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CCIR E-Commerce

On February 6, 2012, the Canadian Council of Insurance Regulators (“CCIR”) released the issue paper entitled “Electronic Commerce in Insurance Products.” The paper sets out issues that CCIR considers to be significant as it reviews whether and on what terms to recommend that legislation be amended to permit online insurance transactions.

Canadian regulators are now (somewhat late) beginning to consider the matter of internet commerce in the insurance market. Globally, Canada is recognized as having a very strong and effective regulatory system in place for financial institutions. Whereas Canadian regulators may be celebrated internationally for proactive regulation with respect to prudential standards and market conduct generally, they have been less responsive when it comes to modernizing legislation to reflect current commercial practices and product innovation.

The paper is an important step in furthering the discussion that must occur in Canada between regulators and stakeholders in the insurance marketplace about how e-commerce can be introduced in a manner that protects consumer interests while accommodating the ever-increasing preference to purchase all manner of products online, including insurance. Many European countries and the UK have introduced legislation regarding e-commerce. To date, Canada and the U.S. have not.

I) CCIR CONCERNS WITH INTERNET TRANSACTIONS

(a) *Consumer Protection*

1. Consumers have access to additional information/advice from a licensed intermediary;
2. Consumers know they are dealing with a regulated entity;
3. Consumers have and understand the necessary information about the products;
4. Consumers have the opportunity to review the accuracy of the information they provide;
5. Consumers are aware of the terms and conditions;
6. Consumers can rely on the transaction; and
7. The consumer's personal information is secure.

Since the consumer would not be interacting with a licensed sales professional in an e-commerce transaction, certain risks may become more prevalent: a contract may be invalid due to a lack of appropriate consumer knowledge and, therefore, consent; a consumer may purchase excessive or insufficient coverage; and of course, consumers may not read or understand available product information adequately.

(b) *Website Design*

CCIR solicits the views of stakeholders as to the nature and extent of information that should be provided in an online sales context as well as how it should be presented visually. The regulators are concerned with the trend toward “busy” internet pages where many things are occurring simultaneously, distracting the consumer and causing them to make poor decisions.

(c) *Designation of Beneficiary*

There is considerable discussion in the paper with respect to the best way in which to designate beneficiaries initially and to change them, should that be necessary. Particular concern focuses on whether the electronic designation of a beneficiary would be found to be consistent with Canadian law on wills and trusts. CCIR seeks input on this very important point as well.

II) CCIR CALL FOR STAKEHOLDER VIEWS

CCIR requests that submissions from stakeholders be provided by April 27, 2012.

Please note that CCIR intends to make all submissions public. Upon request, CCIR states that it will treat a submission, or designated parts, “as confidential to the limited extent permitted by law.”

It is imperative that stakeholders engage in this discussion opportunity and provide CCIR with submissions that explain how internet commerce may impact their business model and provide practical recommendations as to how e-commerce might be introduced, while ensuring consumers are protected adequately. This is a significant opportunity to participate in the legislative process on an issue that will become increasingly important to the insurance industry over time.

Many stakeholders are far along in developing e-commerce strategies and may have experience to share from other jurisdictions as well.

I would be pleased to discuss this issue with you further and, if you wish, work with you to prepare a submission to CCIR.

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Until June 2006, Vivian served as Vice-President, General Counsel and Corporate Secretary at The Dominion of Canada General Insurance Company, one of the country's largest property and casualty insurers. Before joining The Dominion in 1998, Vivian was a senior policy advisor to the Minister of Finance, Ontario. From 1990 – 1995, she was a litigator specializing in libel and slander defence and complex personal injury matters.

Vivian has served as a director of several not-for-profit corporations. She speaks frequently at continuing education programs as well as industry events.

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