Report on CCIR's Review of the **Insurance OmbudServices Cooperation and Oversight Framework**

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Executive Summary

Oversight of business practices (or market conduct) of insurance companies in Canada is the jurisdiction of provincial or territorial insurance regulators who work together through the Canadian Council of Insurance Regulators (CCIR), an inter-jurisdictional association of insurance regulators, to facilitate and promote an efficient and effective insurance regulatory system to serve the public interest. Ensuring consumers have access to effective processes to resolve complaints including recourse through an independent dispute resolution (IDR) mechanism, is a critical component of the insurance market conduct regime.

IDR services are provided to Canadian insurance consumers through two industry-funded organizations, the General Insurance OmbudService (GIO) and the OmbudService for Life & Health Insurance (OLHI).

The Insurance OmbudServices Cooperation and Oversight Framework (the Oversight Framework) is a memorandum of understanding among GIO, OLHI and CCIR as their regulatory oversight body. Adopted in 2007, the Oversight Framework was developed to help CCIR ensure consumers have access to effective IDR services.

Since the Oversight Framework was adopted, IDR best practices as well as consumer and regulatory expectations of IDR services have evolved, especially in areas such as data analytics and information sharing for effective cooperation between regulators and OmbudServices and approaches to identifying and addressing consumer gaps (including systemic issues). For CCIR, this raised a concern about the effectiveness of the Oversight Framework, particularly whether enhancements were needed to ensure all parties to the memorandum share a common understanding of their role in consumer protection and have in place adequate processes to support fulfillment of the public interest objectives of IDR of complaints.

In 2023, CCIR contracted an external party to assess the Oversight Framework. The review found the Oversight Framework needs to be updated to ensure it fulfills its purpose and to ensure regulators are confident the IDR mechanism in Canada is effective. In the coming months, CCIR will work with key stakeholders to update the Oversight Framework with a focus on the following areas:

- Defining effectiveness criteria for GIO and OLHI, as the IDR mandated organizations created by the insurance sector in Canada;
- Developing a Data Driven Information Protocol to enhance information exchange and ensure that regulators have confidence in the IDR mechanism (GIO and OLHI); and
- Enhancing the accountability of GIO and OLHI through an update of the Oversight Framework's Guideline No. 6 Accountability and Transparency.

CCIR is committed to publishing an updated Oversight Framework by the end of 2025.

1. Complaint Handling Information

The complaint handling process is a key part of an effective market conduct regime, and recourse through an independent dispute resolution (IDR) mechanism is a critical component of a well functioning insurance system. To ensure public trust and consumer confidence in the insurance sector, regulators need confidence that an IDR mechanism is effective and promotes fair consumer outcomes.

Recognizing the importance of an effective IDR mechanism to consumers and the insurance sector in Canada, the CCIR Oversight Framework was developed in 2007 to provide guidelines in respect of the organizational structure, operating practices, and the ongoing relationship of cooperation between the market conduct insurance regulators in Canada and the insurance OmbudServices – GIO and OLHI.

In 2023 CCIR contracted an external party to assess the effectiveness of the Oversight Framework. The operating practices of GIO and OLHI were outside the scope of the review. This document summarizes the findings and recommendations from that assessment, and CCIR's next steps.

The Consumer Protection Outcome

The International Association of Insurance Supervisors (IAIS) is the global standard-setting body responsible for developing and assisting in the implementation of principles, standards and guidance as well as supporting material for the supervision of the insurance sector. In 2011, IAIS adopted the first set of ICPs and for the very first time also included standards on market conduct through ICP 19 Conduct of Business developing regulatory expectations on the fair treatment of customers (FTC), complaint handling and the independent dispute resolution (IDR) mechanism. Through CCIR, market conduct regulators establish regulatory expectations aligned to ICP 19.

The premise of ICP 19 is to strengthen public trust and consumer confidence in the insurance sector, and to promote fair consumer outcomes. This is particularly important for retail customers, due to the asymmetry of information that tends to exist between the insurance company or intermediary and the individual retail customer. To ensure consumer protection, regulators need to carefully watch the business practices and complaint handling of insurance companies, and to have confidence in the effectiveness of the IDR mechanism in the marketplace.

Complaint Handling Expectations

When dissatisfied with an insurance product or service, consumers should first address the issue with their insurance company. If they are not satisfied with that outcome, consumers should have recourse through an effective IDR mechanism, as a free and accessible alternative to the legal system. In Canada, GIO and OLHI were created to fulfill the IDR role in insurance and play a critical role in consumer protection through their independent complaint resolution services.

CCIR member regulators expect GIO and OLHI to be effective in their IDR role. The insurance industry and the OmbudServices have long supported voluntary cooperation with regulators. In that spirit, GIO and OLHI adopted the Oversight Framework to ensure regulators, industry and themselves that consumers have access to effective IDR services. Since its inception, the Oversight Framework has provided substantial guidance with respect to the mandate, governance, and the operations of GIO and OLHI. However, GIO, OLHI, and the Oversight Framework were created before the current international standards around market conduct (including ICP 19) and need to evolve to align with international expectations.

2. CCIR's Review of the Oversight Framework

Since the Oversight Framework was adopted, IDR best practices, as well as consumer and regulatory expectations of IDR services have evolved, especially in areas such as data analytics and information sharing for effective cooperation between regulators and OmbudServices and approaches to identifying and addressing consumer gaps (including systemic issues). For CCIR, this raised a concern about the effectiveness of the Oversight Framework, particularly whether enhancements were needed to ensure all parties to the memorandum share a common understanding of their role in consumer protection and have in place adequate processes to support fulfillment of the public interest objectives of IDR of complaints.

In 2023, CCIR contracted an external party to assess the effectiveness of the Oversight Framework, given that it had not been revised since its adoption over 15 years ago, to ensure consumers have access to effective IDR services.

The review of the Oversight Framework prioritized the following areas:

- Mandate clarifications required to ensure a common shared understanding of consumer protection and fulfillment of the public interest objectives of complaint resolution;
- Governance alignment to best practices to facilitate effective operations for the OmbudServices;
- Consumer protection (including systemic issues) gaps/effectiveness; and
- Data and intelligence sharing alignment to best practices to ensure effective and efficient collaboration between OmbudServices and CCIR.

Stakeholders, including GIO, OLHI, the Insurance Bureau of Canada (IBC), the Canadian Life & Health Insurance Association (CLHIA), and representatives of consumer advocacy groups were engaged in the review.

The review concluded in March 2024. It found the Oversight Framework needs critical updates to ensure it fulfills its purpose and that it provides regulators with confidence that the IDR mechanism is effective.

3. Key Findings and Recommendations

The review found certain misalignments in the relationship between CCIR and the OmbudServices which are limiting the effectiveness of the Oversight Framework. The factors contributing to these misalignments are shared by all the three parties to the memorandum of understanding – CCIR, GIO, and OLHI – and trace back to:

- A lack of defined effectiveness criteria;
- Design gaps in the Oversight Framework; and
- A lack of operationalization of certain guidelines under the current Oversight Framework.

The key recommendation was for the parties to work cooperatively to address the misalignments and update the Oversight Framework. CCIR has shared the findings and recommendations from the review with GIO, OLHI, and industry, along with its expectation that they work with CCIR on the necessary updates.

4. CCIR's Next Steps

To be confident consumers are treated fairly (FTC) and have access to effective complaint handling services, CCIR will work with key stakeholders to update the Oversight Framework. The overarching objective of the Oversight Framework update will be to achieve alignment and accountability across the following stakeholder groups:

- CCIR members as the market conduct regulators requiring the Oversight Framework as a supervisory tool;
- Insurance companies as member companies to GIO and OLHI facilitating their operation to achieve IDR outcomes for consumers; and
- GIO and OLHI as OmbudServices required to fulfill their IDR mandate under the Oversight Framework, as a key component of expected consumer protection regulatory outcomes.

The update will focus on the following areas:

- Defining effectiveness criteria for GIO and OLHI, as the IDR mandated organizations created by the insurance sector in Canada;
- Developing a data driven information protocol to enhance information exchange and ensure that regulators have confidence in the IDR mechanism (GIO and OLHI); and
- Enhancing the accountability of GIO and OLHI through an update of the Oversight Framework's Guideline No. 6 Accountability and Transparency.

The mandate for GIO and OLHI as defined under the Oversight Framework's Guideline No. 3 Scope of Services remains relevant and will be the basis for the update work. As per Guideline No. 3, the mandate for GIO and OLHI is to:

- Deal with substantially all escalated complaints within a sector except where there is a compelling policy or practical reason to exclude them from the services offered. These are complaints that are first attempted to be resolved with the insurer and are then escalated by the consumer when not satisfied with the insurer's resolution.
- Identify and investigate systemic or widespread issues arising from complaints regarding an individual company or more broadly in a sector. Both regulators and the industry require data driven information as early warning mechanism to potential widespread issues.
- Assist consumers to help guide them when their issue is beyond the mandate.

CCIR continues to support the current IDR model in Canada and believes an updated Oversight Framework will provide regulators, industry, OmbudServices, and most importantly consumers, with confidence that GIO and OLHI are effective in their IDR role. CCIR is committed to publishing an updated Oversight Framework by the end of 2025. To achieve this outcome, CCIR expects commitment and cooperation from all stakeholders involved in the work to update the Oversight Framework.