

AN APPROACH TO RISK-BASED MARKET CONDUCT REGULATION

**Comments from the
Insurance Brokers
Association of
Canada**

Submission to:
**CCIR Risk-Based Market
Conduct Regulation
Committee**

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ABOUT IBAC

The Insurance Brokers Association of Canada (IBAC) is the national trade association representing over 31,000 property and casualty (P&C) insurance brokers across Canada through its 11 member associations.

Although our provincial member associations may be providing their own submissions in this matter, we are presenting our profession's position from a national perspective.

BASIS OF OUR COMMENTS

As intermediaries, our first priority is acting in the interest of the client. In reviewing this paper, we have done so from the perspective of the consuming public.

CLARITY

Examining the concept proposed by the Council from a consumer's point of view, we have concern on conceptual clarity. We would ask for an opportunity to discuss with the Council the kinds of specific examples one would see with a change from a rules-based regime to a risk-based one. Our concern is that consumers are less concerned about theory than sound business practice.

CONSUMER ADVOCACY

Rules-based regulations provide consumers with clear access and understanding of the applicable rules that govern their transactions. They also ensure a certain level of general marketplace confidence. We would wonder in an age of transparency of regulations and business practice, if you do not have rules that are easily identifiable, that consumers can lean on with confidence, there may arise greater deterioration of confidence in the marketplace. In addition, from a business perspective, rules provide businesses as well as consumers with a known level of certainty that they can rely on and expect.

JURISDICTIONAL BALANCE

We support the basic premise in this paper that there needs to be a realization that there is not one insurance marketplace in Canada, but in fact at least ten. Market conduct regulations are provincially based; provincial economies differ greatly, and regulations need to reflect the difference in these as well as protecting the very different needs of consumers from one region to the next. We strongly believe that these should be maintained because they work well in protecting consumers.

PREVENTION AND CORRECTION

Our critical concern is based on the timing of regulation and its application. It appears that risk-based regulations are based on the theory of identifying market trends and risky behavior, and then taking corrective action. A risk-based approach to regulation is a system that is based on an "after the fact" correction.

We strongly believe that consumers are best served by a preventive regime rather than a corrective one

ORGANIZATIONAL SIZE AND CRITICAL MASS

We are unclear about the real impact of the vast disparity of insurers' size and their impact on market share when moving towards a risk-based approach. While we understand the desire to open up and encourage business innovation, we're unsure that without a strong rules regime, disparities in organizational size may result in inadvertent consumer disadvantages. Our members feel strongly that once large organizations make a case for a change in direction to regulations, they may have a more forceful say in its implementation in the marketplace than smaller players.

INDUSTRY CYCLES

For hundreds of years the insurance industry has gone through cycles. While we understand the need for a responsive regulatory regime, we think that in a cyclical industry such as ours, there needs to be rules established to maintain reasonable established parameters for market conduct. Because of these cycles, we can predict the emergence of certain issues. Established rules of market conduct thus prevent the uncertainty of changing minimum consumer protection standards, even in changing market conditions. Rules-based regulations provide a certain quality assurance process. Even with changes in market conditions, these standards need to exist for consumers.

INDUSTRY DISTINCTIVENESS

We would urge a strong caution in adopting a blanket affirmation of this change in regimes. Wealth management and risk management are two, very distinct industries, with differing goals. Implementing changes to one regime may not be in the best interest of consumers in the other. For example, loss of capital gains should be treated with different cautionary and protective regimes than loss of one's habitation or one's business.

CANADA

While there may be an international movement of wholesale adoption of risk-based methodology to regulating the financial services sector, we applaud your initiative for a "Made in Canada" solution on this. We understand that the Council must take into account Canada's being the second largest country in the world, with a very small concentrated population. World trends may not fit into an accurate picture for a country with those characteristics. Keeping in mind our uniqueness as a country, world trends should be carefully examined on their applicability and their appropriateness.

CAUTIOUS CHANGE MANAGEMENT

We are aware that there may be pressure and tendency from external forces to implement such a regime in a short time period, however we do appreciate the

opportunity to represent the consumer advocate's viewpoint on this issue, and look forward to participating in your future discussions.

Finally, given the experience of the last half dozen years where we saw some significant marketplace disruption, we are pleased that the Council has decided to take a long, careful examination of this process, with what we hope will take a number of consultations. Implementation of such a huge systemic change in each jurisdiction should be gradual, and carefully monitored.