



Response to

**Managing Conflicts of Interest:
A Consultation Paper on Enhancing and Harmonizing
Best Practices**

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Submitted to:

Industry Practices Review Committee
Canadian Council of Insurance Regulators
and
Canadian Insurance Services Regulatory Organizations

Submitted by:

The RIMS Canada Council
A Standing Committee of the
Risk and Insurance Management Society, Inc.

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Background/Introduction

As representatives of Canada's largest group of commercial insurance purchasers, the RIMS Canada Council (RCC) appreciates the opportunity to express the views of its members to the Industry Practices Review Committee (IPRC) of the Canadian Council of Insurance Regulators and Canadian Insurance Services Regulatory Organizations on *Managing Conflicts of Interest: A Consultation Paper on Enhancing and Harmonizing Best Practices*.

The Risk and Insurance Management Society, Inc. (RIMS) is a not-for-profit organization dedicated to advancing the practice of risk management, a professional discipline that protects physical, financial and human resources. Founded in 1950, RIMS represents over 3,800 industrial, service, nonprofit, charitable, and governmental entities. The Society serves 9,600 risk management professionals around the world.

RIMS has over 800 individual members in Canada, representing more than 425 of Canada's largest companies and organizations in many industries, including financial institutions, retail, consumer products and services, energy and utilities, agriculture, transportation, real estate, educational institutions, and municipal and provincial governments.

The RCC is a standing committee of RIMS that addresses Canadian activities and strategic initiatives of RIMS and risk management in Canada. The RCC is comprised of representatives from each of the ten RIMS chapters from across Canada. The RCC's Communications and External Affairs subcommittee also includes representatives from across Canada.

RIMS Initiatives

As part of our response to the June, 2005 Consultation Paper on Relationships between Insurers and Sales Intermediaries, RCC submitted the Quality Improvement Process (QIP) tools that were developed by RIMS to facilitate communication, clarification and measurement of performance expectations between risk managers and industry service providers. The QIP partnership tools include sample templates and worksheets designed to provide a framework for the user to begin choosing guidelines and developing associated metrics that are important to his/her organization in insurance industry relationships and transactions, including brokers and insurers.

The timing of this consultation paper coincides with an important step in RIMS continuing efforts to improve business practices and quality in insurance transactions. RIMS hosted a forum on March 22, 2006, bringing together some of the top leaders of the world's largest insurance companies, brokerages, associations, and regulators to discuss additional improvements in business practices. RIMS expects this meeting to be the first in a series of initiatives towards improvements in business practices, industry associates' collaboration and commitment to adopting the tenets of the RIMS QIP, and a vision for moving forward. The Quality Brief prepared as the background for this Forum is attached to this response, and excerpted throughout. Attendees at the Quality Forum were to have discussed next steps, which we will be pleased to share on an ongoing basis with the Canadian Council of Insurance Regulators and Canadian Insurance

Services Regulatory Organizations. We will provide materials and outcomes emanating from the March 22 Forum to the IPRC at a later date as they are not yet available.

The three guiding principles in the RIMS Quality Brief, integrity, transparency, and client-centricity, directly relate to the IPRC's three recommendations. It is encouraging and a sign that we are moving in the right direction that both RIMS and the IPRC have come to similar conclusions through different processes.

Integrity speaks to the fundamental quality of a successful relationship. It represents the ethical code which serves as the guidepost for our relationships. Whether we are talking about a person of integrity, the integrity of a process, or the completeness and accuracy of a transaction, we are effectively assessing whether something is *right*. It is critical that integrity be the foundation of the relationships between broker, insurer and client. This principal aligns closely with the concepts associated with product suitability laid out by the IPRC.

Transparency represents an openness of process and is essentially the operational equivalent of trust. If the details of the insurance transactions are known, and easy to understand, then we will have addressed a key concern facing risk managers. As participants in the "business of risk," each of us has a duty to operate in a manner that is above reproach. Full disclosure of all information about a transaction must be communicated in order to build trust. This principal aligns closely with the concepts associated with disclosure laid out by the IPRC.

Client Centricity is a business culture that focuses first and foremost on the needs of the client. In the risk business, all of our constituencies serve in a client role at some point in the transaction. Client centricity recognizes the importance of placing the client's needs above all others. It is about having a complete understanding of the overall investment that each constituent has in a relationship and a commitment to developing operational support processes that optimize the client experience. Quality in the insurance transaction process will only be recognized if the broker and insurer place the needs of the client first and serve each client appropriately. This principal aligns nearly identically with the concepts associated with priority of the client's interest laid out by the IPRC.

Guidelines for each of these three principles outline expectations for translating them into viable operating strategies.

Response to Consultation Questions

1. Appropriateness of Principles

In general, RCC supports the IPRC's three recommendations and associated principles, and believes that the principles outlined in the paper reflect appropriate best practices, in particular because they are so similar to those embodied in the RIMS QIP initiatives. Please refer to the attached Quality Brief Document and QIP tools for a full explanation of the RIMS QIP Principles.

RCC also supports the progressive approach, because it allows for flexibility and for the ongoing input and experience of stakeholders that regulators can incorporate into regulatory frameworks and enforcement measures to assist industry participants “to make the right decisions” when it comes to the principals noted above. Market forces and competition dynamics from time to time put *principals* and *profits* on separate sides of an issue or transaction. The clearer the principals and the obligation to adhere to them are, the easier decision making ought to be for all parties.

2. Practical Problems and Potential Solutions Associated with Implementation of the Recommendations

RCC can identify a number of potential practical problems that could be associated with implementing the recommendations outlined in the paper. They include:

Harmonization

- Regional coordination and achieving a harmonized approach by both regulators and professional associations could be a challenge. Leadership by regulators would help greatly in meeting this challenge.

Disclosure of Information

- In an industry that uses both fees and commissions, it should be clearly outlined to the client the level of service associated with specific fees and/or commissions. For instance, if negotiated, some brokers will do a simple placement of coverage in the market for a fixed fee that is a fraction of typical commissions; for a larger fee they will provide additional services for the placement; and for a full commission they might offer a full range of services including risk assessment related to the exposures, contract review and more. However, if not negotiated upfront, the broker may collect the full commission for a simple placement with no other services provided. Information related to fees/ commissions and expected service levels should be clearly outlined and made available to all clients with a minimum of difficulty.
- Another concern is push back from insurers and brokers. Variable fee structures, commission rates, premium volume and other information is sometimes treated as proprietary or “need to know” information. Some industry players do not support making this type of information, considered helpful or desirable to insurance consumers, readily available. A simple example of this is commissions earned by sales intermediaries on transactions; commission information is readily available to sales intermediaries, however it is typically not provided to clients unless explicitly requested.

Product Suitability

- The most challenging practical problems may be with the principle of Product Suitability and how to measure suitability. The RCC would participate in further discussion of this challenge.

- In the commercial insurance arena, insurance companies and brokers generally play a major role in determining and developing appropriate insurance products to serve the market place. Broker/insurer expertise and ingenuity in delivering solutions is a major competitive factor, and this helps enforce Product Suitability in commercial markets.
- Suggested risk assessment and needs assessment forms, such as those required to be used by discount investment brokerages, might be considered. Such tools would likely have little relevance to the commercial market place as it applies to large organizations, but may be effective for small to medium enterprises. The RCC encourages further investigation in this area.
- As recommended in the paper, communication to the client and documenting reasons for broker recommendations is an important measure of quality and diligence, as supported by the RIMS QIP. In the commercial environment, clients sometimes request such documentation, but from time to time get no response or poor quality response from the broker and are forced to make an insurance decision without such documentation because of policy expiry dates. This should be a factor in assessing performance of service providers. There may be a benefit in guidelines for templates for such documentation, and the RCC encourages further investigation in this area.
- It should be noted that the client has an important role to play in the area of Product Suitability. Just as the broker or agent has a role in determining the suitability of coverage and requesting the appropriate information to determine such, the client has an obligation to provide appropriate information and report material risks for consideration. The decision to insure most risks is ultimately a strategic one.

3. What role can associations play?

As demonstrated by RIMS leadership in developing the QIP, hosting the Quality Forum and other initiatives to improve the quality of insurance transactions, insurance industry associations play an important role in bringing all parties to the table to harmonize codes and guidelines to operationalize the IPRC's recommendations on a voluntary basis, minimizing the need for further regulation.

Associations can also, working individually and as a collective,

- develop joint methods to educate their members about the requirements of all parties to an insurance transaction.
- develop complaint monitoring and disciplinary measures, sanctions and/or restrictions for wrong doers.
- make information available on how to select a broker that's right for a client and how to make the most of the broker's expertise.
- develop standardised forms and reports to assist in achieving transparency.
- make appropriate information available centrally to assist in achieving transparency.
- work together to address industry issues as they occur.

4. Can the recommendations be achieved through industry initiatives, are regulations required, or a combination of both approaches?

It is preferred to start at the industry initiative level, since we believe there is a great deal of potential in bringing insurers, brokers, consumers and service providers together to propose solutions that work for all of them before regulation is imposed.

Conclusion

Generally, the issues and principals involved in this consultation appear to be areas that regulatory frameworks cannot easily address. However, it is also recognised that much of the legislation that regulates market conduct of insurance industry participants in various provinces has not been substantively updated in many years and there are products and practices not addressed within current regulations. The RCC applauds the efforts of the IPRC, CCIR and CISRO in this approach to determining the core principals that should guide the architects of any new regulations or revisions to existing regulations.