment.

In June, 2011, the CSWG sought comments from the public on its issues paper entitled *Use of Credit Scoring by insurers.* This paper was intended to check whether our understanding of the facts was correct and to build a common understanding about the topic among regulators, policy-makers, consumers and industry stakeholders.

2. Overall Comments on the Responses to Issues Paper Consultation

The CSWG was somewhat disappointed in the breadth of responses to the issues paper. Despite our best efforts[1], we received no responses from consumer groups or individuals, although one response from an insurance rate board contained some brief comments about information they gathered from a consumer survey. The rest of the 15 submissions received came from: insurers (5), insurer organizations (4), brokerage organizations (2) and credit bureaus (3)[2].

We wish to thank all of those who participated in the consultation: your input has been invaluable in clarifying the issues. The submissions received generally agreed that our understanding of the facts was correct[3], although they differed markedly in their opinions about the merits of the practice of using credit scoring for insurance underwriting. It is clear from the responses that the use of credit scoring remains a controversial and polarizing issue among industry participants.

The submissions can be broken down into roughly two camps – insurers, insurance organizations and credit bureaus that are for the continued use of credit scoring (hereafter referred to as "insurers"), and the broker organizations that are against it ("brokers"). In both cases, the CSWG felt that these opinions were put forward with little supporting evidence. CSWG has found it impossible, therefore to make conclusive recommendations to jurisdictions based on the consultation.

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[1] See Appendix 3– Communications around the Issues Paper

[2] The Issues Paper and these submissions are available on the CCIR website http://www.ccir-ccrra.org/en/init/credit_scor/credit_scoring.asp .

[3] We have included those facts as appendices 1 and 2 of this paper.

3. Purpose of this Findings Report

Generally, when the CCIR has agreed that an issue is significant, a position paper will follow after an Issues Paper. A position paper lays out policy, or proposed actions, on the issue of concern and signifies a clear intention on the part of regulators to go forward with an issue. Although CCIR and the CSWG agree that the use of credit scoring in insurance underwriting is significant, we do not intend to prepare a Position Paper for two reasons.

First, as noted above, we have a preponderance of opinion but a dearth of fact as to the *actual and current*, rather than potential, harms that may be accruing to consumers from the use of credit scores by insurers. To really find out how companies are using credit scoring and to what extent consumers are being helped or harmed by the practice would require fulsome market conduct reviews by a variety of provincial regulators. Such a review is beyond the scope of a CCIR committee.

Second, it is not advisable to make recommendations when policymakers have already taken quite different stands on the issue. Few regulators currently have authority over underwriting criteria (outside automobile insurance) and opinions vary widely on whether risk assessment criteria is an area that should or should not be subject to regulation or, indeed, disallowed completely.

We firmly believe, as stated in our original issues paper, that the question of whether to allow, or to regulate, or to ban, the use of credit scores is beyond the scope of CCIR. Ultimately, this is dependent upon a combination of political and socio-economic conditions within a jurisdiction.

Rather than a position paper, then, the CSWG has decided upon this Findings Report to summarize the facts we have now confirmed and to present the various opinions we have heard regarding the use of credit scores. Its purpose is to provide background for policymakers and regulators who may be dealing with this issue in the future. It is intended to be the final publication of the CSWG.

4. Main Findings

There were seven potential risks outlined in the Issues paper that the CCIR believed could potentially impede the positive marketplace outcomes for consumers. We asked for feedback on whether or not the outlined risks:

a) Represent a risk or have the potential to harm consumers (e.g. outcomes desired such as fair treatment of consumers, adequate disclosure to enable consumers to make informed decisions etc. are not accomplished)

b) Whether the risk is adequately addressed under federal or provincial privacy statutes or under provincial consumer reporting legislation.

Most respondents agreed that these were, indeed, possible risks, but as noted earlier there was polarized disagreement as to whether the risks were merely potential or actual in the Canadian marketplace.

The consensus among insurers was that that all potential risks identified by CCIR in the Issues Paper are already effectively addressed under current consumer reporting and privacy laws, and under the Insurance Bureau of Canada (IBC) Code which includes sections regarding: consent, reliability of credit data, availability/affordability of insurance, and undue impact on certain groups.

Brokers felt that the risks identified not only exist but are "widespread and systemic" and suggested that they are not adequately addressed in current law to afford sufficient protection to consumers from unfair practices. Brokers acknowledged the existence of the IBC Code but noted that there is no accountability or transparency as to whether insurers follow the Code and suggested that more regulatory action is required. There was also some suggestion that current industry practices may effectively avoid compliance with consumer reporting and privacy laws.

The response from an insurance rate board suggested that the most important problems with credit scoring from a consumer standpoint are:

(i) Consumers see no correlation between credit scores and claims, and
(ii) Consumers are concerned about how insurers will deal with unexpected life events.

Below are our comments on what we heard on each of the seven potential risks that were identified in the issues paper.

4.1 Inadequate Consent, Insufficient Disclosure and Lack of Understanding

In the Issues paper, these potential risks were dealt with separately (as 5.1, 5.4 and 5.7) but here we will deal with them together as there was considerable overlap among them in the feedback received.

Potential risk: Consumers may not know that they have given permission to an insurer to use their credit information or a credit score for determining a consumer's eligibility for insurance and the premium to be charged.

> ***Desired outcome:*** Prior to using the information, insurers ask consumers for their permission. Consumers know and understand the type of information the insurer is seeking to obtain, including how the insurer intends to use the information.

Potential risk: Consumers may not have sufficient information about how to modify their behaviour in order reduce insurance costs.

> ***Desired Outcome:*** Consumers know how to improve their credit-based insurance score if an insurer takes an adverse action due to a low score.

Potential risk: Consumers may not be sufficiently educated regarding credit-based insurance scores.

> ***Desired Outcome:*** Consumers have a good understanding of credit-based insurance scores and are confident in their dealings with their insurers.

As noted in our issues paper, a poll conducted in December 2010 for the Ontario brokers association (IBAO) on the use of credit scores by property insurers showed that 75% of consumers were unaware of the practice. A consumer survey in Alberta in June 2010 commissioned by the Consumer Representative to the Automobile Rating Board (AIRB) found that 48% of consumers did not know if insurers were using their credit information.

Insurers pointed out that the IBC Code stipulates several requirements around gaining permission to check a consumer's credit information.

However, brokers noted a great variation in how consent is obtained today, including the assumption by some insurers that a consent obtained years before they began to use credit scores for underwriting is valid for that purpose.

According to the brokers, there are also issues around the forms used by insurers to get consent as currently a customer must sign a disclosure statement to obtain coverage and that statement includes wording giving the insurer permission to check credit. They have suggested that this gives the consumer no effective way to refuse consent.

The consent issue is further blurred by the potential for consumers to believe that the consent is for determining their ability to pay their premiums (as it would be used by landlords to determine ability to pay rent) rather than being used for underwriting purposes.

Brokers suggested that informed consent cannot at present be obtained as consumers are not told what use the information will be put to or how various data will be weighted in an insurer's rating methodology. Because credit-based insurance scores are calculated using proprietary mathematical models, which are considered confidential under privacy legislation, it may be difficult for consumers to know exactly what factors go into the model,

and then what weight is given to the credit-based insurance score itself during the underwriting and rating process.

Our issues paper noted that understanding how the process works and how much weight was given to the credit score is especially important if the insurer is denying, cancelling, or increasing a premium (i.e. taking an adverse action) based on credit information. In Saskatchewan, Ontario, Manitoba, British Columbia and Prince Edward Island, anyone who uses credit information to deny a benefit or increase the cost of a benefit (i.e. adverse action) is required under consumer protection laws to notify the affected individual... However, according to the survey conducted by FSCO in 2010, if there was an adverse decision due to a poor credit score, almost half of insurers that use credit scores as rating criteria did not notify the applicant.

One area where all respondents recognized they can do a better job was educating the public on the use of credit information. Brokers suggested that consumers are actively being harmed by their lack of knowledge around their credit scores in general as well as the part that their credit scores play in their insurance costs and that this is worsened by the lack of transparency from insurers on the effect of credit scores on the premiums they quote.

However, insurers noted that while consumer understanding and financial literacy are important, it is not up to insurers alone to fill in this gap.

Insurers pointed out that credit score is an underwriting variable over which consumers have a great amount of control and influence, as compared to others such as weather patterns and their neighborhood's claims history over which they have no influence.

However, brokers noted that the information disclosed by insurers may not be sufficient for a consumer to take corrective action and endeavour to improve his/her credit score over time. They suggested that this is different from other insurance rating factors where the consumer knows exactly what to do to improve the rating (e.g. abstain from getting speeding tickets), thus encouraging behavioural changes.

4.2 Unreliable credit data

Potential risk: The underlying credit data from which the credit-based insurance score is derived may be unreliable.

***Desired outcome*:** Insurers are using current and accurate credit information.

Our issues paper stated that privacy legislation imposes obligations on credit reporting agencies to maintain accurate files. Some provincial reporting statutes also impose an obligation on credit reporting agencies to correct errors and notify all persons who have been supplied with an erroneous credit report. According to a 2005 study by the Public Interest Advocacy Centre (PIAC), 18% of Canadians who checked their credit rating found

inaccuracies.[4] There is, however, no consensus on the effect these inaccuracies may have as there could be inaccuracies in credit reports that do not affect the credit worthiness of the individual.

All stakeholders agreed that the use of unreliable credit information can be potentially harmful. Insurers recognized the importance of using current and reliable credit data. However, they argued that consumers are already adequately protected under existing laws and regulations that apply to credit reporting agencies requiring them to provide consumers with access to their files and allow consumers the opportunity to make corrections or dispute the facts on record. As well, insurers suggested that their adherence to IBC's Code of Conduct requires them to immediately make corrections when a credit reporting agency informs them of any error to a client's credit information at which time the Code requires them to re-rate and re-underwrite the risk.

Brokers suggested that these protections are not sufficient. They argued that it still imposes an obligation upon the consumer to contact the reporting agency to verify his/her file and to request any corrections, a process which some argue can be onerous. Further, it was argued that consumers do not know the potential impact that the credit score could have on their premium and thus makes it hard for the consumer to identify there may be an issue with the accuracy of the information used to generate a credit score.

Both insurers and brokers noted that most consumers do not regularly check their credit information.

There was also debate over the magnitude of the problem. Credit reporting agencies held that they maintain very accurate records and that the PIAC study was flawed because of the nature of the selection of participants in the study. They argued that a different study conducted in the United States by the Policy and Economic Research Council (PERC) suggested that there may be less than a one percent material error rate in credit information – whereby less than one percent of clients would find that the credit information used would adversely impact his/her premium.

4.3 Availability and Affordability of Insurance

Potential Risk: Insurance may be unavailable or no longer affordable due to credit-based insurance scores.

[4] See Public Interest Advocacy Centre (PIAC), *Credit Reporting: How are Consumers Faring?* (August 2005). This is a national survey of Canadian consumers and other stakeholders on the credit reporting system as well as the accuracy and reliability of credit reports. Also, in the US, a study conducted in 2000 by the National Credit Reporting Agency and the Consumer Federal of America reported 29% of individuals who reviewed their credit reports found significant errors, averagely translating into a 50 point score error or more.

Desired Outcome: The basic insurance mechanism (e.g. pooling of risk) and public policy goals for insurance are met.

There were a number of submissions which did not specifically address availability or affordability of insurance due to credit-based insurance scores.

Insurers' responses on affordability of insurance tended to be that the use of credit scores keeps the insurance marketplace competitive and offers more choices for consumers. The majority of consumers, they said, have either experienced lower premiums or no change in premiums. They suggested that removing the use of credit scores could potentially cause premiums to increase.

Brokers suggested that credit scores are being used by some insurers to significantly increase premiums and that they saw evidence of some insurers refusing to write customers migrating from insurers who rated them high risk because of credit score.

A few insurer responses quoted Section 5 of IBC's Code of Conduct (*Use of Credit as a Sole Variable*) as it states "*The insurer must not refuse to quote or base an insured's renewal rates, or deny, cancel or non-renew a policy of personal insurance solely on the basis of credit information without consideration of other non-credit underwriting or rating variables*," to support their contention that credit scores are not being used adversely, but this does not seem to deal with the weighting credit scoring is given compared to other underwriting variables.

Some insurer comments received said that the use of credit scoring would be to the benefit of the consumer as it allows more accurate placement and pricing of risks and that it would enable insurers to identify those risks thought to be uninsurable.

However, brokers suggested that credit-based insurance scoring without proper regulation could create a gap in which some consumers would be left with no market available to them. The risk they see is that insurers will seek to do business only with consumers most likely (according to their credit scores) to be lucrative to them, thus, potentially, segregating out the least desirable consumers, leaving them unable to access or afford insurance. They suggest that regulators would then have to consider a solution, similar to the facility association for auto insurance, which would force insurers to take the fair share of these customers.

4.4 Undue impact on certain groups:

Potential risk: Insurers may unduly penalize consumers who refuse to provide consent, or who do not have a credit history, or whose credit score has been negatively affected by extraordinary life circumstances.

Desired Outcome: Insurers treat consumers who have experienced unexpected life events beyond their control or who have exercised their right to refuse consent fairly.

Our issues paper noted that, at times, a decreased credit score will be the result of a negative significant life event such as death of a spouse, serious illness, identity theft or loss of employment.

Most insurers said they take into account unexpected life events and that this was dealt with in the IBC Code of Conduct.

Brokers noted that the Code does not provide any direction with respect to the impact on risk rating or premiums for the client.

Our issues paper noted that Consent provisions- already contained in privacy and consumer reporting statutes - may be meaningless if an insurer unduly penalizes consumers who do not provide consent.

Several insurers noted that even if a consumer refuses to provide consent, that they are still provided a quote or coverage. Some of them added that while the consumer will be fairly priced, it may not benefit from the best available rate.

However, brokers noted that the quotes in these cases could be very high, out of proportion to the risk, and given without informing the consumer why the quote was high (see *4.3 Availability and Affordability of Insurance*).

4.5 Privacy Breaches

Potential Risk: Insurers may breach confidential credit information

> ***Desired Outcome:*** Insurers have sufficient controls in place to safeguard personal credit information

Insurers suggested that the existing laws strongly protect consumers from privacy breaches. Insurers also pointed out the Code of Conduct that IBC has established in the handling of Credit Information. They indicated that they recognize the importance of the information they collect and take precautions to safeguard it. Insurers also suggested that they are privy to other sensitive information such as medical or financial information in the claims process and they apply a high level of confidentiality to all the information they collect.

Brokers expressed their viewpoint that although insurers have a code of conduct, there has not been any evidence or definitive proof that insurers adhere to the code.

Brokers also pointed out that in the wake of a British Columbia Information and Privacy Commissioner's decision that insurers need to provide the individual with notice of the purpose for the collection of the information before or at the time consent is sought, and the individual must consent after having received notice of the purpose.

Brokers, as we have noted above, have suggested that insurers are not providing adequate disclosure and are not obtaining informed consent.

5. Conclusion

As we noted in the introduction, the use of credit scoring for insurance underwriting remains a controversial and polarizing issue among industry participants.

In this paper, CSWG has sought to lay out the facts surrounding this complex issue, to discuss the risks to consumers that may or may not arise from the use of credit scoring, and to present a fair and balanced report on the opinions we have heard from stakeholders. We would, however, invite readers to access the CCIR website for the full text of all the submissions we received.

With the increased focus on moving toward risk-based market conduct regulation, regulators are putting increased emphasis on industry continuing the development and implementation of sound governance practices, standards and guidelines that regulators expect will give rise to high standards of market conduct performance and compliance. Such documents are most useful when they are embraced by an industry and implemented with a focus on fair treatment of customers. Therefore, the CSWG acknowledges the efforts the industry has made in developing the IBC *Code of Conduct for Insurers' Use of Credit Information.* However, we note that not all insurers are members of IBC and not even all IBC members have "signed on" to the Code, which makes it difficult to consider this code an industry standard.

As we have noted above, few regulators have authority (outside of automobile insurance) to dis-allow any factor used in underwriting. Therefore, decisions on which, if any, actions to take on the various risks, or, indeed, on the validity of using credit scoring for underwriting at all, rest with the policymakers in the various provincial and territorial governments.

The CCIR hopes that policymakers, regulators, and other interested parties find this paper, and all the work of the CSWG, of assistance in considering this issue.

Appendix 1 - Summary of Confirmed Factual data

1.1 What is a credit-based insurance score?

CCIR uses the term *credit-based insurance score* throughout this document to refer to the three digit numerical ranking used by insurers as a snapshot of the credit performance and financial health of an individual at a specific point in time. It is derived from credit information contained in credit reports collected and maintained by credit reporting agencies.

In Canada, essentially two main credit reporting agencies, Equifax and TransUnion, track consumer credit information to compile a consumer's credit report. Credit reporting agencies obtain their information from private and public sources such as banks and collection agencies. A credit report is composed of a variety of credit characteristics, such as:

- payment history,
- type of credit,
- outstanding debt amounts,
- length of credit history,
- type of credit in use,
- foreclosures, and
- bankruptcies.

Credit reports do not include personal characteristics such as:

- income,
- race,
- religion,
- gender,
- ethnic group,
- disability, or
- marital status.

Credit-based insurance scores are similar to more traditional (financial) credit scores, but they are not the same. Both are derived from information contained in a credit report, but the mathematical model used is different and takes into consideration different credit characteristics. Traditional credit scores are used to predict the likelihood that a consumer will default on a loan. Credit-based insurance scores are especially calculated for insurance purposes to attempt to predict the likelihood that a policyholder will file an insurance claim. The credit-based insurance score may be purchased by the insurer from a credit reporting agency (i.e. Equifax, TransUnion), or it may be calculated independently by the insurer for its own use. In both cases, the formula or scoring model is confidential.

Insurers use credit-based insurance scores in their rating and underwriting risk classification systems to determine the risks they will insure, and the amount of premium they will charge. When used for underwriting and/or rating, the credit-based insurance score can potentially cause one of four actions to occur:

1. The consumer receives a discount due to better-than-average score.
2. The consumer receives a surcharge due to a lower-than-average score.
3. The consumer does not benefit nor is adversely affected due to the score.
4. The insurer declines to offer insurance to a consumer due to a lower-than-average score.

Summary of key comments from submissions:

• Most insurers answered that they will not refuse to quote or decline a risk based on credit information. Most said they take into account unexpected life events (e.g. divorce, death).

• Some insurers answered that they only use credit information to provide discounts, not for premium surcharges.

• Brokers answered that they have seen rates increase by as much as 80% and have seen evidence of coverage being denied based on credit scores.

1.2 What makes credit-based insurance scores different from other risk factors?

In insurance, there has always existed a form of "rate discrimination" that is considered to be fair if the rates are based on underlying insurance costs. As long as the risk classification system is based on actuarial evidence (i.e. a rating factor cannot be used without adequate justification that it is predictive of future losses) and is a legally accepted business practice, equal treatment of applicants and policyholders is not required. Insurers can charge different rates to different risks, but they cannot charge different rates to risks of essentially the same hazard.

Both physical and behavioural hazards will affect whether or not an applicant is eligible for coverage, and if so under what terms. For example, a wood frame building is more susceptible to fire than a brick structure so all else being equal, a wood home is more expensive to insure. Similarly, any behavioural factor (e.g. number of claims made in the last three years) that according to actuarial evidence is predictive of losses will place an applicant in the "riskier pool", which determines the base premium rate.

Some jurisdictions have rate caps and/or prohibit certain rating factors for some lines of insurance (e.g. mandatory automobile insurance) for various public policy reasons. However, in general, there is a competitive market for purchasing insurance. Each

company is able to decide what factors they can use in deciding to accept a risk, and the premiums they will charge.

Insurers use a combination of physical and behavioural factors in their rating and underwriting decisions. Many factors clearly relate to the losses they are designed to predict (e.g. having an automated sprinkler system for insured fire loss), while with others the relationship is less apparent (e.g. gender and marital status for auto insurance, credit scoring).

In the case of credit scoring, the link between a person's credit score and likelihood of making a claim is not intuitive. Unlike factors such as gender and age, a credit-based insurance score is a mechanism that insurers use to assess the way a person manages his or her financial affairs and, as such, an uncomfortable subject for many of us.

1.3 Who is using credit-based insurance scores?

Recently, the province of Newfoundland and Labrador prohibited the use of credit information for both automobile and personal property insurance. Alberta and Ontario do not allow the use of credit information and credit scores for mandatory automobile insurance coverage, but there are no restrictions regarding personal property (except to provide a quote in Alberta). Other provinces and territories currently permit the use of credit information and credit scores for both auto and property.

Summary of key comments from submissions:

Some insurers suggested that the lack of consistency from one jurisdiction to the next on the use of credit information for rating and underwriting insurance was a regulatory risk that is disadvantageous to consumers.

According to the April 2009 survey conducted on behalf of CCIR by Financial Services Commission of Ontario (FSCO), not all property insurers are currently using credit scores. FSCO directed a questionnaire to chief executive officers and chief agents of 35 property insurers representing 75% of the property insurance market in Ontario. The findings showed that 19 companies (55% market share) currently use credit scores, and a further 6% of the market share plan to use credit scoring within the next three years.[5]

Although Québec did not take part in this exercise, the Québec regulator reports that the use of credit scoring is even more widespread there. Out of the 80 insurers who underwrote private passenger vehicles in 2009 in Québec, 28 used this criterion, representing 86% of the market. Assuming that these insurers also used credit scoring for home insurance, a similar proportion of this market is likely affected.

[5] A copy of the FSCO credit scoring survey can be found at: www.ccir-ccrra.org

Appendix 2 - Regulatory Framework[6]

2.1 In Canada

Privacy legislation

Across Canada, the use of credit scores by insurers is subject to the (federal) *Personal Information Protection and Electronic Documents Act* (PIPEDA), which give individuals the right to access and request correction of any personal information (including credit information) an organization may have collected about them, and requires prior consent for its collection and use. Some provinces have laws substantially similar to PIPEDA that regulate the collection, use and disclosure of personal information by businesses and other organizations and provide individuals with a general right of access to, and correction of their personal information.

Credit Reporting Legislation

Use of credit scores by insurers is also subject to the requirements of credit reporting laws. All provinces (except New Brunswick, the North West Territories, Yukon and Nunavut) currently have legislation or regulations in place to address the use of credit reports produced by credit reporting agencies (i.e. consumer reporting legislation). In general, this legislation outlines practices that must be adopted by credit reporting agencies and users of credit reports (e.g. insurers) to protect the right of consumers. Some obligations are only imposed on the credit reporting agencies, such as the prohibition to collect certain type of information (race, religion etc.), and to maintain accurate files. Other obligations, such as consent and confidentiality, and disclosure requirements, especially if an adverse decision is taken as a result of the use of a consumer's credit file, are imposed on users, so an insurer would have to comply with these rules.

Consumers, on the other hand, have the right to review and correct errors contained in their credit reports. In general, if errors are corrected, the credit reporting agency must notify those provided with the previously inaccurate information (e.g. an insurer). There is, however, substantial variation across provinces in the content of credit reporting legislation, especially as it relates to the production of credit reports for the purposes of underwriting insurance.

Industry best practices guidelines

On January 20, 2010, the Insurance Bureau of Canada (IBC) issued a *Code of Conduct for Insurers' Use of Credit Information* intended to provide insurers who use credit

[6] The facts contained here were current as of June 2011 – the date of publication of the Credit Scoring Issues Paper. Several changes have occurred since including legislative action in New Brunswick, Newfoundland and Prince Edward Island that has resulted, or may result, in the banning of the use of credit scoring for some lines of business in those provinces.

information as part of their underwriting activities with clear guidelines based on fundamental principles of consumer protection and applicable federal and provincial laws. The IBC guidelines deal with, among other things, obtaining informed consent from a consumer before using his/her credit information, making sure the underlying credit information from which a score is calculated is accurate and up-to-date, and notifying consumers if an adverse decision is taken based on credit information or a credit score. The IBC guidelines, however, are voluntary.[7]

Summary of key comments from submissions:

• Insurers claim that while the IBC code is voluntary, 85% of personal lines market share of IBC and CADRI members have made a commitment to adhere to the Code.

• Brokers acknowledge the existence of the IBC Code but claim there is no accountability or transparency as to whether insurers follow the Code. For example, there is great variation today on how consent is obtained, and how insurers involve their brokers to obtain consent.

2.2 In the United States

Since the enactment of the *Fair Credit Reporting Act* (FCRA) in 1970 insurers are allowed to use credit scores in the underwriting process for both automobile and personal lines property insurance. In the United States the use of credit-based insurance scores is now prevalent in both automobile and property lines.

The use of credit scoring by insurers in the United States is controversial and has created a heated debate. Most states have taken some form of legislative or regulatory action to control or prohibit its use. The scope of regulatory provisions adopted in each state varies considerably.

As of June 2011, twenty-seven states had approved laws that follow the basic National Conference of Insurance Legislators ("NCOIL") Model Act, which regulates the insurance industry's use of credit in-formation. NCOIL's position is that insurance scoring is a valuable underwriting tool provided its use is regulated. The NCOIL Model Act requires insurers to:

- notify applicants and policyholders that credit history information may be used as an underwriting or rating factor;
- notify applicants or insureds that adverse credit-related decisions have been taken;
- re-evaluate underwriting and rating decisions based on disputed information found to be incorrect; and,

[7] A copy of the IBC Code can be found at: www.ibc.ca

- provide state insurance departments with actuarial justifications to support the use of insurance scoring models.

A few states (Georgia, Hawaii, Maryland, Oregon, and Utah) have banned the use of credit information in certain circumstances. For the most part, these prohibitions pertain to private auto insurance coverage.

Several state governments as well as consumer advocate groups have commissioned or completed significant studies on credit-based insurance scores. Although much of the debate has focused on the two opposing ends of the policy option continuum– either allow its use or ban it - there are many policy options that fall between the two extremes, and that have been enacted by some states in accordance to their unique political and regulatory structures. For example:

- Illinois allows the use of credit-based insurance scores but directs companies to consider exempting those who undergo extraordinary life events;

- Oregon limits the use of credit-based insurance scoring to new business only; prohibits the re-evaluation of credit-based insurance scores if an insured experiences a death or divorce of a spouse; and prohibits an insurer from increasing the premium if an insured's score deteriorates.

- Minnesota prohibits rejection, cancellation or non-renewal of a private passenger automobile or homeowner policy. If no credit-based insurance score is available the insurer must exclude the use of credit in the rating of a policy. The insurer *must* provide a reasonable underwriting exception for catastrophic injury/illness, temporary loss of employment or death of an immediate family member.

Appendix 3 – Communications around the Issues Paper

At the publication of the Issues Paper in 2011, the CSWG followed a comprehensive plan in an effort to inform insurance stakeholders and consumers about the release of the paper and to encourage them to comment on it.

The Issues Paper and a covering letter inviting comment were posted on the CCIR website. At the same time, in order to have a better chance of getting consumer input, an advisory was sent to the general media informing them of the publication and offering the opportunity to interview CSWG members.

In addition, the issues paper, with covering letter, was sent directly to a wide variety of stakeholders –from the insurance industry, consumer groups, and other organization that had expressed interest in the work of the CSWG:

Advocis - The Financial Advisors Association of Canada	Insurance Brokers Association of Manitoba
Canadian Association for the Fifty Plus	Insurance Brokers Association of NB
Canadian Association of Independent Life Brokerage Agencies	Insurance Brokers Association of NS
Canadian Association of Direct Response Insurers	Insurance Brokers Association of Ontario
Canadian Association of Financial Institutions in Insurance	Insurance Brokers Association of Saskatchewan
Canadian Institute of Actuaries	Insurance Bureau of Canada
Canadian Life & Health Insurance Association	Intact Insurance Company
Coalition des associations de consommateurs du Québec	NB Consumer Advocate for Insurance
Consumer Interest Alliance	OmbudService for Life and Health Insurance
Consumers Association of Canada	Option Consommateurs
Consumers Council of Canada	Public Interest Advocacy Centre
Corporation des assureurs directs de dommages	State Farm Insurance Companies, Canadian Zone
Financial Consumer Agency of Canada	The Co-operators
Groupement des assureurs automobiles	The Travel Health Insurance Association of Canada
Independant Financial Brokers of Canada	Third Party Administrators' Association of Canada
Independent Insurance Brokers Association of Alberta	TransUnion Canada Inc.
Insurance Brokers Association of Alberta	Union des consommateurs
Insurance Brokers Association of BC	RCCAQ - Regroupement des cabinets de courtage d'assurance du Québec
Insurance Brokers Association of Canada	