



## **Submission by the Canadian Council of Insurance Regulators (CCIR)**

### **To the Cooperative Capital Markets Regulatory System**

#### **Regarding the August, 2014 publication: *Provincial Capital Markets Act: A Consultation Draft***

The Provincial Capital Markets Act (PCMA) contains language that could result in duplicative regulation of some insurance products, specifically relating to the policy options under Individual Variable Insurance Contracts (IVICs).

Since IVICs came into existence, these products have been subject to insurance regulation. Although the segregated funds available under IVICs superficially resemble mutual funds, there are a number of important differences. Chief among these is that IVICs are more than investment vehicles: they are insurance contracts that offer protections to policyholders that are not found in mutual funds. The characterization of segregated funds as insurance products or securities is a fundamental characteristic that cannot be changed through regulations from the securities sector.

In 1999 the Canadian Securities Administrators (CSA) and the CCIR, wishing to ensure that their respective regimes of regulation were harmonized to give similar protections to investors in these different, yet functionally similar products, embarked on a joint project to compare the products and their regulation. A joint regulatory/industry working group compared 100 aspects of the legal structure and nature of the products and their regulation.

This project resulted in 16 recommendations for changes to both regulatory regimes, all but two of which were cleared through regulatory changes within the following three years. The major items remaining were recommendations around IVIC and mutual fund disclosure documents and approach which were cleared in 2008 through the work of a joint CSA/CCIR Point of Sale working group.

The report<sup>1</sup> that came out of this review highlighted that, although there are differences in the legal nature of the products, there exist many similarities in the regulation of the products – in essence the goals of both regulation regimes are similar -- the protection of investors and policyholders.

Notwithstanding the foregoing and recognizing that many years have passed since the report came out, the CCIR has undertaken, in its 2014-2017 Strategic Plan, a review of the regulatory landscape of IVICs to assess potential regulatory arbitrage between IVICs and mutual funds. This work will allow the CCIR to

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<sup>1</sup> The reports and other publications around this joint CSA/CCIR project can be found on the website of the Joint Forum of Financial Market regulators at <http://www.jointforum.ca/en/pubs/>



identify any discrepancies that remain between the products and their regulation and to recommend any further modifications to the IVICs regulation deemed necessary.

We submit that IVICs and their constituent segregated funds are already well regulated and, though our approaches differ, well harmonized with the regulation of mutual funds, and given the work already undertaken by the CCIR in its 2014-2017 Strategic Plan and the fact that IVICs have always been subject to insurance regulation, there are no valuable grounds for the change in the definition of “security” in the PCMA. Thus, we ask that the PCMA be amended to remove the phrase “unless otherwise provided by the regulations” from section (f) of that definition to continue the exemption of insurance contracts from this legislation.

Carolyn Rogers,

Chair, CCIR