

August 26, 2016

Patrick Déry
Chair, Canadian Council of Insurance Regulators
c/o CCIR Secretariat
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Toronto, ON M2N 6LN
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Re: CCIR Annual Statement on Market Conduct

Dear Monsieur Déry:

The Canadian Association of Financial Institutions in Insurance (CAFII) thanks CCIR for the opportunity to provide feedback on the revised draft of the Annual Statement on Market Conduct (“Annual Statement”) for the Life and Health Insurance Industry, circulated to stakeholders on July 12, 2016.

Overall, CAFII is pleased to see the progress that CCIR has made in taking a nationally harmonized approach to collecting information around Fair Treatment of Customers (FTC) and we appreciate the Council’s diligence in working collaboratively with the industry toward an Annual Statement that will work for all parties.

We have divided our feedback into three parts: *Positive Feedback*; *Major Issues Of Concern*; and *Clarification Issues*.

Positive Feedback

Flexibility Around Reporting Period

CAFII appreciates the flexibility that CCIR has provided in the latest Annual Statement by indicating that insurers can use their own fiscal year-end for reporting data.

Absorbing National Complaint Reporting System Into The Annual Statement

CAFII is pleased that CCIR has decided, as indicated in Martin Boyle’s transmittal message, that the Annual Statement will subsume the existing requirement for insurers to report complaint data semi-annually through the National Complaint Reporting System. It is our understanding that the Annual Statement will essentially absorb the existing National CRS format – with which insurers are familiar and have systems in place to address – without substantive change. We recommend that CCIR issue an official communiqué to the industry to confirm this development, including the timing and other details around the transition.

Major Issues Of Concern

Lead Time Required For Industry Capability To Respond

Since it appears that the Annual Statement will not be finalized and rolled out to the industry until late in 2016, we strongly recommend that CCIR take a phased-in approach to implementing the Annual Statement that is universal and across-the-board.

We strongly encourage CCIR to take a universal, phased-in implementation approach over 12 to 18 months, to give insurers and their partners the significant lead time they'll need to be able to provide the requested data the first time through. In line with the Council's own recommendation, the first phase would include responses to just Sections 2. *Governance* and 11. *Complaint Reporting*. The second phase would follow in six months and include responses to Sections 3, 4, 5, 6, 9 and 12. The third and final phase would be implemented in January 2018, and include responses to the most complex Sections -- 7, 8 and 10.

In instances where the data requested in the Annual Statement already exists, the information may reside in different systems, across different business lines, and will need to be retrieved, verified for accuracy, and collated/formatted for use. As well, some of the data requested does not currently reside on our systems and will need to be created and/or calculated manually.

Confidentiality/Self-evaluative Privilege

Much of the data being requested is proprietary and its public release could be harmful to insurers and result in anti-competitive activities. Naturally, this is an area of significant concern for CAFII members. As you are aware, only a minority of provinces have adopted a self-evaluative privilege provision similar to the model endorsed by the CCIR in its *Final Report on Privilege Model and Whistle Blower Protection*.

CAFII strongly recommends that, at a minimum, all provinces and territories must be signatories to CCIR's *Memorandum of Understanding and Protocol on Cooperation and The Exchange of Information* prior to implementation of the Annual Statement; and, ideally, all jurisdictions should also adopt self-evaluative privilege prior to, or coincident with, the roll-out of this initiative.

Submission Via Secure Online Platform

CAFII has taken note of the indication that "Microsoft Excel files will be used to collect the data once the Annual Statement has been implemented." While we have no objection to the use of Excel files, we strongly recommend that the data should be submitted via a secure online platform. Maintaining the confidentiality of insurer data is critical and CCIR should set up a secure/authenticated online platform for the Annual Statement prior to its launch, rather than ask insurers to submit Excel files via e-mail, over the open internet.

Premiums Written-Based Threshold As Basis For Phased-In Implementation

We believe that using a premiums written-based threshold as the basis for a phased-in implementation of the Annual Statement would not be an appropriate implementation measure. Rather than trying to determine what would be a reasonable level for such a threshold, we instead recommend a universal, across-the-board phased-in approach to implementation, as outlined above.

If a universal, phased-in approach is not possible, we would then recommend that CCIR be willing to consider first-year exemption requests from insurers, based on their particular systems capabilities, which would be an alternative preferable to a premiums written-based threshold.

Communication Initiatives In Roll-Out Plan

CAFII recommends that CCIR include communication initiatives in its roll-out plan for the Annual Statement which will help ensure that insurer representatives understand fully what data is being requested and how it is to be reported. In particular, we encourage the Council to offer a series of webinars and/or information sessions, in which segments of the Annual Statement would be explained and questions addressed. The webinar presentations could be recorded and then made available on the CCIR web site for subsequent viewing. In addition, we recommend the development and posting of a FAQs document(s) about the Annual Statement.

Clarification Issues

CAFI has noted instances in the Annual Statement where we would like clarification of definitions and/or instructions:

Overall points of clarification:

- we noticed that there is some inconsistency between the definition of words used throughout the document, in particular some definitions provided in the General Instructions differ from those provided in specific sections of the document.
- it would be useful to identify those products that are included within each top-level category, e.g. Life, Annuity, Accident & Sickness .
- in part 4. (9) a), of Section 1. General Instructions, we question why “training” is listed as an example of a type of variable remuneration as we do not view training as within the realm of variable compensation.
- regarding the P&C Annual Statement, personal credit insurance and Accident & Sickness products are included in its “Products” definition – which could lead to those products being double-counted as Life & Health Insurance and P&C Insurance. Therefore, we would appreciate clarification as to what components of personal credit and Accident & Sickness insurance fall within P&C versus Life & Health Insurance (see also comments on Section 10 below).

Section-by-section points of clarification:

- *Section 1. General Instructions* should indicate whether or not an electronic signature or attestation is required when a completed Annual Statement is being submitted.
- in *Section 1. General Instructions*, we recommend the following wording for clause 1(e): “the data provided must cover the insurer’s own most recent fiscal year and be reported as at the end of that fiscal year.”
- in *Section 1. General Instructions*, “Direct Writer” should be defined in clause 3(e).
- in question 7 of *Section 2. Governance*, we request clarification as to what constitutes a market conduct audit/review so that insurers will know precisely what is being requested.
- in *Section 3. Policies*, it is our understanding that the data to be reported here under “group policies” should be based on group master contracts rather than on individual certificates of insurance. We request that a clarification/explanation be provided on that point, either within this section or in *Section 1. General Instructions*.
- also in *Section 3. Policies*, we request that clarification be provided with respect to the following columns:
 - Number of cancellations with a full refund of premium*: what is meant by “full refund of premium” – does this mean just premiums refunded resulting from the 10/20/30 day free look period or is it intended to capture all policies where a full refund of premiums was issued? What is the difference between this column and the rescissions column? Does rescissions mean cancellations by insurer or group policyholder or consumer, some combination of these, or all of these?
 - Number of cancellations for non-payment or non-sufficient funds*: how does this differ from “lapses”?
 - Number of cancellations without full refund of premium*: it would be helpful to provide some examples of the scenarios that are envisioned here.
- in the table to be completed in *Section 4. Products – Individual*, the fifth column from the left asks for both “date” and “province.” However, the request for “province” is not explained on this page nor in *Section 1. General Instructions*.
- also in *Section 4. Products – Individual*, we request that clarification and further guidance be provided with respect to

- what is the intended meaning of “In past year have you conducted a periodic review of your products?”

-the product category names used, since “A&S insurance” is used but then Disability, Extended Health, and Travel are listed separately, all of which are A&S. Also the list in the column heading is different from the list in the detailed instructions (4d).

- in the table to be completed in *Section 7. Premiums and Commissions by Distribution Channel*, we request clarification as to whether the heading in the right-hand section which reads “Commissions, including all types of variable remuneration” is actually meant to read “Amount of all types of variable remuneration paid.”
- in question 2 of *Section 7. Premiums and Commissions by Distribution Channel*, we request that a definition be provided for “Affinity Arrangements.”
- in *Section 8. List of Distribution Channels*, we would appreciate an explanation of the notation at the top which reads “The information collected in this table is considered competitive in nature.”
- in the table to be completed in *Section 8. List of Distribution Channels*, we request explanations/definitions for the following columns: Percentage participating in firm’s equity; First refusal right over firm; and Other types of advantage (resource loan, marketing, etc.).
- with respect to *Section 9. Sales and Incentives Management*, given that the table heading in question 1 states that the question is related to Direct Writers only, clarification should be provided as to whether or not Direct Writers can therefore ignore question 1 in *Section 7. Premiums and Commissions by Distribution Channel* and do not have to complete the “Other” column in the two main sections of that Table.
- in *Section 11. Complaint Reporting*, we believe that the table which appears after question 4 should be labeled as question 5 and, in that table, a definition is requested for “Forward Sortation Area (FSA).” As well, we recommend that the overarching title of the middle section of the table should be “Identification of the product related to the complaint”.
- with respect to the *Proposed drop-down menus for above table* (pps. 31-33 of 34), there is no column in that table which relates to “Regulator having received the complaint, if applicable.” Also, with respect to “Distribution mode of product” in the Proposed drop-down menus, the relevant column in the table appears to be titled “Distribution channel.”

Thank you again for including CAFII in this important consultation. We applaud the CCIR for taking a nationally harmonized approach to addressing the issue of Fair Treatment of Customers and we trust that you will find the feedback provided in this letter to be constructive and helpful. Should you require additional information from CAFII or wish to meet with our Association at any time, please contact our Executive Director, Brendan Wycks, at brendan.wycks@cafii.com or 647-218-8243.

Sincerely,

Eleanore Fang,
Board Secretary and Chair, Executive Operations Committee
Canadian Association of Financial Institutions in Insurance