



## **REQUEST FOR COMMENTS**

**Notice and Request for Comment** – Publication of proposed Financial and Consumer Services Commission Rule INS-001 *Insurance Intermediaries Licensing and Obligations* (the “**Proposed Rule**”) as set out in **Annex A**.

### **Introduction**

On 13 October 2021, the Financial and Consumer Services Commission (“**Commission**”) approved publication in order to obtain comments on the Proposed Rule.

The Commission previously published the following consultation papers outlining proposals for updating the insurance intermediary licensing framework:

- [Modernizing the New Brunswick Insurance Licensing Framework](#) - November 2015;
- [Licensing of Insurance Adjusters and Damage Appraisers in New Brunswick](#) - May 2019;
- [Incidental Selling of Insurance, Restricted Insurance Licensing Regime](#) - December 2019.

We received numerous comment letters from the consultations. The majority of the feedback was supportive of the recommendations in the papers. The feedback was considered in making amendments to the *Insurance Act* and informed the development of the Proposed Rule. A list of respondents is included in **Annex B**.

### **Substance and Purpose of Proposed Rules and Proposed Amendments**

Over the years, the insurance industry has undergone significant changes. The Proposed Rule will update the regulatory framework to reflect the changes to the *Insurance Act* (the “**Act**”) and will replace five existing regulations, some of which are very dated:

- *Adjusters Regulation (2009)*,
- *Agents and Brokers Regulation (1995)*,
- *Licence and Examination Fees for Agents and Brokers Regulation (1983)*,
- *Licence Revival Fee Regulation (1984)*,
- *Life Insurance Agent Licensing Regulation (2003)*.

The Proposed Rule establishes the classes of licences that may be issued and the licensing qualifications and educational requirements for licensees. The Proposed Rule also enhances market conduct rules for insurance intermediaries.

The Commission will be publishing a proposed fee rule which will establish the regulatory fees for licensing applications and other related fees.

The effective date of the Proposed Rule would coincide with the implementation of related amendments to the *Insurance Act*.

### **Contents of Annexes**

|                 |  |
|-----------------|--|
| <u>Annex A:</u> | Proposed Rule INS – 01 <i>Insurance Intermediaries Licensing and Obligations</i> |
| <u>Annex B:</u> | List of Respondents  |

### **How to Obtain a Copy and Provide your Comments**

The text of the Proposed Rule is included with this notice.

A paper copy of the proposed materials may be obtained by writing, telephoning or emailing the Commission. Comments are to be provided, in writing, by no later than 7 February 2022 to:

Corporate Secretary  
Financial and Consumer Services Commission  
85 Charlotte Street, Suite 300  
Saint John, N.B. E2L 2J2  
Telephone: 506-658-3060  
Toll Free: 866-933-2222 (within NB only)  
Fax: 506-658-3059  
E-mail: [secretary@fcnb.ca](mailto:secretary@fcnb.ca)

We cannot keep submissions confidential. Any submission received during the comment period may be disclosed in accordance with provincial legislation. A summary of the written comments received during the comment period may be published. Therefore, you should not include personal information directly in comments to be published. It is important that you state on whose behalf you are making the submission.

### **Questions**

If you have any questions, please refer them to:

David Weir  
Senior Technical Advisor  
Tel: 1-866-933-2222  
Email: [david.weir@fcnb.ca](mailto:david.weir@fcnb.ca)

Ella-Jane Loomis  
Senior Legal Counsel  
Tel: 506-453-6591  
Email: [ella-jane.loomis@fcnb.ca](mailto:ella-jane.loomis@fcnb.ca)



## ANNEX A

### FINANCIAL AND CONSUMER SERVICES COMMISSION RULE INS-001 *INSURANCE INTERMEDIARIES LICENSING AND OBLIGATIONS*

#### PART 1 – DEFINITIONS AND INTERPRETATION

##### Definitions

1. (1) In this Rule

“accident and sickness insurance” means insurance:

- (a) against loss resulting from bodily injury to or the death of a person caused by an accident;
- (b) under which an insurer undertakes to pay a certain sum or sums of insurance money in the event of bodily injury to or the death of a person caused by an accident;
- (c) against loss resulting from the sickness or disability of a person, excluding loss resulting from an accident or death;
- (d) under which an insurer undertakes to pay a certain sum or sums of insurance money in the event of the sickness or disability of a person not caused by an accident; or
- (e) under which an insurer undertakes to pay insurance money with respect to the health care, including dental care and preventative care, of a person; (*assurance accident et maladie*)

“Act” means the *Insurance Act* (New Brunswick); (*Loi*)

“adjusting firm” means a partnership, corporation, or sole proprietorship that is conducting insurance activity as an adjuster; (*cabinet d’expertise en sinistres*)

“agency” means a corporation, partnership or sole proprietor that is conducting insurance activity as an agent, and for greater certainty includes a brokerage; (*agence*)

“collector of insurance premiums” means a person who only collects insurance premiums and does not solicit, negotiate, sell or arrange insurance contracts or the renewal of insurance contracts; (*encaisseur de primes d’assurance*)

“general insurance” means all classes of insurance but does not include accident and sickness insurance, life insurance and travel insurance; (*assurances I.A.R.D.*)

“insurance intermediary” means an adjuster, an adjusting firm, an agency, an agent, a managing general agent, a restricted insurance representative and a special insurance broker; (*intermédiaire d’assurance*)

“level 1 assistant adjuster” means an individual who is authorized to act as an adjuster under the supervision of a level 2 adjuster or level 3 senior adjuster who meet the requirements for supervision; (*expert en sinistres adjoint de niveau 1*)

“level 2 adjuster” means an individual who is authorized to act as an adjuster; (*expert en sinistres de niveau 2*)

“level 3 senior adjuster” means an individual who is authorized to act as an adjuster and to manage an adjusting firm; (*expert en sinistres principal de niveau 3*)

“level 1 general insurance agent” means an individual who is authorized to act as a general insurance agent for all personal lines of insurance; (*agent d’assurances I.A.R.D. de niveau 1*)

“level 2 general insurance agent” means an individual who is authorized to act as a general insurance agent for all personal and commercial lines of insurance; (*agent d’assurances I.A.R.D. de niveau 2*)

“level 3 general insurance agent” means an individual who is authorized to act as a general insurance agent for all personal and commercial lines of insurance and is authorized to manage an insurance agency; (*agent d’assurances I.A.R.D. de niveau 3*)

“licensed firm” means an adjusting firm, agency or managing general agent; (*cabinet autorisé*)

“life insurance agent” means an individual who is authorized to solicit, negotiate, sell or arrange life insurance and accident and sickness insurance; (*agent d’assurance-vie*)

“managing general agent” means a corporation, partnership or sole proprietorship that carries out specific activities on behalf of an insurer, and includes an associate general agent, that:

- (a) in connection with life insurance and accident and sickness insurance, conducts any of the following activities:

- (i) soliciting or accepting applications for insurance from life insurance or accident and sickness insurance agencies or agents;
  - (ii) entering into written agency agreements with life insurance or accident and sickness insurance agencies or agents authorizing the agency or agent to do business on behalf of the insurer; or
  - (iii) supervising and monitoring the activities of a life insurance or accident and sickness insurance agency and agents with whom it has entered into written agency agreements on behalf of an insurer;
- (b) in connection with general insurance and travel insurance, conducts any of the following activities:
- (i) soliciting, negotiating or accepting applications from an agency or agent;
  - (ii) quoting and binding insurance for applications from an agency or agent;
  - (iii) effecting and countersigning contracts of insurance;
  - (iv) collecting and accepting premiums from an agency or agent;
  - (v) underwriting insurance contracts;
  - (vi) processing claims on behalf of an insurer;
  - (vii) supervising and monitoring the activities of agencies and agents with whom it has entered into written agency agreements on behalf of an insurer; (*agent de gestion générale*)

“restricted insurance representative” means a corporation, partnership or sole proprietorship who is authorized to solicit, negotiate, sell or arrange the class or type of insurance specified on the restricted insurance representative licence; (*représentant d’assurance restreinte*)

“special insurance broker” means a person who is authorized under the Act to negotiate, continue or renew contracts of insurance with unlicensed insurers; (*courtier spécial d’assurance*)

“supervision” means reasonable and prudent oversight of all insurance activities carried on by the individual being supervised; (*supervision*)

“third party administrator” means a person that, for compensation, carries out activities to administer a contract of insurance on behalf of an insurer, other than solely clerical activities, but does not include a person that is licensed as an agency or a managing general agent; (*tiers administrateur*)

"travel insurance" means any of the following:

- (a) in respect of a trip by a person away from the place where the person ordinarily resides, without any individual assessment of risk, insurance for any of the following:
  - (i) loss of, or damage to, personal property that occurs while on a trip;
  - (ii) loss that is caused by the delayed arrival of personal baggage while on the trip;
  - (iii) loss that is incurred from the rental of a motor vehicle while on the trip;

- (b) in respect of a trip by a person away from the place where the person ordinarily resides, insurance for any of the following:
  - (i) against expenses incurred while on the trip that result from an illness or disability of the person that occurs on the trip;
  - (ii) against expenses incurred while on the trip that result from bodily injury to, or the death of, the person caused by an accident while on the trip;
  - (iii) whereby the insurer undertakes to pay one or more sums of money in the event of an illness or the disability of the person that occurs on the trip, or of bodily injury to, or the death of, the person that is caused by an accident on the trip;
  - (iv) against expenses incurred by the person for dental care necessitated by an accident while on the trip;
  - (v) in the event that the person dies while on the trip, against expenses incurred for the return of that person's remains to the place where the person was ordinarily resident before death, or travel expenses for a person to go and pick up that person's remains;
- (c) insurance against loss that results from the cancellation or interruption of the trip; (*assurance voyage*)

“travel insurance agent” means an individual who is authorized to solicit, negotiate, sell or arrange travel insurance; (*agent d’assurance voyage*)

“trust money” means all monies or other consideration received or receivable by any licence holder in the course of carrying on insurance business:

- (a) from the public on behalf of insurers; or
- (b) from insurers on behalf of the public. (*fonds en fiducie*)

(2) Unless the context requires otherwise, words and expressions used in the *Insurance Act*, whether or not defined in that *Act*, have the same meaning for the purposes of this Rule.

## Licences

- 2. The Superintendent may issue the following classes of licence authorizing an individual to act in New Brunswick as:
  - (a) an adjuster with the following levels of authority:
    - (i) Level 1 assistant adjuster;
    - (ii) Level 2 adjuster;
    - (iii) Level 3 senior adjuster;
  - (b) a general insurance agent with the following levels of authority:
    - (i) Level 1 general insurance agent;
    - (ii) Level 2 general insurance agent;

- (iii) Level 3 general insurance agent;
- (c) a life insurance agent;
- (d) an accident and sickness insurance agent;
- (e) a restricted insurance representative;
- (f) a travel insurance agent;
- (g) a special insurance broker.

### **Exemptions for individuals**

3. A collector of insurance premiums who does not solicit, negotiate, sell or arrange insurance contracts or the renewal of insurance contracts may carry on such activity without a licence, if the collection fee does not exceed five per cent of any amount collected.
4. (1) Unless the Superintendent directs otherwise, the requirement to be licensed does not apply to an individual acting for an insurer or reciprocal or inter-insurance exchange in the negotiation of any contracts of insurance or in the negotiation of the continuance or renewal of any contracts that the insurer or exchange may lawfully undertake, if the individual:
  - (a) is an officer or salaried employee of a licensed insurer, who does not receive commissions; or
  - (b) is acting as an attorney or salaried employee of a reciprocal or inter-insurance exchange at which no commission is paid except to the attorney.
- (2) In the case of an insurer authorized to undertake life insurance or accident and sickness insurance, the requirement to be licensed does not apply to an officer or salaried employee only if that officer or salaried employee works at the head office of the insurer, and does not receive commissions.
- (3) An officer or employee who has been refused a license, or whose licence has been suspended, revoked or cancelled, shall not act as provided in subsection (1) without written authorization from the Superintendent.
5. (1) The Superintendent may prohibit an individual from relying on an exemption if the Superintendent is of the opinion, on reasonable grounds, that an individual relying on an exemption from licensing under the *Act* or this Rule:
  - (a) violated or failed to comply with a written undertaking to the Superintendent;
  - (b) committed a fraudulent act or practice;
  - (c) demonstrated incompetency or untrustworthiness; or
  - (d) is otherwise unsuitable.

- (2) The Superintendent shall provide the individual with an opportunity to be heard prior to a decision to prohibit the individual from relying on an exemption from licensing.

### **Application for a licence**

6. (1) The Superintendent may issue a licence to an individual if the Superintendent is satisfied that the applicant meets the requirements of the *Act* and the following licensing requirements:
  - (a) is 19 years of age or older;
  - (b) provides a satisfactory criminal record check from an accepted provider;
  - (c) identifies the applicant's sponsoring insurer, as required;
  - (d) identifies the licensed firm the applicant will represent, as required;
  - (e) identifies the applicant's supervisor, as required;
  - (f) provides details on trust accounts, as required;
  - (g) provides evidence that the applicant maintains or is covered by errors and omissions insurance, as required;
  - (h) provides employment details;
  - (i) has successfully completed the licensing qualifications and educational requirements for the respective licence as required or an educational program or course established by the Superintendent;
  - (j) submits a completed licensing application;
  - (k) is suitable to hold a licence and that the proposed licence is not for any reason objectionable.
- (2) The Superintendent may require additional information or documentation to assess the licensing requirements, including the applicant's qualifications and suitability to hold the licence and to ensure that the proposed licence is not for any reason objectionable.
- (3) The Superintendent may waive some or all of the requirements for a licence, if an applicant satisfies the Superintendent that the applicant has:
  - (a) equivalent licensing qualifications and educational requirements based on education, training and experience;
  - (b) been issued a substantially similar licence in another jurisdiction; or
  - (c) engaged in equivalent or comparable work in the insurance industry.
- (4) The licensing application shall be completed in a form provided by the Superintendent.
- (5) An adjuster, agent or special insurance broker who changes their adjusting firm or agency shall file a new application and pay the appropriate application fee.
- (6) The Superintendent may designate conditions for the writing and the re-writing of licensing qualification exams.



### **Renewal of licence**

7. (1) The Superintendent may renew a licence for an individual if the Superintendent is satisfied that the applicant continues to:
  - (a) meet the licensing requirements and educational qualifications for the licence;
  - (b) be suitable to hold a licence and that the proposed licence renewal is not for any reason objectionable.
- (2) The Superintendent may require additional information or documentation to assess the applicant's qualifications and suitability and to ensure that the proposed licence renewal is not for any reason objectionable.
- (3) The Superintendent will not accept an application to renew a licence submitted 30 days after the expiration of the licence.

### **Certification**

8. (1) The applicant shall certify that all information provided in an application is true, accurate and complete.
- (2) The Superintendent may require an applicant to verify, by affidavit or otherwise, the authenticity, accuracy or completeness of any information or material submitted as part of the application process.

### **Requirement to be licensed in home jurisdiction**

9. (1) To obtain a licence in New Brunswick, an individual who resides in another jurisdiction shall be licensed in the jurisdiction in which they reside.
- (2) The Superintendent may, in exceptional circumstances or where the home jurisdiction does not have an equivalent licence, waive the requirement for the individual to hold a licence in the jurisdiction in which the individual resides.
- (3) An applicant or licensee shall provide proof of being licensed in the other jurisdiction.

### **Sponsorship by an Insurer**

10. (1) An insurer who sponsors a person for a licence shall establish and document reasonable and demonstrable screening procedures to assess the suitability of the person to hold a licence.
- (2) An insurer shall follow such procedures in sponsoring an application for a licence.

### **Termination of Sponsorship**

11. (1) An insurer who terminates sponsorship of a licensed person shall provide written notice and reasons for such termination to the Superintendent within 15 days of termination of sponsorship.
- (2) The notice of termination of sponsorship shall be in a form provided by the Superintendent.

### **Expiration of licence**

12. (1) The following licences shall expire and no longer be valid on the date specified on the licence:
    - (a) a life insurance agent licence;
    - (b) an accident and sickness insurance agent licence;
    - (c) a general insurance agent licence;
    - (d) a travel insurance agent licence; and
    - (e) a special insurance broker's licence.
  - (2) For the initial licence and first renewal of the classes of licences listed in subsection (1), the licence shall expire and no longer be valid on the expiration date listed on the licence, which date shall not be more than one year from the date the licence was issued or renewed.
  - (3) For the second renewal and every subsequent renewal, the licence shall expire and no longer be valid on a date that shall not exceed two years after the date the licence was renewed.
  - (4) The Superintendent may issue a licence for a lesser duration than set out in this section.
13. (1) An adjuster licence expires and is no longer valid on the date specified in the licence.
  - (2) A person who has held an adjuster licence for two consecutive years, may apply on their next renewal for a licence with a two-year term.
  - (3) The Superintendent may issue a licence for a lesser duration than set out in this section.
14. A restricted insurance representative licence, an adjusting firm licence, an agency licence and a managing general agent licence expire and is no longer valid on the date specified in the licence.
  15. A licence issued to a non-resident is subject to any restrictions and terms and conditions imposed on a substantially similar licence by the jurisdiction where the licence holder resides.
  16. The Superintendent may extend the duration of a licence under exceptional circumstances.

## PART 2 – GENERAL INSURANCE AGENTS

### Licensing qualifications and educational requirements – general insurance agents

17. (1) An applicant for a level 1 general insurance agent licence shall have successfully completed one of the following educational requirements:
- (a) the Fundamentals of Insurance Examination offered by the Insurance Brokers Association of Canada achieving a mark of at least seventy-five per cent (75%);
  - (b) course CAIB I of the Canadian Accredited Insurance Brokers Program offered by the Insurance Brokers Association of Canada;
  - (c) course C11 – Principles and Practice of Insurance and course C130 – Essential Skills for the Insurance Broker and Agent, offered by the Insurance Institute of Canada;
  - (d) courses C81 and C82 – General Insurance Essentials Parts 1 and 2 offered by the Insurance Institute of Canada;
  - (e) the ILS Level 1 General and Adjuster Insurance Licensing Program offered by ILS Learning Corporation.
- (2) The educational requirements shall have been completed by the applicant within 24 months prior to submitting the licensing application, unless the applicant held a level 1 general insurance agent licence, or equivalent licence, within the 5 years prior to submitting the licensing application.
18. (1) An applicant for a level 2 general insurance agent licence shall meet the following licensing qualifications and educational requirements:
- (a) the educational requirements for a level 1 general insurance agent licence in section 17;
  - (b) successful completion of one of the following educational requirements:
    - (i) course CAIB II and course CAIB III of the Canadian Accredited Insurance Broker Program offered by the Insurance Brokers Association of Canada; or
    - (ii) course C130 – Essential Skills for the Insurance Broker and Agent and course C131 - Advanced Skills for the Insurance Broker and Agent offered by the Insurance Institute of Canada.
- (2) An applicant without an existing level 1 general insurance agent licence shall have completed all the educational requirements within 24 months prior to submitting the licensing application, unless the applicant held a licence equivalent to a level 2 general insurance agent, or higher level licence in another jurisdiction within the 5 years prior to submitting the licensing application.
19. An applicant for a level 3 general insurance agent licence shall meet the following licensing qualifications and educational requirements:
- (a) the educational requirements for a level 1 general insurance agent licence in section 17;
  - (b) the licensing qualifications and educational requirements for a level 2 general insurance agent licence in section 18;
  - (c) successfully completed one of the following educational requirements:

- (i) course CAIB IV of the Canadian Accredited Insurance Broker Program offered by the Insurance Brokers Association of Canada; or
- (ii) course C132 - Practical Issues to Broker Management offered by the Insurance Institute of Canada;
- (d) have a minimum of four years of experience as a general insurance agent within the six years prior to submitting the licensing application, including a minimum of two years of experience as a level 2 general insurance agent or at an equivalent level in another jurisdiction.

**Supervision – level 1 and level 2 general insurance agents**

- 20. (1) A level 1 general insurance agent shall be under supervision for 12 months from the date the level 1 licence is issued.
- (2) During the period of supervision, a level 1 general insurance agent shall be supervised by an individual who is licensed as one of the following:
  - (a) a level 3 general insurance agent; or
  - (b) a level 1 or level 2 general insurance agent who has been licensed for at least 24 months.
- 21. (1) A level 2 general insurance agent shall be under supervision for 12 months from the date the level 2 licence is issued.
- (2) A level 2 general insurance agent shall be supervised by an individual who is licensed in one of the following:
  - (a) a level 3 general insurance agent, or
  - (b) a level 2 general insurance agent who has held this licence for at least 24 months.
- 22. The Superintendent may waive the requirement for supervision or reduce the duration of supervision where the level 1 or level 2 agent has been licensed in another jurisdiction within the previous 24 months.
- 23. The supervisor of a level 1 or a level 2 general insurance agent has the following responsibilities:
  - (a) provide appropriate instruction consistent with the type of activity conducted by the person being supervised;
  - (b) provide reasonable and prudent supervision of the insurance activities of the person being supervised;
  - (c) review and approve all insurance business of the person being supervised; and
  - (d) documenting the review and approval through countersignatures or notations in paper or electronic systems.
- 24. (1) An individual who is required to be under supervision shall not conduct any insurance activities without a supervisor.
- (2) The supervisor shall be acceptable for the position.

- (3) An individual who is required to be under supervision shall report a change in supervisor to the Superintendent within 10 days of the change in supervisor.
  - (4) The Superintendent may remove a supervisor who is not fulfilling the supervisor's responsibilities or is otherwise not acceptable to act as a supervisor.
  - (5) The Superintendent shall not remove a supervisor without giving the individual an opportunity to be heard.
25. A supervisor shall only supervise a reasonable number of level 1 or level 2 general insurance agents having regard to the circumstances, including:
- (a) the training and experience of the level 1 or level 2 general insurance agent being supervised;
  - (b) the training and experience of the supervisor; and
  - (c) the nature and complexity of the activity conducted.

**Reinstatement – general insurance agents**

26. (1) A person who has not held a level 1, level 2 or level 3 general insurance agent licence for five consecutive years or more shall requalify for a level 1 or level 2 general insurance agent licence, as applicable.
- (2) A level 1 or level 2 general insurance agent licence issued under subsection (1), shall be under supervision in accordance with subsection 20(2) and 21(2).

**PART 3 - LIFE INSURANCE AGENTS AND ACCIDENT AND SICKNESS INSURANCE AGENTS**

**Licensing qualifications and educational requirements**

27. (1) An applicant for a life insurance agent licence shall have successfully completed both of the following educational requirements:
- (a) the Life Licence Qualification Program course approved by the Superintendent; and
  - (b) an examination approved by the Superintendent for the approved Life Licence Qualification Program.
- (2) The examination for the approved Life Licence Qualification Program shall have been completed within 12 months prior to submitting the licensing application, unless the applicant held a life insurance agent licence, or equivalent licence, within the 24 months prior to submitting the licensing application.
- (3) A person who has not held a life insurance agent licence for 24 consecutive months or more shall satisfy the educational requirements.
28. (1) An applicant for an accident and sickness insurance agent licence shall have successfully completed both of the following educational requirements:

- (a) the accident and sickness component of the Life Licence Qualification Course approved by the Superintendent; and
  - (b) an examination approved by the Superintendent for the accident and sickness component of the approved Life Licence Qualification Program.
- (2) The examination for the approved accident and sickness component of the Life Licence Qualification Course shall have been completed within 12 months prior to submitting the licensing application, unless the applicant held an accident and sickness insurance agent licence, or equivalent licence, within the 24 months prior to submitting the licensing application.
- (3) A person who has not held an accident and sickness insurance agent licence for 24 consecutive months or more shall satisfy the educational requirements.

#### **Life insurance agent's duty to disclose**

29. (1) A life insurance agent shall disclose in writing, to a prospective insured at the time of application, renewal or replacement of a policy of life insurance, the names of all the insurers that the agent represents.
- (2) A life insurance agent shall disclose in writing to every prospective purchaser prior to the purchase of a financial product or service, the names of all the providers of financial products or services that the agent represents.

#### **PART 4 – TRAVEL INSURANCE AGENTS**

30. (1) An applicant for a travel insurance agent licence shall have successfully completed an education program for a travel insurance agent approved by the Superintendent.
- (2) An applicant for a travel insurance agent licence who holds a life insurance agent licence, or an accident and sickness insurance agent licence is not required to complete an approved education program.

#### **PART 5 – RESTRICTED INSURANCE REPRESENTATIVES**

##### **Definitions**

31. In this Part

“cargo insurance” means insurance within the class of property insurance that provides coverage only against damage to or the loss of goods in transit; (*assurance des marchandises*)

“creditor’s critical illness insurance” means group insurance or creditor’s group insurance as defined in section 186 of the *Act*, that is within the class of accident and sickness insurance and will pay all or part of the amount of a debt of a debtor to the creditor named under the policy, in the event of a diagnosis of a covered illness or medical condition with respect to:

- (a) where the debtor is a natural person, the debtor or the spouse of the debtor;
- (b) a natural person who is a guarantor of all or part of the debt;
- (c) where the debtor is a body corporate, any director or officer of the body corporate; or

- (d) where the debtor is an entity other than a natural person or a body corporate, any natural person who is essential to the ability of the debtor to meet the debtor's financial obligations; (*assurance crédit en cas de maladie grave*)

"creditor's disability insurance" means group insurance or creditor's group insurance as defined in section 186 of the *Act*, that is within the class of accident and sickness insurance and will pay all or part of the amount of a debt of a debtor to the creditor named under the policy, in the event of bodily injury to, or an illness or disability of any of the following:

- (a) where the debtor is a natural person, the debtor or the spouse of the debtor;
- (b) a natural person who is a guarantor of all or part of the debt;
- (c) where the debtor is a body corporate, any director or officer of the body corporate;
- (d) where the debtor is an entity other than a natural person or a body corporate, any natural person who is essential to the ability of the debtor to meet the debtor's financial obligations; (*assurance crédit en cas d'invalidité*)

"creditor's life insurance" means group insurance or creditor's group insurance as defined in section 132 of the *Act*, that is within the class of life insurance and that will pay all or part of the amount of the debt of a debtor to the creditor insured under the policy or, where a debt is in respect of a small business, a farm or fishery, all or part of the amount of the credit limit of a line of credit owing to the creditor, in the event of the death of any of the following:

- (a) where the debtor is a natural person, the debtor or the spouse of the debtor;
- (b) a natural person who is a guarantor of all or part of the debt;
- (c) where the debtor is a body corporate, any director or officer of the body corporate;
- (d) where the debtor is an entity other than a natural person or a body corporate, any natural person who is essential to the ability of the debtor to meet the debtor's financial obligation; (*assurance-vie de crédit*)

"creditor's loss of employment insurance" means insurance within the class of credit protection insurance that will pay, without any individual assessment of risk, all or part of the amount of a debt of a debtor to the creditor named under the policy in the event of either of the following:

- (a) the debtor, if the debtor is a natural person, becomes involuntarily unemployed;
- (b) a natural person who is a guarantor of all or part of the debt becomes involuntarily unemployed; (*assurance crédit en cas de perte d'emploi*)

"creditor's vehicle inventory insurance" means insurance within the class of credit protection insurance that provides coverage against direct and accidental loss or damage to vehicles that are held in stock for display and sale purposes by a debtor of a creditor, if some or all of those vehicles have been financed by the creditor; (*assurance crédit pour stocks de véhicules*)

"deposit-taking institution" means any of the following institutions:

- (a) a bank under the *Bank Act* (Canada);
- (b) a credit union incorporated or continued under the *Credit Unions Act* or a similar Act of the Parliament of Canada or an Act of the legislature of another province or a territory of Canada; or

(c) a loan company or trust company incorporated by or pursuant to the *Loan and Trust Companies Act*, or a similar Act of the Parliament of Canada or Act of the legislature of another province or a territory of Canada; (*établissement qui reçoit des dépôts*)

“employee of a restricted insurance representative” means an employee or other person acting on behalf of the restricted insurance representative in the business of insurance; (*employé d’un représentant d’assurance restreinte*)

“export credit insurance” means insurance within the class of surety insurance that provides coverage to an exporter of goods or services against a loss incurred by the exporter due to non-payment for exported goods or services; (*assurance crédit à l’exportation*)

"funeral expense insurance" means insurance that is within the class of life insurance and under which the insurer undertakes to pay a maximum of \$20,000 to the insured for funeral services; (*assurance des frais funéraires*)

“funeral provider” means a person or a corporation licensed under the *Embalmers, Funeral Directors and Funeral Providers Act* who owns, controls or has a beneficial interest in or manages a funeral home or holds themselves out as a provider of funeral services; (*fournisseur de services funèbres*)

“guaranteed asset protection insurance” means insurance within the class of property insurance or automobile insurance that provides coverage to a motor vehicle, recreational vehicle, watercraft, farm implement or equipment owner or lessee, in the event of the unrecovered theft of the motor vehicle, recreational vehicle, watercraft, farm implement or equipment or its total loss, for some or all of the amount owed on the purchase financing for the motor vehicle, recreational vehicle, watercraft, farm implement or equipment or on the lease agreement, after credit for money received in respect of the theft or loss from any other insurance under which the owner or lessee has coverage for the value of the motor vehicle, recreational vehicle, watercraft, farm implement or equipment; (*assurance de protection garantie de l’actif*)

"line of credit" means a commitment on the part of a deposit-taking institution or sales finance company to lend one or more amounts to a debtor without a predetermined repayment schedule; (*marge de credit*)

“mortgage associate” means a mortgage associate, as defined in the *Mortgage Brokers Act*, that is licensed in accordance with that Act; (*associé en hypothèques*)

"mortgage broker" means a mortgage broker, as defined in the *Mortgage Brokers Act*, that is licensed in accordance with that Act; (*courtier en hypothèques*)

"mortgage brokerage" means a mortgage brokerage, as defined in the *Mortgage Brokers Act*, that is licensed in accordance with that Act; (*maison de courtage d’hypothèques*)



“mortgage insurance” means insurance against loss caused by default on the part of a borrower under a loan secured by a mortgage or charge on, or other security interest in, real property; (*assurance prêt hypothécaire*)

"rented vehicle" means a vehicle that is rented for a period of 90 days or less; (*véhicule loué*)

“rented vehicle accidental injury or death insurance” means insurance within the class of automobile insurance that provides coverage to a vehicle renter and other occupants of the rented vehicle for bodily injury or death and reimbursement for medical expenses resulting from a vehicular accident involving the rented vehicle that occurs during the rental period; (*assurance en cas de lésion accidentelle ou de décès associés à un véhicule loué*)

“rented vehicle contents insurance” means insurance within the class of property insurance that provides coverage to a vehicle renter and other occupants of the rented vehicle against damage to or the loss of personal property in the rented vehicle during the rental period; (*assurance sur le contenu d’un véhicule loué*)

“rented vehicle liability insurance” means insurance within the class of automobile insurance that provides coverage to a vehicle renter and other authorized drivers of the rented vehicle for liability arising from its operation; (*assurance responsabilité pour véhicule loué*)

“replacement cost insurance” means insurance within the class of property insurance or automobile insurance that provides coverage for some or all of the cost of purchasing or leasing a replacement motor vehicle, replacement recreational vehicle, replacement watercraft, replacement farm implement or replacement equipment; (*assurance valeur à neuf*)

"sales finance company" means a corporation that provides consumer loans, or provides or arranges for credit but does not include:

- (a) a deposit-taking institution;
- (b) an entity licensed to transact insurance under the *Insurance Act*, or an entity incorporated, continued or licensed under a similar Act of Parliament or an Act of any province or territory of Canada;
- (c) an entity that is incorporated, continued or licensed under an Act of Parliament or of any province or territory of Canada and is primarily engaged in dealing in securities, including portfolio management and investment counselling; (*société de financement de ventes à crédit*)

"small business" means

- (a) a business that is a small business corporation as defined in subsection 248(1) of the *Income Tax Act* (Canada); or

- (b) an unincorporated business that would, if incorporated, be a small business corporation as defined in subsection 248(1) of the *Income Tax Act* (Canada). (*petite entreprise*)

### **Restricted insurance representative**

- 32. The Superintendent may issue a restricted insurance representative licence to any of the following applicants:
  - (a) an automobile dealership, a watercraft dealership, a recreational vehicle dealership, a farm implement dealership or a construction equipment dealership;
  - (b) a customs brokerage;
  - (c) a deposit-taking institution;
  - (d) a freight forwarding business;
  - (e) a funeral provider;
  - (f) a mortgage brokerage;
  - (g) a sales finance company;
  - (h) a transportation company that provides transportation service for goods;
  - (i) a vehicle rental business;
  - (j) a person engaged on behalf of one of (a) to (i) to solicit, negotiate, sell or arrange insurance.
  
- 33. (1) The Superintendent may issue a restricted insurance representative licence for any of the following classes or types of insurance:
  - (a) cargo insurance;
  - (b) creditor's critical illness insurance
  - (c) creditor's disability insurance;
  - (d) creditor's life insurance;
  - (e) creditor's loss-of-employment insurance;
  - (f) creditor's vehicle inventory insurance;
  - (g) export credit insurance;
  - (h) funeral expense insurance;
  - (i) guaranteed asset protection insurance;
  - (j) mortgage insurance;
  - (k) rented vehicle accidental injury or death insurance;
  - (l) rented vehicle contents insurance;
  - (m) rented vehicle liability insurance;
  - (n) replacement cost insurance;
  - (o) travel insurance.
  
- (2) A restricted insurance representative licence for travel insurance will only be issued to a deposit-taking institution.
  
- 34. Where a restricted insurance representative is a mortgage brokerage, only a mortgage broker or a mortgage associate licensed under the *Mortgage Brokers Act* is authorized to solicit, negotiate, sell or arrange the insurance specified on the licence.

### **Licensing criteria – restricted insurance representative**

35. (1) The Superintendent may issue a restricted insurance representative licence if the Superintendent is satisfied that the applicant meets the requirements of the *Act* and the following licensing requirements:
- (a) provides the applicant's legal name and any business name that the applicant is using;
  - (b) provides particulars of the business activity conducted by the applicant;
  - (c) identifies the applicant's sponsoring insurer;
  - (d) provides the address of the head office and any branches soliciting, negotiating, selling or arranging insurance in the Province;
  - (e) provides the name of and information regarding the designated representative;
  - (f) provides evidence that the applicant maintains or is covered by errors and omissions insurance as required by this Rule;
  - (g) provides information respecting any trust account as required by this Rule;
  - (h) provides the number of employees who will be authorized to transact on behalf of the applicant and the types of insurance they will be transacting;
  - (i) identifies the classes or types of insurance that the applicant wishes to transact under its licence;
  - (j) submits a completed licensing application;
  - (k) completes a director, officer, partner disclosure form, if requested;
  - (l) the applicant is suitable to hold a licence and that the proposed licence is not for any reason objectionable.
- (2) The Superintendent may require additional information or documentation to assess the applicant's qualifications and suitability to hold a licence and to ensure that the proposed licence is not for any reason objectionable.

### **Obligations for restricted insurance representatives**

36. A restricted insurance representative shall comply with the following:
- (a) have a business name registered with the New Brunswick Corporate Registry, where applicable;
  - (b) have a designated representative; and
  - (c) maintain errors and omissions insurance as required by this Rule.
37. On request by the Superintendent, a restricted insurance representative shall provide a list of individuals who have engaged or are engaging in the business of insurance on behalf of the licence holder.

### **Suitability**

38. A restricted insurance representative shall take reasonable steps to ensure that an employee of a restricted insurance representative is:

- (a) suitable and trained for the type of insurance activity being conducted;
- (b) conducting only insurance activities that are within the scope of the individual's training and experience.

39. A restricted insurance representative shall take reasonable steps to ensure that it:

- (a) is not engaging an employee of a restricted insurance representative who has had an insurance licence refused, revoked or suspended, unless the Superintendent gives prior written approval;
- (b) does not make representations that the restricted insurance representative is authorized to sell insurance products other than those permitted under the restricted insurance representative licence;
- (c) is not conducting insurance activities that are outside the scope of the licence;
- (d) does not permit an employee of a restricted insurance representative to do any of (b) or (c).

#### **Separate application**

40. (1) An application for the following classes or types of insurance shall use a form separate from the application or transaction for the related product or service:

- (a) creditor's critical illness insurance;
- (b) creditor's disability insurance;
- (c) creditor's life insurance;
- (d) creditor's loss of employment insurance;
- (e) funeral expense insurance;
- (f) guaranteed asset protection insurance; and
- (g) replacement cost insurance.

(2) The application for insurance in subsection (1) can cover multiple classes or types of insurance.

#### **Prohibition against tied selling**

41. (1) A restricted insurance representative, or an employee of a restricted insurance representative shall not:

- (a) make the provision of goods or services conditional on the purchase of insurance from the restricted insurance representative or from an insurer specified by the restricted insurance representative;
- (b) advise a person who wishes to purchase insurance for a good or service, that the person may only purchase insurance through the restricted insurance representative or from an insurer specified by the restricted insurance representative.

(2) A restricted insurance representative, or employee of a restricted insurance representative may, when making a loan to, or arranging a loan for, a person, inform the borrower that the borrower is required to obtain insurance coverage to protect the lender against default of the

borrower; however, the restricted insurance representatives shall not advise the person that they may only purchase insurance through the restricted insurance representative or from an insurer specified by the restricted insurance representative.

#### **Disclosure obligations of restricted insurance representative**

42. At the time a person applies for insurance, a restricted insurance representative shall:
- (a) ensure that the person is informed in writing of all of the following:
    - (i) that the person is contracting with the insurer and not with the restricted insurance representative;
    - (ii) that the person should contact the insurer for further information or clarification;
    - (iii) the name of the insurer providing the insurance and how the insurer may be contacted; and
    - (iv) the cost of the insurance;
  - (b) provide the person with all of the following:
    - (i) a written summary of the terms, including limitations, exclusions and restrictions, of the insurance offered;
    - (ii) a written summary of the circumstances under which the insurance commences or terminates and the procedures to follow in making a claim;
  - (c) notify the person applying for insurance that, on approval of the application:
    - (i) the application, policy and documentation describing the insurance will be sent to that person; or
    - (ii) in the case of a contract of group insurance, the application and a certificate will be sent to that person.
43. If a person is applying for creditor's disability insurance, creditor's life insurance, creditor's critical illness insurance or creditor's loss of employment insurance, the summary of terms referenced in subparagraph 42(b)(i) shall include, in a prominent manner:
- (a) the limitations, exclusions and restrictions of the insurance offered;
  - (b) information on the coverage and pre-existing conditions that may disqualify an applicant from coverage; and
  - (c) the consequences of any misrepresentation in the application for insurance.
44. (1) If a restricted insurance representative, or an employee of a restricted insurance representative, receives, or will receive any direct or indirect compensation, inducement or benefit from the insurer that exceeds 30% of the price paid by the consumer for an insurance product, the restricted insurance representative shall, at the time the applicant applies for insurance, inform the applicant in writing of the amount of compensation, inducement or benefit or the basis for calculating the amount of the compensation, inducement or benefit.

- (2) For clarity, subsection (1) does not include a salary paid to an employee of the restricted insurance representative.
45. A restricted insurance representative, or an employee of a restricted insurance representative, shall advise potential clients that he or she is not a licensed insurance agent and that the potential client may wish to seek advice from a licensed insurance agent.
46. A restricted insurance representative, or an employee of a restricted insurance representative, shall, at the time a person applies for insurance, provide that person with a statement that sets out the right to rescind the insurance contract and to obtain a full refund of the premium for the following classes or types of insurance:
- (a) creditor's critical illness insurance;
  - (b) creditor's disability insurance;
  - (c) creditor's life insurance;
  - (d) creditor's loss of employment insurance;
  - (e) funeral expense insurance;
  - (f) guaranteed asset protection insurance; and
  - (g) replacement cost insurance.
47. A restricted insurance representative, an employee of a restricted insurance representative, shall provide an applicant, at the time the person applies for insurance, with a statement that the duration of the insurance is less than the term of the amortization period of any related loan, or that the amount of the insurance is less than the indebtedness, if that is the case, for the following classes or types of insurance:
- (a) creditor's critical illness insurance;
  - (b) creditor's disability insurance;
  - (c) creditor's life insurance;
  - (d) creditor's loss of employment insurance; and
  - (e) guaranteed asset protection insurance.
48. A restricted insurance representative, or an employee of a restricted insurance representative, shall inform the applicant, at the time the person applies for insurance, that the insurance may provide a duplication, or a partial duplication, of coverage that may be available through the standard automobile insurance policy for the following classes or types of insurance:
- (a) guaranteed asset protection insurance; and
  - (b) replacement cost insurance.
49. A restricted insurance representative, or an employee of a restricted insurance representative, shall inform the applicant, at the time the person applies for insurance, that the insurance may provide a duplication or partial duplication of coverage already provided by the vehicle renter's automobile insurance policy or by another source of coverage for the following classes or types of insurance:
- (a) rented vehicle accidental injury or death insurance;

- (b) rented vehicle contents insurance; and
- (c) rented vehicle liability insurance.

50. A restricted insurance representative, or an employee of a restricted insurance representative, shall provide the insured, within 20 days of the insurance coverage coming into force, with all of the following:

- (a) the application;
- (b) the policy or, in the case of group insurance, the certificate;
- (c) written documentation that evidences the insurance.

#### **Oversight obligations of insurer**

51. An insurer shall ensure that a restricted insurance representative acting on its behalf has:

- (a) reasonable and demonstrable procedures respecting the disclosure requirements under this Rule;
- (b) a process in place to verify that the procedures are being followed; and
- (c) the knowledge and skills to carry on the type of insurance activity being conducted.

#### **Right to rescind**

52. (1) A purchaser may rescind the contract of insurance on or before the expiry of 20 days after the date the purchaser received the documents referred to in section 50 of this Rule, or any longer period specified in the policy or certificate for all of these insurance products:

- (a) creditor's critical illness insurance;
- (b) creditor's disability insurance;
- (c) creditor's life insurance;
- (d) creditor's loss of employment insurance;
- (e) funeral expense insurance;
- (f) guaranteed asset protection; or
- (g) replacement cost insurance.

(2) A person who rescinds a contract of insurance in accordance with subsection (1) is entitled to receive a refund from the insurer of the whole premium that has been paid.

#### **PART 6 – EXEMPT INCIDENTAL SALES**

53. In this Part

“portable electronic device” means any self-contained, easily carried, battery-operated electronic equipment for personal use for communicating, viewing, listening, recording, playing video games, computing or global positioning, including a cellular or satellite telephone, paging device, personal global positioning system unit, portable computer, audio listening or audio recording device, video viewing or video recording device, digital camera, portable video game system,

telephone answering machine, docking or charging station for any portable electronic device, and other similar device; (*appareil électronique portatif*)

“portable electronics insurance” means insurance within the class of property insurance that provides coverage against damage to or the loss of a portable electronic device; (*assurance sur les appareils électroniques portatifs*)

“portable electronics vendor” means a business that sells or leases portable electronic devices or provides the devices in connection with a transaction between the business and a consumer; (*fournisseur d’appareils électroniques portatifs*)

#### **Exemption from licensing requirement for portable electronics vendors**

54. (1) The requirement to be licensed does not apply to the sale of portable electronics insurance incidental to the sale of a portable electronic device by a portable electronics vendor, or a person acting on their behalf, if the portable electronics vendor provides the purchaser with the following at the time of sale:
- (a) a written summary of the terms, including limitations, exclusions and restrictions of the portable electronics insurance displayed in a prominent manner;
  - (b) a written summary of the circumstances under which the product commences or terminates and the procedures to follow in making a claim;
  - (c) written notice of the person’s right to rescind the insurance contract and obtain a full refund of the premium.
- (2) A portable electronics vendor, or a person acting on their behalf, shall not make the sale of a portable electronics device conditional on the purchase of portable electronics insurance from the vendor or any insurer or other person specified by the vendor.
55. (1) The Superintendent may prohibit a person from selling portable electronics insurance if the Superintendent is of the opinion, on reasonable grounds, that the person:
- (a) violated or failed to comply with the *Act* or this Rule;
  - (b) violated or failed to comply with a written undertaking to the Superintendent;
  - (c) committed a fraudulent act or practice;
  - (d) demonstrated incompetency or untrustworthiness in conducting insurance activities; or
  - (e) is otherwise unsuitable.
- (2) The Superintendent shall provide the person with an opportunity to be heard prior to a decision to prohibit the person from selling portable electronic insurance.

#### **Right to rescind – portable electronics insurance**

56. (1) A purchaser may rescind a contract of portable electronics insurance on or before the expiry of 20 days after the purchase of the contract or any longer period specified in the contract.



- (2) A person who rescinds a contract of insurance in accordance with subsection (1) is entitled to receive a refund of the whole premium that has been paid related to the contract of insurance.

#### **PART 7 – ADJUSTERS**

57. A person who adjudicates a claim related to accident and sickness insurance or life insurance is not acting as an adjuster for the purposes of the *Act* or this Rule.
58. (1) An adjuster licence is not required for a person who adjusts claims under the following contracts of insurance:
- (a) aircraft insurance;
  - (b) guaranteed asset protection insurance;
  - (c) legal expense insurance;
  - (d) marine insurance; or
  - (e) travel insurance.
- (2) An insurance company or an adjusting firm that uses the services of a person that is exempt from the requirement to be licensed under subsection (1) shall ensure that the person has the appropriate qualifications and competency to deal with any insurance claim that the person is involved in on behalf of the insurance company or adjusting firm, and shall oversee the activities of the person with respect to any insurance claim.

#### **Licensing qualifications and educational requirements – adjusters**

59. (1) An applicant for a level 1 assistant adjuster licence shall have successfully completed one of the following educational requirements offered by the Insurance Institute of Canada:
- (a) course C-11 Principles and Practice of Insurance;
  - (b) courses C81 and C82 – General Insurance Essentials Parts 1 and 2; or
  - (c) course C110 Essentials of Loss Adjusting or course C17 Claims 1.
- (2) The educational requirements shall have been completed by the applicant within 24 months prior to submitting the licensing application, unless the applicant held a level 1 assistant adjuster licence, or equivalent licence, within the 5 years prior to submitting the licensing application.
60. An applicant for a level 2 adjuster licence shall have successfully completed the following licensing qualifications and educational requirements:
- (a) 24 months of experience acting as a level 1 assistant adjuster or equivalent adjusting experience; and
  - (b) all of the following educational requirements offered by the Insurance Institute of Canada:
    - (i) course C11 Principles and Practice of Insurance or courses C81 and C82 – General Insurance Essentials Parts 1 and 2;
    - (ii) course C110 Essentials of Loss Adjusting or course C17 Claims 1;

- (iii) course C111 Advanced Loss Adjusting or course C46 Claims 2; and
  - (c) any two of the following educational requirements offered by the Insurance Institute of Canada:
    - (i) course C12 Insurance on Property;
    - (ii) course C13 Insurance Against Liability - Part 1;
    - (iii) course C14 Automobile Insurance - Part 1; or
    - (iv) course C32 Bodily Injury Claims.
61. (1) An applicant for a level 3 senior adjuster licence shall have successfully completed the following licensing qualifications and educational requirements:
- (a) 48 months of experience as an adjuster, including 24 months experience acting as a level 2 adjuster or equivalent adjusting experience; and
  - (b) all of the following educational requirements offered by the Insurance Institute of Canada:
    - (i) course C11 Principles and Practice of Insurance or courses C81 and C82 – General Insurance Essentials Parts 1 and 2;
    - (ii) course C12 Insurance on Property;
    - (iii) course C13 Insurance Against Liability - Part 1;
    - (iv) course C14 Automobile Insurance - Part 1;
    - (v) course C32 Bodily Injury Claims;
    - (vi) course C110 Essentials of Loss Adjusting or C17 Claims 1;
    - (vii) course C111 Advanced Loss Adjusting or C46 Claims 2; and
    - (viii) course C112 Practical Issues in Claims Management.
62. (1) An adjuster who is issued a level 1 assistant adjuster licence under subsection 6(3) will be required to meet the minimum experience requirements in paragraph 60(a) and successfully complete the following educational requirements to obtain a level 2 adjuster licence:
- (a) course C110 Essentials of Loss Adjusting or course C17 Claims 1;
  - (b) course C111 Advanced Loss Adjusting or course C46 Claims 2; and
  - (c) any two of the following:
    - (i) course C12 Insurance on Property;
    - (ii) course C13 Insurance Against Liability - Part 1;
    - (iii) course C14 Automobile Insurance - Part 1; or
    - (iv) course C32 Bodily Injury Claims.
- (2) An adjuster who is issued a level 2 adjuster licence under subsection 6(3) will be required to meet the minimum experience requirements in paragraph 61(1)(a) and successfully complete the following educational requirements to obtain a level 3 senior adjuster licence:
- (a) course C112 Practical Issues in Claims Management; and
  - (b) any two of the following:
    - (i) course C12 Insurance on Property;
    - (ii) course C13 Insurance Against Liability - Part 1;

- (iii) course C14 Automobile Insurance - Part 1; or
- (iv) course C32 Bodily Injury Claims.

63. (1) A level 2 adjuster may only adjust claims for which he or she has appropriate training and experience.
- (2) A level 1 and level 2 adjuster cannot act as a manager of an adjusting firm or a designated representative.

#### **Supervision – adjusters**

64. (1) A level 1 assistant adjuster shall be supervised by a level 3 senior adjuster, or a level 2 adjuster who has held this licence for at least 12 months.
- (2) The supervisor is responsible for:
- (a) the oversight of the general conduct of the person being supervised;
  - (b) reviewing and approving all claim reports and settlement offers of the person being supervised;
  - (c) documenting the review and approval through countersignatures or notations in paper or electronic systems;
  - (d) providing the Superintendent, when requested, with information with respect to the person being supervised.
65. (1) An individual who is required to be under supervision shall not conduct any insurance activities without a supervisor.
- (2) The supervisor shall not be objectionable to the Superintendent.
- (3) A level 1 adjuster shall report a change in supervisor to the Superintendent within 10 days of the change in supervisor.
- (4) The Superintendent may remove a supervisor who is not fulfilling the supervisor's responsibilities or is otherwise objectionable.
- (5) The Superintendent shall not remove a supervisor without giving the individual an opportunity to be heard.
66. A supervisor shall only supervise a reasonable number of level 1 assistant adjusters having regard to the circumstances, including:
- (a) the training and experience of the level 1 assistant adjusters being supervised;
  - (b) the training and experience of the supervisor; and
  - (c) the nature and complexity of the claims being adjusted.

## Reinstatement - adjusters

67. A person who has not held an adjuster licence for five years or more may only apply for a level 1 assistant adjuster licence and shall satisfy the licensing qualifications and educational requirements set out in the *Act* and this Rule.

### **PART 8 – ADJUSTING FIRMS, AGENCIES OR MANAGING GENERAL AGENTS**

68. (1) The Superintendent may issue an adjusting firm, agency or managing general agent licence to a corporation, a partnership or a sole proprietorship if the Superintendent is satisfied the applicant meets the requirements of the *Act* and the following licensing requirements:
- (a) provides the applicant's legal name and any business name the applicant is using;
  - (b) provides particulars of any other business activity conducted by the applicant;
  - (c) identifies the applicant's sponsoring insurer, as required;
  - (d) provides the classes or types of insurance that the applicant wishes to transact under its licence;
  - (e) provides the address of the head office and any branches soliciting, negotiating, selling or arranging insurance in the Province;
  - (f) provides the name of and information regarding the designated representative;
  - (g) provides evidence that the applicant maintains or is covered by errors and omissions insurance as required by this Rule;
  - (h) provides information respecting any trust account as required by this Rule;
  - (i) submits a completed licensing application;
  - (j) completes a director, officer, partner disclosure form, if requested;
  - (k) any additional information or documentation required by the Superintendent to assess the applicant's qualifications and suitability to hold a licence and that the proposed licence is not for any reason objectionable.
- (2) The Superintendent may, at any time, require additional information or documentation of an adjusting firm, agency or managing general agent or any director, officer or partner.
69. (1) The Superintendent may issue an agency licence or a managing general agent licence to a corporation, a partnership or a sole proprietorship for any of the following classes or types of insurance:
- (a) accident and sickness insurance;
  - (b) general insurance;
  - (c) life insurance; or
  - (d) travel insurance.
- (2) An agency or a managing general agent authorized to carry on life insurance business may also carry on accident and sickness insurance business in New Brunswick.
70. (1) An adjusting firm, an agency and a managing general agent shall:
- (a) have a legal name or business name registered with the New Brunswick Corporate Registry, where applicable;
  - (b) have a designated representative; and

- (c) maintain errors and omissions insurance as required by this Rule.
- (2) In addition to the requirements in subsection (1), an agency and a managing general agent shall have an agency contract with at least one insurance company that is licensed to carry on business in New Brunswick.

#### **Revocation or suspension of a licence**

- 71. (1) If an adjusting firm licence or agency licence lapses or is revoked or suspended, the licence of any adjuster or agent acting on its behalf is automatically suspended.
- (2) If a managing general agent licence lapses or is revoked or suspended, the licence of any agent with the managing general agent listed on the licence is automatically suspended.

#### **PART 9 – THIRD PARTY ADMINISTRATORS**

- 72. A third party administrator is exempt from the requirement to be licensed under section 351.01 of the *Act*.

#### **PART 10 – DESIGNATED REPRESENTATIVES**

##### **Requirements for a designated representative**

- 73. A designated representative of a licensed firm or a restricted insurance representative shall be:
  - (a) in the case of a corporation, a director, officer or management employee of the licensed firm or restricted insurance representative;
  - (b) in the case of a partnership, a partner or a management employee designated by the partnership; or
  - (c) in the case of a sole proprietorship, the sole proprietor or a management employee designated by the sole proprietor.
- 74. A designated representative shall satisfy the following qualifications:
  - (a) in the case of a general insurance agency, the person shall hold a level 3 general insurance agent licence;
  - (b) in the case of a managing general agent, the person shall hold one of the following:
    - (i) a level 3 general insurance agent licence;
    - (ii) a life insurance agent licence and have been licensed as a life insurance agent for two years;
    - (iii) an accident and sickness insurance agent licence and have been licensed as an accident and sickness insurance agent for two years;
  - (c) in the case of a life insurance agency, the person shall hold a life insurance agent licence and have been licensed as a life insurance agent for two years;
  - (d) in the case of an accident and sickness insurance agency, the person shall have been licensed for at least two year as either:
    - (i) an accident and sickness insurance agent licence; or
    - (ii) a life insurance agent licence;

(e) in the case of an adjusting firm, the person shall hold a level 3 senior adjuster licence.

75. (1) A licensed firm or a restricted insurance representative shall satisfy the Superintendent that the individual nominated as the designated representative is suitable.
- (2) On request by the Superintendent, an individual nominated as the designated representative shall provide the Superintendent with any information or documentation required by the Superintendent to assess the nominated individual's suitability to be the designated representative.

#### **Removal of a designated representative**

76. (1) The Superintendent may remove an individual from being a designated representative if the individual:
- (a) no longer meets the requirements to be the designated representative;
  - (b) is not fulfilling the designated representative's responsibilities;
  - (c) is otherwise unsuitable.
- (2) The Superintendent shall not remove a designated representative without giving the individual an opportunity to be heard.

#### **Responsibilities of a designated representative**

77. (1) The designated representative of a licensed firm is the primary contact for the licensed firm for regulatory purposes.
- (2) The designated representative of a licensed firm is responsible for the oversight of all employees.
- (3) The designated representative of a licensed firm is responsible to ensure that:
- (a) staff are adequately trained and appropriately licensed;
  - (b) the adjusting firm, agency or managing general agent and staff comply with the *Act*, regulations and rules;
  - (c) licence holders operate in accordance with any terms, conditions and restrictions on their licence;
  - (d) trust money is handled properly;
  - (e) all books, records and accounts are properly maintained;
  - (f) errors and omissions insurance is properly maintained; and
  - (g) the adjusting firm, agency or managing general agent and staff comply with any instructions or guidelines from the Superintendent.
78. (1) The designated representative of a restricted insurance representative is the primary contact for the restricted insurance representative for regulatory purposes and is responsible for supervising all insurance activities of the licence holder and all individuals engaged in the business of insurance on behalf of the restricted insurance representative.

- (2) The designated representative of a restricted insurance representative is responsible to ensure that:
- (a) the restricted insurance representative is properly licensed;
  - (b) the restricted insurance representative and individuals engaged in the business of insurance on behalf of the restricted insurance representative comply with the *Act*, regulations and rules;
  - (c) the restricted insurance representative operates in accordance with any terms, conditions and restrictions on their licence;
  - (d) the restricted insurance representative has reasonable and demonstrable policies and procedures to ensure that any employee of the restricted insurance representative is knowledgeable, competent and suitable, taking into account the class or type of insurance, and that these individuals comply with the restricted insurance representative's policies and procedures;
  - (e) trust money related to insurance business is handled properly;
  - (f) all books, records and accounts related to insurance business are properly maintained;
  - (g) errors and omissions insurance is properly maintained; and
  - (h) the restricted insurance representatives and any individuals engaged in the business of insurance on behalf of the restricted insurance representative comply with any instructions or guidelines from the Superintendent.

79. Any notices or documents required to be served on a licensed firm or a restricted insurance representative under the *Act*, regulations or rules may be served on the designated representative.

#### **Change of designated representative**

80. (1) If the designated representative of a licensed firm or a restricted insurance representative ceases to be the designated representative, the licensed firm or restricted insurance representative shall:
- (a) notify the Superintendent in writing and provide reasons for the change within 10 days; and
  - (b) provide, within 20 days, the name of a new candidate who meets the requirements to be the designated representative and provide any additional information required by the Superintendent to determine the candidate's suitability to be the designated representative.
- (2) The licence of a licensed firm or a restricted insurance representative that does not submit a new candidate within 20 days is automatically suspended.
- (3) The Superintendent may approve a designated representative who does not meet the requirements of the *Act* and regulations or rules, on a temporary basis, for up to 60 days.
- (4) In exceptional circumstances, the Superintendent may extend a temporarily designated representative beyond 60 days.

## PART 11 – MARKET CONDUCT

### Use of personal information

81. (1) An insurance intermediary and those acting on its behalf shall only collect and use personal information that is necessary to carry out an insurance transaction, appropriate for the fulfillment of the service or product provided or a related purpose and shall only keep the personal information as long as necessary or required by law.
- (2) An insurance intermediary shall take all necessary and appropriate measures as required by applicable privacy legislation to protect the personal information.
- (3) An insurance intermediary shall notify the Superintendent, without delay, of unauthorized or otherwise non-compliant access, collection, use or disclosure of personal information collected by the insurance intermediary and the steps the insurance intermediary is taking to address the issue.
- (4) On the request of the Superintendent, an insurance intermediary shall disclose information requested by the Superintendent, including personal information collected by the insurance intermediary.

### Market conduct

82. No person may represent or hold themselves out to the public as being or offering the services of an adjusting firm, adjuster, agency, agent, managing general agent, restricted insurance representative or special insurance broker or as being engaged in the insurance business, by means of advertisements, cards, circulars, email, letterheads, signs, websites or other means unless the person holds a valid licence or is relying on an exemption under the *Act*.
83. A licence holder shall only carry on business in the name that is on its licence.
84. Every licensed firm shall ensure that its business or legal name are shown in a conspicuous manner on all of its advertising, correspondence and contracts relating to the activities authorized by the licence.

### Conflicts of interest

85. (1) An insurance intermediary shall disclose in writing to a prospective insured or claimant, any conflict of interest or potential conflict of interest of the licensee that is associated with a potential transaction or recommendation which could impact the prospective insured or claimant.
- (2) The disclosure in subsection (1) should be made at the earliest opportunity, and in all instances shall be made prior to entering into a transaction or prior to a recommendation.

### Market conduct specific to agents

86. An accident and sickness insurance agent, a general insurance agent, and a life insurance agent shall not:



- (a) make a false or misleading statement or representation in the solicitation or negotiation of an insurance contract;
- (b) make or deliver an incomplete comparison of any policy or contract of insurance with that of the same or any other insurer in the solicitation or negotiation of insurance;
- (c) hold himself, herself or itself out, directly or indirectly, by representation or omission, in a way that is misleading in respect of the insurers on whose behalf the agent acts.

### **Market conduct specific to life insurance agents**

87. A life insurance agent shall not:

- (a) offer an inducement or use coercion or undue influence in order to control, direct or secure insurance business;
- (b) for the purpose of encouraging the insured under an existing contract of life insurance to enter into another contract of life insurance, directly or indirectly induce or attempt to induce the insured to:
  - (i) rescind the existing contract or allow the existing contract to lapse, contrary to the insured's interests;
  - (ii) surrender the existing contract for cash, paid up or extended insurance, or other valuable consideration, contrary to the insured's interests; or
  - (iii) borrow a substantial amount against the existing contract, whether in a single loan or over a period of time, contrary to the insured's interests;
- (c) coerce, or attempt, directly or indirectly, to coerce a prospective buyer of life insurance through the influence of a professional or a business relationship or otherwise to give a preference with respect to the policy of life insurance that would not otherwise be given on the effecting of a life insurance contract.

### **Replacement of a life insurance contract**

88. (1) For the purposes of this section:

“replacement of a contract of life insurance” means a transaction whereby life insurance is purchased in a single contract or in several related contracts by a person from an insurer and as a consequence of the transaction one or more contracts of the insurance are:

- (a) rescinded, lapsed or surrendered;
- (b) changed to paid-up insurance or continued as extended term insurance or under automatic premium loan;
- (c) changed in any manner so as to result in a reduction in benefits;
- (d) changed so that cash values in excess of 50 per cent of the tabular cash value of the insurance contract are released;
- (e) subjected to borrowing of any policy loan values whether in a single loan or under a schedule of borrowing over a period of time whereby an amount in excess of 50 per cent of the tabular cash value is borrowed on one or more contracts of life insurance;
- (f) but does not include a transaction where:
  - (i) a new contract of life insurance is made with an insurer with whom the person has an existing contract of life insurance in furtherance of a contractual conversion privilege exercised by the person;

- (ii) a contract is replaced by an annuity; or
  - (iii) a contract is replaced by group insurance. (*remplacement d'un contrat d'assurance-vie*)
- (2) As part of an application for a contract of life insurance, a life insurance agent shall obtain a statement signed by the applicant indicating whether or not replacement of a contract of life insurance is intended.
- (3) If replacement of a contract of life insurance is intended, before accepting an application for a replacement contract of insurance, the life insurance agent shall:
- (a) obtain from the applicant a list of all life insurance contracts to be replaced;
  - (b) complete and sign a life insurance replacement declaration in a form approved by the Superintendent;
  - (c) complete and sign a written explanation of the advantages and disadvantages of replacing the contract of insurance;
  - (d) review the completed life insurance replacement declaration and the written explanation with the applicant and provide a copy of each form to the applicant;
  - (e) obtain the applicant's signature on a copy of the completed life insurance replacement declaration, attesting to the receipt of the completed declaration from the agent; and
  - (f) obtain the applicant's signature on a copy of the written explanation, attesting to the receipt of the written explanation from the agent.

#### **Market conduct specific to adjusters**

89. With respect to the adjustment of claims, no adjuster may
- (a) possess an interest, other than professional, in the settlement of a claim;
  - (b) fail to disclose to the insurer any information known with respect to policy violations and cases of fraud, misrepresentation, concealment, falsification of facts and records or any other information material to a claim;
  - (c) fail, when acting for more than one insurer in the same matter, to immediately notify each insurer of the interests of all insurers for whom the person is acting or has been requested to act in the same matter;
  - (d) seek or make a profit or seek or acquire an interest in any matter entrusted to the adjuster's care, other than the adjuster's fees or salary;
  - (e) represent falsely to an insurer that the adjuster has been instructed by another insurer to act in the settlement of a claim;
  - (f) act or hold out as acting for an insurer without authorization of that insurer,
  - (g) give legal advice or discourage a claimant from seeking legal advice;
  - (h) knowingly deal directly, including interview or settle a claim, with a claimant represented by a barrister or solicitor without the consent of that barrister or solicitor;
  - (i) mislead an interested party as to the identity or the interest of the insurer;
  - (j) mislead an interested party as to the adjuster's role in adjusting a claim;
  - (k) fail to take reasonable steps to keep an insured informed of the status of a claim and respond to the insured's communications in a timely manner;

- (l) fail to fully inform a claimant in a timely manner of material information regarding policy coverage, limitation periods, claim denials and the claimant's rights and obligations in the claims process, as required in the circumstances;
- (m) accept any financial inducement or gift in exchange for recommending the services of a third party;
- (n) fail to deal with all formal and informal complaints or disputes in good faith and in a timely and forthright manner, including, when necessary, referring the complainant to other more appropriate people, processes, or organizations;
- (o) attempt to influence a claim through coercion, false or misleading statements or other improper means;
- (p) make or assist anyone to make a false insurance claim or a false declaration to an insurer;
- (q) counsel a claimant to misrepresent any aspect of a claim report or proof of loss to misrepresent information or knowingly transmit information which the person has reason to believe is not true; or
- (r) ask an insured or a claimant to sign statements, proofs of loss or other documents which are incomplete, unless those sections of the form are noted as 'to be advised' or 'information to follow' prior to the insured or the claimant signing the document.

#### **PART 12 – DUTY TO REPORT**

90. An adjuster, agent or special insurance broker shall report any change to the licence holder's name or contact information to the Superintendent within 10 days of any change to the licence holder's name or contact information.
91. An adjuster, agent, special insurance broker or applicant for an adjuster, agent or special insurance broker licence shall report to the Superintendent within 10 days of any of the following:
- (a) any criminal charge or conviction for an offence under any jurisdiction involving theft, fraud, forgery, breach of trust, misrepresentation, perjury, furnishing of false information, conspiracy to commit any of these offences, carrying on any regulated business or career while not licensed or crimes of violence or moral turpitude;
  - (b) any investigation commenced, disciplinary action taken, or decision rendered by a regulatory or professional body;
  - (c) any filing in bankruptcy or filing of a consumer proposal;
  - (d) any change in other employment or business activity;
  - (e) any change in adjusting firm or agency;
  - (f) any civil actions commenced, or decision rendered in relation to financial activities, fraud or breach of trust;
  - (g) any errors and omissions claim against the licensee or applicant.
92. A designated representative of an adjusting firm, agency, managing general agent or restricted insurance representative shall notify the Superintendent in a form provided by the Superintendent within 10 days of:
- (a) a change in name of the licensed firm or restricted insurance representative;
  - (b) a change of ownership of the licensed firm or restricted insurance representative;

- (c) a change in address of the main office or any branch office;
- (d) the departure of any licensed individual, including where an individual is terminated, retires or leaves for any other reason;
- (e) any misconduct by any individual related to the business of the licensed firm or the insurance business of a restricted insurance representative;
- (f) any investigation commenced, disciplinary action taken, or decision rendered by a regulatory or professional body;
- (g) any errors and omissions claim against the licensed firm or any licensed individual acting on behalf of a licensed firm;
- (h) any errors and omissions claim related to the insurance business of a restricted insurance representative or any employee of the restricted insurance representative;
- (i) any civil actions commenced, or decision rendered in relation to financial activities, fraud or breach of trust; or
- (j) any criminal charges or conviction against the licensed firm or restricted insurance representative or against a director, officer or partner of the licensed firm or restricted insurance representative involving theft, fraud, forgery, breach of trust, misrepresentation, perjury, furnishing of false information, carrying on any regulated business or career while not licensed or crimes of violence or moral turpitude.

93. A designated representative of a managing general agency that has reasonable grounds to believe that an agent is not suitable to carry on business, shall, within 15 days from the date on which the designated representative becomes so aware, notify the insurer or insurers on whose behalf the agent acts that it believes that an agent is not suitable.

### **PART 13 – ERRORS AND OMISSIONS INSURANCE**

94. (1) An insurance intermediary shall maintain or be covered by errors and omissions insurance, in a reasonable amount and no less than \$1,000,000 in respect of any one occurrence and an overall policy aggregate of at least \$2,000,000.
- (2) In determining the amount of insurance required, consideration shall be given to, among other considerations, the number of individuals carrying on insurance business on behalf of the insurance intermediary, the type of licence, and the nature and volume of the insurance business being carried on by the insurance intermediary.
- (3) Subsection (1) does not apply to:
- (a) an adjuster or agent who is a direct employee of an insurer and works exclusively for that insurer;
  - (b) a restricted insurance representative that is a member institution of the Canada Deposit Insurance Corporation or is a credit union incorporated or continued pursuant to the *Credit Unions Act* or an Act of the legislature of another province or a territory of Canada.
- (4) The errors and omissions required under this Part shall be issued by a licensed insurer, shall not be restricted to particular insurer's products and at a minimum shall include all of the following:
- (a) extended reporting for a period of 24 months;

- (b) extended coverage for fraudulent acts and dishonest acts;
  - (c) coverage for the insurance activities of the licensee and persons acting on their behalf;
  - (d) coverage for:
    - (i) financial planning services provided by the insured, if applicable,
    - (ii) the insured's supervisory activities, if applicable, and
    - (iii) any unlicensed individual acting on behalf of the insured for whose acts the insured is responsible.
95. An insurance intermediary shall provide proof of the required errors and omissions insurance on request by the Superintendent.
96. An insurer who issues an errors and omissions insurance policy shall provide the Superintendent with 30 days prior written notice before canceling, terminating or refusing to renew the policy or removing an insured from a group policy.
97. An insurance intermediary shall notify the Superintendent immediately of the cancellation or lapse in their errors and omissions insurance.
98. An insurance intermediary's licence is automatically suspended on cancellation, termination, lapse or refusal to renew the errors and omissions insurance coverage unless other coverage has been arranged.

#### **PART 14 – TRUST ACCOUNTS**

99. A licence holder that receives trust money shall, within two days, remit the trust money to the beneficial owner of the funds or deposit the money into a trust account.
100. (1) A trust account shall be held with one of the following:
- (a) a bank authorized to accept deposits pursuant to the *Bank Act (Canada)*;
  - (b) a credit union incorporated or continued pursuant to the *Credit Unions Act*;
  - (c) a corporation authorized to accept deposits pursuant to the *Loan and Trust Companies Act*; or
  - (d) a retail association as defined under the *Cooperative Credit Associations Act (Canada)*.
- (2) The account shall be designated as a trust account and shall be kept separate from all other accounts held in the name of the licence holder.
- (3) The Superintendent may permit a licence holder who is resident in another jurisdiction to use a trust account held at a branch of a bank, a credit union or a trust or loan company in that jurisdiction, subject to any terms and conditions the Superintendent may impose.
101. An agent, agency, restricted insurance representative, special insurance broker, or managing general agent is not required to have a trust account if all of the following are satisfied:
- (a) all trust money or other consideration received from the public is deposited directly into the insurance company's account within two days of receipt;

- (b) the agent, agency, restricted insurance representative, special insurance broker, or managing general agent is not able to access the trust money after it has been deposited into the insurance company's account;
  - (c) the agent, agency, restricted insurance representative, special insurance broker, or managing general agent does not receive trust money from insurers on behalf of the public.
102. An adjuster is not required to have a trust account if the adjuster is a salaried employee of an insurer.
103. A licence holder shall only withdraw money from a trust account for the following reasons:
- (a) direct payment to an insurer on behalf of an insured;
  - (b) payment of a refund to an insured on behalf of an insurer;
  - (c) payment of a claim to a claimant on behalf of an insurer;
  - (d) payment of commission owed to the licence holder as authorized by the insurer;
  - (e) money paid into the trust account by mistake;
  - (f) disbursements paid in the course of adjusting an insurance claim; and
  - (g) any other withdrawals authorized by the Superintendent.
104. (1) An agent, agency, managing general agent or restricted insurance representative that receives money or other consideration, directly or indirectly, from an insured as premium for an insurance contract shall pay the premium over to the insurer within 15 days of receiving a written demand from the insurer, less commission and any other deductions authorized in writing by the insurer.
- (2) Subsection (1) does not apply to life insurance contracts.
105. An agent, agency, managing general agent or restricted insurance representative who receives any money or premium credit from an insurer which represents return premium due to an insured, shall pay the return premium and any unearned commission or other refund to which the insured is entitled, to the insured within 90 days of receipt or within 15 days after written demand from the insured, whichever is earliest.
106. An adjuster who receives money from an insurer on behalf of an insured, claimant or other person in the course of adjusting an insurance claim shall pay the money to the insured, claimant or other person within 15 days of receiving the money.
107. Failure to pay the amounts received as trust money in accordance with the *Act* and Rule shall be evidence that the licence holder applied the amounts to the licence holder's own use or to a use contrary to his or her trust.
108. The holder of a trust account shall:
- (a) keep current such books, records and accounts in connection with the business as may be necessary to show and readily distinguish:
    - (i) all money received from or on behalf of and all money paid to or on behalf of each insurer and insured; and
    - (ii) all money received and paid on the business's behalf.

- (b) complete a monthly bank reconciliation, within 30 days of month end, which reconciles the bank statement balance to the holder's account balance;
  - (c) keep any other information or documents required by the Superintendent.
109. In addition to the requirements set out in section 108 of this Rule, an adjuster or adjusting firm that is required to maintain a trust account shall:
- (a) maintain a record of every amount of money received or disbursed in the course of adjusting an insurance claim; and
  - (b) maintain a record of the main particulars concerning each claim in a register of claims.
110. (1) A holder of a trust account is entitled to any interest earned on trust money held in trust for an insurer unless otherwise agreed with the insurer.
- (2) If funds are held in trust for a beneficiary other than an insurer, the beneficiary is entitled to any interest earned on those funds.
- (3) The interest shall be paid to the beneficiary other than an insurer in accordance with section 104.
111. (1) The Superintendent, or his or her designate, may perform an examination and assessment on any trust account required to be maintained under this Part or any other accounts related to the business of insurance.
- (2) The Superintendent may require any licence holder required to maintain a trust account under this Part to have an independent examination and assessment performed on the trust account or any other accounts related to the business of insurance and to provide the report of the examination and assessment to the Superintendent.

#### **PART 15 – ABANDONMENT**

112. If an application is submitted to the Superintendent and the applicant conducts no activity for 60 days after submitting the application, the Superintendent may consider the application to be abandoned.

#### **PART 16 – TRANSITIONAL PROVISIONS**

113. In this Part

“prior licensing regulations” means the *Adjusters Regulation – Insurance Act* (Regulation 2009-52), the *Agents and Brokers Regulation – Insurance Act* (Regulation 95-5) and the *Life Insurance Agent Licensing Regulation – Insurance Act* (Regulation 2003-36), as they read immediately before coming into force of this Rule; (*anciens règlements*)

“non-resident broker” means an agent under the *Insurance Act*. (*courtier non résident*)

## General insurance agents

114. On the coming into force of this Rule:
- (a) A holder of an agent's licence class I, a broker's licence class I or a broker's licence class II for at least 12 months under the prior licensing regulations shall be deemed to hold a level 1 general insurance agent licence;
  - (b) A holder of an agent's licence class I, a broker's licence class I or a broker's licence class II for less than 12 months under the prior licensing regulations, shall be under supervision until the licence holder has held a licence for 12 consecutive months;
  - (c) A holder of an agent's licence class II under the prior licensing regulations shall be deemed to continue to hold that licence for 24 months following the commencement of this Rule or until such time as the licence holder obtains a new general insurance agent licence, whichever occurs first;
  - (d) A holder of a broker's licence class III under the prior licensing regulations shall be deemed to hold a level 2 general insurance agent licence;
  - (e) A holder of a broker's licence class III for less than 12 months under the prior licensing regulations, shall be under supervision for a period of 12 consecutive months less the period the holder held a broker's licence class III prior to the commencement of this Rule;
  - (f) In calculating the experience of a holder of a broker's licence class III for the purposes of paragraph (e), any experience as broker class II shall be included;
  - (g) A holder of a broker's licence class IV under the prior licensing regulations shall be deemed to hold a level 3 general insurance agent licence.
115. (1) A holder of a non-resident broker licence issued under s. 352 of the *Act* shall be deemed to hold a non-resident broker licence following the commencement of this Rule for 24 months or such time as the licence holder meets the requirements of Part 2 of this Rule and obtains a general insurance agent licence, whichever occurs first.
- (2) A non-resident broker licence expires on the same date that the holder's previous non-resident broker licence would have expired, unless extended by the Superintendent.
- (3) A holder of a non-resident broker licence for a period of less than 12 months prior to the commencement of this Rule who obtains a level 1 or level 2 general insurance agent licence, shall be under supervision for a period of 12 consecutive months less the period the holder held a non-resident broker licence prior to the commencement of this Rule.

## Adjusters

116. (1) On the coming into force of this Rule:
- (a) A holder of a level 1 probationary adjuster licence under the prior licensing regulation shall be deemed to hold a level 1 assistant adjuster licence;
  - (b) A holder of a level 2 assistant adjuster licence under the prior licensing regulation shall be deemed to hold a level 1 assistant adjuster licence;
  - (c) A holder of all specializations of Level 3 adjuster licences under the prior licensing regulation shall be deemed to hold a level 2 adjuster licence;
  - (d) A holder of a level 4 adjuster licence under the prior licensing regulation shall be deemed to hold a level 3 senior adjuster licence.



- (2) (a) An individual who received a level 1 assistant adjuster licence under paragraph (1)(a) who has not completed the educational requirements shall complete one of the following educational requirements no later than 12 months after the coming into force of this Rule:
    - (i) course C11 Principles and Practice of Insurance;
    - (ii) courses C81 and C82 – General Insurance Essentials Parts 1 and 2; or
    - (iii) course C110 Essentials of Loss Adjusting (or course C17 Claims 1);
  - (b) The Superintendent may extend the time period for completion of the educational requirements in paragraph (2)(a) for an additional period of up to 12 months.
- (3) An adjuster who is issued a level 2 adjuster licence under subsection (1) will be required to successfully complete educational requirements to obtain a level 3 senior adjuster licence set out in subsection 62(2).

**Life insurance agents, accident and sickness insurance agents and travel insurance agents**

- 117. On the coming into force of this Rule, a holder of a life agent licence or a life and accident and sickness agent licence under the prior licensing regulation shall be deemed to hold a life insurance agent licence.
- 118. On the coming into force of this Rule, a holder of an accident and sickness agent licence shall be deemed to hold an accident and sickness insurance agent licence.
- 119. On the coming into force of this Rule, a holder of a travel insurance agent licence shall be deemed to hold a travel insurance agent licence.
- 120. On the coming into force of this Rule, a holder of any classes of an agent or broker licence for general insurance before 1 July 2003 may be issued a travel insurance agent licence, provided that the licence holder contacts the Superintendent to request the issuance of a travel insurance agent licence.

**General**

- 121. Nothing in the transitional provisions prevents the Superintendent from suspending, revoking or refusing to issue or renew a licence as authorized by the *Act*.
- 122. There is no refund of licensing fees resulting from the transition of a licence.

## ANNEX/ANNEXE B

### List of respondents to Consultation Papers

### Liste des personnes et organismes ayant répondu à notre consultation

The Commission issued three different consultation papers on different aspects of intermediary licensing. Below is a list of stakeholders who submitted responses.

La Commission a publié trois documents de consultation différents sur différents aspects des licences d'intermédiaires. Vous trouverez ci-dessous une liste des intervenants ayant répondu à notre consultation.

#### Modernizing the New Brunswick Insurance Licensing Framework - November 2015

#### Modernisation du cadre de délivrance des licences d'assurance du Nouveau-Brunswick - novembre 2015

|   |
|---|
| 1. B.A., Agent/agente   |
| 2. Canadian Association of Financial Institutions in Insurance/Association canadienne des institutions financières en assurance |
| 3. Canadian Life and Health Insurance Association/Association canadienne des compagnies d'assurances de personnes               |
| 4. Co-operators Group/Groupe Co-operators   |
| 5. Huestis Insurance/Groupe d'assurance Huestis   |
| 6. Independent Financial Brokers/Courtiers indépendants en sécurité financière du Canada  |
| 7. Insurance Brokers Association of New Brunswick/Association des courtiers d'assurances du Nouveau-Brunswick                   |
| 8. Insurance Bureau of Canada/Bureau d'assurance du Canada  |

#### Licensing of Insurance Adjusters and Damage Appraisers in New Brunswick - May 2019

#### La délivrance de licences aux experts en sinistres et aux estimateurs de dommages au Nouveau-Brunswick - mai 2019

|   |
|---|
| 1. Allstate Insurance Company/Assurance Allstate  |
| 2. Aviva Canada   |
| 3. Canadian Association of Direct Relationship Insurers/Association canadienne des assureurs directs                            |
| 4. Canadian Association of Financial Institutions in Insurance/Association canadienne des institutions financières en assurance |
| 5. Canadian Independent Adjusters' Association/Association canadienne des experts indépendants                                  |
| 6. Consumer Advocate for Insurance/Défenseur du consommateur en matière d'assurances  |
| 7. Co-operator's Group/Groupe Co-operators  |

|   |
|---|
| 8. Insurance Bureau of Canada/Bureau d'assurance du Canada                              |
| 9. Insurance Institute of Canada/Institut d'assurance du Canada                         |
| 10. Intact Insurance Atlantic Claims/Service de réclamation d'Intact, région atlantique |
| 11. Travelers Canada  |

**Incidental Selling of Insurance, Restricted Insurance Licensing Regime - December 2019**

**Vente d'assurance accessoire -- régime de délivrance de licences d'assurance à portée restreinte - décembre 2019**

|   |
|---|
| 1. Asurion Insurance Company/Compagnie d'assurance Asurion  |
| 2. Atlantic Recreation Vehicle Dealers Association  |
| 3. AWN Insurance/Assurance AWN  |
| 4. Aviva Canada   |
| 5. Canadian Association of Direct Relationship Insurers/Association canadienne des assureurs directs                            |
| 6. Canadian Association of Financial Institutions in Insurance/Association canadienne des institutions financières en assurance |
| 7. Canadian Life and Health Insurance Association/Association canadienne des compagnies d'assurances de personnes               |
| 8. Consumer Advocate for Insurance/Défenseur du consommateur en matière d'assurances  |
| 9. Co-operators Group/Groupe Co-operators   |
| 10. Financial Advisors Association of Canada (Advocis)  |
| 11. G.W., non-resident broker/courtier d'assurance (non résident)   |
| 12. Independent Financial Brokers/Courtiers indépendants en sécurité financière du Canada                                       |
| 13. Industrial Alliance Pacific General Insurance Corporation/Compagnie d'assurances générale Industrielle Alliance Pacifique   |
| 14. Insurance Brokers Association of New Brunswick/Association des courtiers d'assurances du Nouveau-Brunswick                  |
| 15. Insurance Bureau of Canada/Bureau d'assurance du Canada   |
| 16. Mortgage Professionals Canada/Professionnels hypothécaires du Canada  |
| 17. New Brunswick Automobile Dealers' Association/Association des concessionnaires d'automobiles du Nouveau-Brunswick           |
| 18. New Brunswick Credit Unions/Credit Unions du Nouveau-Brunswick  |
| 19. Travel Health Insurance Association of Canada/ Association canadienne de l'assurance voyage                                 |
| 20. UNI   |