



## **Electronic Proof of Automobile Insurance Project Issues Paper**

**A document prepared by the  
Canadian Council of Insurance Regulators (CCIR)  
Electronic Commerce Committee**

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This document reflects the work of regulators who are members of CCIR and is intended to generate discussion. The views expressed should not be considered as legal opinions.

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

## 1. Introduction

The mandate of the Electronic Commerce Committee (ECC) is to focus on the electronic commerce of insurance products, specifically as it relates to legislative and regulatory issues that arise from current and possible future applications of technology of information and their inherent risks.

In 2015, the ECC was tasked by the Canadian Council of Insurance regulators (CCIR) to coordinate efforts to implement the electronic proof of automobile insurance (EPAI). This initiative ties directly to CCIR's 2014-2017 strategic plan, which is to partner with industry stakeholders to identify opportunities for harmonization between jurisdictions.

The ECC is taking a collaborative approach that will involve working closely with relevant industry stakeholders, such as transportation officials, police, industry associations and insurers, to understand how they could be impacted by this initiative. Those impacts will be considered when coordinating plans for the implementation of electronic means as a valid option to provide an automobile insurance proof in each jurisdiction, including procedures to allow for the travel among Canadian jurisdictions when carrying electronic proof of insurance.

This issues paper on the use of EPAI is intended to outline a common understanding of the legal and regulatory actions to be taken for its implementation and to identify issues that need to be addressed by stakeholders before allowing insurers to offer EPAI. The ECC will provide support to jurisdictions on the implementation of their EPAI initiatives, ensuring that the new methods of proof of automobile insurance are secure.

## 2. Background

Canadian jurisdictions require drivers to carry proof of insurance in paper form (in many jurisdictions the "pink card") to be shown to police when asked for, to share information at accident sites, and to present when renewing their vehicle's registration. The requirement to carry proof of insurance and the specification of the form that proof might take appear in different legislation in each jurisdiction - often in a combination with transportation and insurance legislation, as outlined in section 4 below.

The commonly used paper format proof of insurance card has been around for many years, and continues to be an effective tool for automobile insurance across all jurisdictions. However, as electronic documentation is becoming more prevalent in our society – be it smart phone apps, e-mails, or other forms of electronic documents – many consumers and insurers would like the proof of automobile insurance to be made available in electronic format, alongside the traditional paper format for those who wish to maintain the status quo.

In today's insurance marketplace, many jurisdictions have already taken steps to address both consumers and insurers' expectations in this regard. In 2012, Idaho became the first U.S. State<sup>1</sup> to approve the digital proof of automobile insurance. Since then, 43 U.S. States<sup>2</sup> have adopted similar legislation to allow for EPAI in some form or another. These U.S. States have also put in place solutions to deal with concerns related to privacy issues, such as access to personal information, and liability issues, such as the handling of electronic devices by law enforcement officials, as a result of allowing for EPAI.

## 3. Canadian Regulatory Landscape

This section provides an overview of the current legislation (laws and regulations) in each Canadian province and territory pertaining to EPAI, as well as the proposed actions to facilitate its implementation.

### 3.1 Current Situation

All owners of motor vehicles in Canada are required by the legislation of their respective jurisdiction to insure their vehicles. Regulators in each jurisdiction also set out the requirements that are needed in order to prove that a vehicle is insured - a hardcopy document commonly

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<sup>1</sup> esuranceblog – April 20, 2012(<http://blog.esurance.com/electronic-proof-of-insurance-becomes-a-reality/#.VvrA7K32a9I>).

<sup>2</sup> Property Casualty Insurers Association of America (PCIAA) <http://www.pciaa.net/industry-issues/e-commerce>.

referred to as the “motor vehicle liability insurance card” or the “financial responsibility card” containing specific information on the insurance coverage provided.

In reviewing these requirements, it is observed that the legislation in most jurisdictions states that the authority for deciding the format that insurance cards must take rests with each jurisdiction’s regulator. Thus the authority for authorizing the use of EPAI mainly lies with insurance regulators.

It should also be noted that, in Canada, laws pertaining to electronic commerce allow for any document to be transmitted in electronic format, as long as there is consent between the involved parties. These laws also preserve the right for consumers to keep receiving documentation in paper format if they choose, which would be the case with the proof of automobile insurance.

### **3.2 Proposed Action**

After an analysis of the current legislation in each province and territory regarding the proof of automobile insurance, the ECC believes that Canadian insurance regulators have the legal capacity to authorize EPAI delivery and use within their respective jurisdiction, without the need to make changes to the current legislation. This can be accomplished through the issuance of Notice Statements or Bulletins in each province and territory.

In order to insure a coordinated approach is taken in authorizing the use of EPAI in all Canadian jurisdictions, it is suggested that regulators take such action within an agreed timeframe.

However, allowing for the use of EPAI by insurance regulators may require some legislative amendments in other areas, specifically as it relates to operational concerns regarding privacy and liability issues. Such concerns need to be identified and fully explored with stakeholders in order to understand the impacts and the required changes that need to be put in place in support of EPAI. This is explored in section 4 below.

## **4. Stakeholder Concerns**

In addition to understanding the requirements needed from a regulatory perspective to allow for the use of EPAI (as outlined above), it is important to work closely with stakeholders, such as transportation officials, police, industry associations and insurers, to understand how they are impacted. This will involve identifying the specific operational concerns that need to be addressed and developing appropriate solutions in order to support the EPAI in Canada.

Through feedback already received, the following list of stakeholder concerns has been identified, which will expand as we receive additional stakeholder feedback. The concerns identified will be used to guide meetings with industry stakeholders in developing solutions.

### *Privacy issues*

- Will law enforcement be allowed to access other information/content on electronic devices used to demonstrate proof of insurance?
- If law enforcement questions the validity of EPAI, are they allowed to confiscate the electronic device?

### *Liability issues*

- Who is responsible if electronic devices used to demonstrate proof of insurance, such as mobile device, are damaged during inspection?

### *Other issues*

- What is considered “reasonable inspection” for law enforcement handling electronic devices?
- When traveling to a jurisdiction that does not yet allow for the EPAI, what steps must be taken?
- If an electronic device malfunctions, has no network access or is out of power, how will law enforcement handle such issues?
- If the owner on a vehicle gives permission to third party to use their vehicle, how does electronic proof of insurance work in such cases?

- While photocopies of proof of insurance are not permissible, will insureds be allowed to print paper copies of proof of insurance cards emailed to them by their insurer?
- Will electronic proof of insurance apply to all classes of vehicles?
- What kind of safeguards should be in place to prevent the fraudulent use of electronic proof of insurance?

## 5. Supplementary initiatives

ECC believes that supplementary innovative initiatives to EPAI implementation should be considered by the industry, though not for short-term implementation, suggestions of which include the use of a barcode on the automobile insurance card (would allow officials to access automobile insurance information without handling personal electronic devices) and the development of a centralized automobile insurance database (current practice in Ontario for private passenger vehicles only, allowing for real time insurance verification); recognizing that these supplementary solutions have a unique level of technical complexity and require a different degree of coordination among stakeholders.

## 6. Conclusion

Given today's advanced digital marketplace, and in direct response to consumer and industry's call for electronic options regarding the proof of automobile insurance in Canada, the CCIR is recommending to allow for the EPAI in Canada, alongside the traditional paper proof of insurance. Careful consideration, notably pertaining to consumer protection policies, must be given by stakeholders in developing appropriate solutions to address the operational concerns in order to support the EPAI in Canada.

## 7. Feedback

The ECC will set up meetings with various stakeholder groups to discuss the project and begin coordinating efforts to operationalize EPAI in each jurisdiction. In addition to these planned stakeholder meetings, we value feedback from stakeholders in response to this issues paper.

We look forward to receiving comments by **June 30, 2016**

Electronic submissions are preferred and should be forwarded to [ccir-ccrra@fscs.gov.on.ca](mailto:ccir-ccrra@fscs.gov.on.ca).

Written submissions should be forwarded to:

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An electronic version of this document is available on CCIR's website (<http://www.ccir-ccrra.org/en/>).

CCIR intends to make the comments received publicly available. If you indicate that you do not want your comments to be made public, we will treat all comments received, or the designated parts, as confidential to the limited extent permitted by law.