



IBC

Insurance Bureau
of Canada

Unofficial English version

Brief

Type and nature of complaints to be disclosed as part of the Annual Statement on Market Conduct

Presented to

Canadian Council of Insurance Regulators (CCIR)

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Insurance Bureau of Canada is the national association representing property and casualty insurance providers in Canada. Its member companies account for 90% of the market for home, car and business insurance across the country.

Mission

IBC is the voice of property and casualty insurance providers and a partner to governments, property and casualty insurance stakeholders, and consumers.

For over 50 years, IBC has used its leadership position to advocate with governments and regulators for accessible and affordable property and casualty insurance for all Quebecers and other Canadians. It also works on various issues that affect not only the insurance industry, but the various levels of government.



I. INTRODUCTION

The Insurance Bureau of Canada (IBC) is pleased to provide the following feedback from its members to the Canadian Council of Insurance Regulators' ("CCIR") consultation on the " **Type and Nature of Complaints to Be Disclosed in the Annual Statement on Market Conduct**". IBC thanks CCIR for its consideration.

SUMMARY OF RECOMMENDATIONS

In response to this consultation, IBC makes the following recommendations:

1. Completely remove the notion of alleged misconduct and the obligation to disclose it when it does not meet the escalation criterion (referred or escalated to the next level).
2. Remove from the proposal the requirement to disclose "all other complaints" regardless of their path through the organization and the insured's willingness to file a complaint.
3. Specify the process for disclosing and recording reports and declarations (the technical aspect of entering the required information).
4. Revise and harmonize the proposed framework to enable insurers to effectively address complaints and comply with their obligations to the regulator with a clear, unambiguous and consistent definition.
5. That the coming into force be at the same time as the coming into force under the forthcoming Regulation of the Autorité des marchés financiers (AMF). Alternatively, the new CCIR definition could be applicable to 2025 data, i.e., for the 2026 annual return, provided that insurers have at least one year to make the changes following the publication of all required clarifications.

II. IBC COMMENTS AND RECOMMENDATIONS

A. INCREASED SCOPE OF REPORTABLE COMPLAINTS

The new definition that the members of the Canadian Council of Insurance Regulators (CCIR) propose that regulated entities use in the Annual Statement significantly broadens the scope of complaints that insurance providers need to disclose. In fact, it completely changes the type of information to be managed and processed in the normal course of their activities. At present, insurance providers only report cases of dissatisfaction that remain unresolved after being considered and processed at the operational level and that must be handled by the organization's designated complaints officer. The CCIR proposal provides that in addition to complaints that are referred or escalated, the Statement must include complaints related to five types of "suspected wrongdoing" and "all other complaints."

In its 2019 report on the Annual Statement on Market Conduct¹ and its 2021 Observations Report,² the CCIR makes a few observations and recommendations on processing complaints. However, there are no recommendations on changing the current framework or recommendations respecting problems arising therefrom. In the absence of key points that would warrant the need to change the current framework, IBC believes that the new definition should limit the impact on the current practices of insurance providers as much as possible. The costs of implementing this new definition will be significant, and the reorganization of human resources and changes to IT systems that will be required unnecessarily increase the compliance burden.

¹ Canadian Council of Insurance Regulators, *2019 Annual Statement on Market Conduct – Public Report*, December 2020, p. 26.

² Canadian Council of Insurance Regulators, *CCIR Cooperative Fair Treatment of Customers (FTC) Review – Consolidated Observations Report*, October 2021, p. 17.



i. Complaints related to suspected wrongdoing

Our members believe that the addition of “suspected wrongdoing” is inappropriate in the context where the goal is to identify “dissatisfaction about the service or product provided,” as opposed to identifying regulatory infractions for which there are other recourses. IBC believes that the public is already effectively protected where suspected wrongdoing is involved and that the “Complaints” section of the Statement is not the place to report such wrongdoing.

a) “Breaches of confidentiality of customer information”

A breach of confidentiality is an incident that should be handled by the Privacy Officer and documented in a register of incidents.³ Current legislation governing the protection of personal information is a sufficient framework and already provides for rules that apply to breaches of confidentiality. It would therefore be to everyone’s advantage if the fields of activity of the various stakeholders were clearly defined to avoid confusion and duplicating processes.

In addition, the CCIR Annual Statement already contains Tab 10, which addresses the protection of personal information and requires that the number of privacy incidents be provided.

b) “Illegal activities,” “violation of ethics” and “unfair sales practices”

A framework governing faults relating to illegal activities, violations of ethics on the part of representatives and unfair practices already exists. In addition, IBC finds it difficult to see how frontline employees could adequately qualify situations related to one of these activities if it were brought to their attention.

c) “Product design issues”

Defining, recognizing and analyzing complaints related to product design issues can be difficult. It would be helpful if clarifications were made so as to help frontline employees identify complaints that refer to product design issues. This raises the question of whether they would need to document the dissatisfaction of customers who, after having filed a claim, believe that they should have had more coverage given their needs.

In addition, under its *Commercial Practices Guideline*, the AMF specifies that it expects financial institutions to consider the common needs and interests of the various customer groups for whom products are designed. It is therefore risky to claim that a single complaint can be directly related to a product design issue. A product design issue is more an observation that can be made after having analyzed a number of factors, including complaints. Therefore, IBC believes that such an issue should not constitute a complaint for the purposes of the Annual Statement.

In short, the addition of suspected wrongdoing has the effect of broadening the scope of complaints to be disclosed without contributing to the fair treatment of customers, as the situations in question are already duly regulated. Moreover, it exacerbates human resources issues, because the obligation to manually enter a much larger number of complaints will necessarily reduce the amount of time employees dedicate to customer service.

Recommendation #1

IBC therefore recommends completely removing the notion of suspected wrongdoing and the obligation to disclose it when it does not meet the escalation criteria (referrals or escalations).

³ In Québec, the Regulation respecting confidentiality incidents, A-2.1, r. 3.1, applies.



ii. All other complaints

The CCIR also proposes that all other complaints be disclosed, along with their number and nature. While limited information would be required, it would mean that any dissatisfaction with offered products or services will need to be identified and documented. Employees will need to be trained and internal processes changed. Understandably, the number of complaints to be recorded will skyrocket, as customer dissatisfaction that is resolved at the first level in the normal course of business is much higher than dissatisfaction that is escalated.

Recommendation #2

IBC believes that making insurance providers subject to such an additional burden is not warranted and recommends removing the obligation to disclose “all other complaints” from the proposal, regardless of how they are escalated within an organization and regardless of the policyholder’s willingness to file a complaint.

B. PLATFORMS AND PROCESSES FOR COMPLAINT REPORTING BY INSURERS

IBC members also raised the issue of platforms to be used for the Annual Complaint Report. Are we to understand that all reports should now be submitted via AMF E-Services, including complaints covered by the last paragraph of the definition subject of this consultation (“all other complaints”)?

Recommendation #3

IBC recommends clarifying the process for disclosing and documenting reports and statements (the technical aspect of entering the required information).

C. HARMONIZATION WITH THE AMF REGULATION

In Québec, in the latest version of its *Draft Regulation respecting complaint processing and dispute resolution in the financial sector*, the AMF proposes a definition of complaints that is different from that of the CCIR (see Appendix). It also provides comprehensive guidance on complaint processing.

IBC believes that it is possible to achieve the goal of protecting consumers without having two complaint reporting systems in place in the same province. In Québec, this approach is equally contrary to the *Politique gouvernementale sur l’allègement réglementaire et administratif - Pour une réglementation intelligente* (Order in Council 1558-2021).

In fact, despite certain similarities, the definition of “complaint” found in the latest version of the AMF’s draft regulation and the one proposed by the CCIR are not harmonized, nor is the way in which they are to be reported:

- The CCIR definition refers to dissatisfaction while the AMF’s definition in its regulation refers to complaints and dissatisfaction.
- The definition of “complaint” in the AMF regulation does not include suspected wrongdoing like that of the CCIR.
- For the Annual Statement (definition proposed by the CCIR), complaints referred or escalated must be documented in detail in the tool available in AMF E-Services, while under the AMF regulation, all complaints, including referred or escalated ones, must be recorded in accordance with sections 12, 18, 8 and 9 of the AMF regulation.
- For “all other complaints” as defined by the CCIR, insurance providers must only indicate the number and nature of complaints based on predetermined categories while, under articles



12, 18, 8 and 9 of the AMF regulation, complaints must be documented and the register must contain:

- The number of complaints
- Information making it possible to identify common causes
- The outcome of the complaint
- Information making it possible to identify issues relating to the implementation of the policy

However, “all other complaints” as defined by the CCIR could be the same ones, in part, as those subject to the AMF regulation, considering the spectrum of complaints both are targeting.

It is very difficult to make sense of it all. It will lead to confusion and make application difficult.

Section 50 of the *Insurers Act* provides that an authorized insurance provider must adhere to sound commercial practices, and to that end, keep a complaints register. Similarly, section 103 of the *Act respecting the distribution of financial products and services* provides that firms must keep a complaints register. IBC believes that a single register is sufficient under the law and that it should not be necessary to report complaints based on multiple definitions and through multiple tools and registers.

Recommendation #4

IBC believes that the proposed framework should be harmonized and recommends that it be revised until it is. In its final version, the proposed framework should enable insurance providers to effectively process complaints and comply with their obligations towards the regulator on the basis of a clear, unambiguous and consistent definition.

D. TIMELINE

The changes that will be required by the CCIR proposal are in some respects similar to those that will be required by the AMF regulation (based on information available to date, as the final text of the regulation is not known). Thus, it would be appropriate for the new disclosure obligations proposed by the CCIR to come into force at the same time as the AMF’s draft regulation.

In addition, we would like to point out that insurance providers must have a reasonable amount of time to meet the various obligations and implement new organizational processes. Because the CCIR proposal includes the obligation to report complaints made in 2024 in the 2025 Annual Statement, insurance providers would have to finalize changes to IT systems and processes related to change management, staff training and employee recruitment resulting from the increased workload by January 1, 2024, which is impossible.

Too short a time could deprive consumers of the benefit of obtaining services from persons who are well trained in the new concepts, thereby defeating the objective of fair practices.

Recommendation #5

As a result, IBC recommends entry into force at the same time that the AMF Regulation comes into force. Alternatively, the new CCIR definition could be applicable to data from 2025, that is, for the 2026 Annual Statement, provided that insurance providers have at least one year to make changes further to the publication of all required clarifications.



III. CONCLUSION

IBC would like to thank the CCIR for the opportunity to provide feedback during its consultation on the type and nature of complaints to be disclosed as part of the Annual Statement on Market Conduct. This is a priority issue for property and casualty insurers.

IBC understands the regulator’s liability where the sound commercial practices that its regulated entities must abide by are concerned. However, the time spent duplicating processes such as those described above results in additional costs and takes up human resources, this at a time where optimizing human resources is key in the current context of labour shortages. The regulator must strike a balance between consumer protection and the burden imposed on businesses to ensure compliance. Although it may be difficult to do, such a balance must be achieved; otherwise, the regulation will have adverse effects on economic growth, innovation and business competitiveness.

With this in mind, IBC reiterates that it is essential to limit the complaints that must be reported to those that are necessary to ensure consumer protection. IBC also insists on the importance of harmonizing requirements and avoiding duplication.

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IV. APPENDIX I

Current CCIR definition (Annual Statement on Market Conduct)	AMF proposal (Draft Regulation)	CCIR proposal (Annual Statement on Market Conduct)
<p>A complaint is the expression of one of the following three elements where that element persists after having been considered and processed at the operational level with decision-making authority:</p> <ul style="list-style-type: none"> • A reproach in respect of the organization; • The identification of real or potential harm that a consumer has sustained or may sustain; or • A request for remedial action. <p>The initial expression of dissatisfaction by a consumer, whether in writing or otherwise, will not be considered a complaint where the issue is settled in the regular course of the business’s activities. However, if the consumer remains dissatisfied and the complaints officer designated in the organization’s policy takes charge of the dissatisfaction, it will be considered a complaint.</p> <p>However, the organization must refrain from any undue delay in referring a complaint to a higher level solely for the purpose of circumventing the requirement to enter the complaint in the complaint report.</p>	<p>Any reproach or dissatisfaction in respect of a service or product offered by a financial institution or financial intermediary, or in respect of a practice of a credit assessment agent, that is communicated by a person who is a member of the clientele of the financial institution or financial intermediary, or, in the case of a credit assessment agent, by a person concerned by a record held by the credit assessment agent, for which a final response is expected.</p>	<p>A complaint can be defined as an expression of dissatisfaction about the service or product provided by an insurance provider or Intermediary. It may involve, but is differentiated from, a claim (unless relating to the administration of the claim process) and does not include a simple request for information.</p> <p>Disclosure obligation:</p> <p>The insurance provider must disclose any complaints (written or otherwise) that have been referred or escalated (requiring approval or processing by someone other than the initial examiner or first operational level) and any other complaints related to the following types of suspected wrongdoing:</p> <ul style="list-style-type: none"> • Breaches of confidentiality of customer information • Illegal activities • Breaches of ethics • Product design issues • Unsound sales practices <p>For all other complaints, the insurance provider must only indicate the number of complaints and their nature (that is, the insurance category and the complaint category).</p>