



July 26, 2019

Ms. Nancy Meagher
Superintendent of Insurance, Yukon
Community Services
Government of Yukon
PO Box 2703, Whitehorse, Yukon Y1A 2C6

By email: Nancy.Meagher@gov.yk.ca, Stephanie.Connolly@gov.yk.ca and insurance.plra@gov.yk.ca.

Dear Ms. Meagher,

Re: Ensuring Continued Protection of Yukoners through Creditor's Group Insurance

I am writing on behalf of the Canadian Life and Health Insurance Association (CLHIA) with respect to your letter of June 27, 2019, received by a number of our members. Your letter was in response to the applications by the members for renewal of licenses for conducting insurance business in the Yukon, and set out that all requested classes of insurance were being renewed except for "credit protection" which does not currently exist as a class of insurance in the Yukon. We have had two helpful and productive conversations with Stephanie Connolly, Director, Corporate Policy and Consumer Affairs, and Bradley Rowett, Regulatory Affairs Officer, in which we discussed a proposed solution. The purpose of this letter is to set out that solution and to provide further information further to our most recent discussion with Ms. Connolly and Mr. Rowett, to enable the continued protection of Yukoners through creditor's group insurance.

About CLHIA

The CLHIA is a voluntary trade association that represents the collective interests of its member life and health insurers which, together account for 99% of the life and health insurance in force in Canada. Canada's life and health insurers play a key role in providing a social safety net to Canadians. We protect over 75% of Canadians through a wide variety of life, health, and pension products, including creditor's group insurance. Currently, 28 life insurance companies offer creditor's group insurance that covers millions of Canadians through a number of distribution channels, such as bank and credit union branches, auto dealers, mortgage brokers and retailers.

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We appreciate the opportunity to engage in a dialogue with you and your staff on this important issue. From our recent discussion with your staff, we understand that the renewal of insurers' licenses for the "life" and "accident and sickness" classes of insurance means insurers have been authorized to continue to provide these insurance products in the Yukon. This would include insurance products that pay money toward an insured person's debts when they die, become disabled, or are diagnosed with a critical illness, which are coverages included as what is sometimes called credit protection insurance or, as commonly referred to in the industry, creditor's group insurance.

This leaves two key issues for life and health insurers in the Yukon. First, how do insurers underwrite coverage for involuntary loss of employment (job loss) in the Yukon? Second, are distributors of creditor's group insurance (banks, credit unions, auto dealers, mortgage brokers and retailers) authorized to enrol customers in creditor's group insurance policies under the existing legislative and regulatory framework in the Yukon? These issues are addressed in turn below.

How do insurers underwrite coverage for involuntary loss of employment (job loss) in creditor's group insurance in the Yukon?

It is the industry's position that where no class of creditor's group insurance exists in a jurisdiction, creditor's group insurance is underwritten under the authority of the licenses for the "life" and "accident and sickness" classes of insurance. In addition, this would extend to related insurance benefits that cover for events causing an impairment or potential impairment in the individual's income or ability to earn income, as long as it is included in a group insurance policy, alongside other life and/or accident and sickness insurance coverage.

There is legislative provision in the Yukon *Insurance Act* that supports this position. We note in this respect that section 1 of the *Insurance Act* states:

"life insurance" means insurance whereby an insurer undertakes to pay insurance money,
(a) on death,
(b) on the happening of an event or contingency dependent on human life,
(c) at a set or determinable future time, or (emphasis added)
(d) for a term dependent on human life, and, without restricting the generality of the foregoing,
includes accidental death insurance but not accident insurance.

Under job loss insurance, insurers undertake to make payments towards credit balances or debts of an individual at the time the insured individual has met the definition of job loss in the certificate of insurance – this is the "set or determinable future time" referred to in the definition.

Are distributors of creditor's group insurance (banks, credit unions, auto dealers, mortgage brokers and retailers) authorized to enrol customers in creditor's group insurance policies under the existing Yukon rules?

As indicated above, there are currently 28 life insurance companies offering creditor's group insurance in Canada, covering millions of Canadians through a number of distribution channels, including banks and credit union branches, auto dealers, mortgage brokers and retailers. For example, in the bank model, the bank is the group policyholder and negotiates the terms of the coverage, including the

premium, with the insurer. The contract of insurance exists between the insurer and the bank as the group policyholder. Individuals who enrol in these products receive a certificate of insurance for their enrollment under an existing group insurance policy. Similarly, creditor's group insurance offered through mortgage brokers, auto dealers, and others as described above are also group insurance contracts between the insurer and the mortgage broker or auto dealer plan administrator or retailer as the group policyholder, and the customer receives a certificate of insurance as evidence of their enrollment for coverage under the group policy. It is important to also note that individuals enrolling in these products at banks or credit unions, mortgage brokerages, auto dealers, and retailers do not receive general insurance advice. If an individual requests advice about their insurance needs, they can seek advice from a licensed insurance agent.

We note that section 1 of the Yukon *Insurance Act* defines "agent" as:

"....a person who, for compensation, not being a duly licensed insurance broker or not being a person acting under the authority of subsection 233(15), (16) or (17), solicits insurance on behalf of an insurer, transmits for a person other than the agent an application for or a policy of insurance to or from that insurer, or offers or assumes to act in the negotiation of the insurance or in negotiating its continuance or renewal."

Given the description of the enrollment process above, it is our view that those persons or organizations enrolling individuals in creditor's group insurance policies are not required to be licensed as an insurance agent, as they are merely enrolling individuals under a group insurance policy that is already in force. This is because there is only one contract or insurance policy offered, solicited, negotiated and transmitted and that happens between the insurer and the group policyholder. Therefore, the direct contractual relationship exists between the insurer and the group policyholder, and does not exist between the insurer and the individuals who are enrolled in the group policy. Individuals insured under the group policy are, of course, conferred rights under the group policy by applicable law (in the Yukon, this is provided in ss.106 and 202 of the *Insurance Act*); however they are not themselves sold or issued an insurance policy.

The activities of the group policyholder in enrolling individual insureds into creditor's group insurance policies do not attract the requirement to hold an insurance agent's license since they do not fall within the definition of agent in the Yukon *Insurance Act*. This position is consistent with other situations in the context of group insurance; for example, human resources staff of employers who are engaged in enrolling employees under the company's group insurance plan are not required to hold an agent's license to perform this function. This position is also consistent with the industry's view in all other jurisdictions that do not require a special *restricted* insurance agent's certificate of authority for people distributing creditor's group insurance (AB, SK, MB), or that maintain a specific exception for licensing applicable to those people (BC, QC).

Conclusion

In conclusion, based on the above noted considerations, we are seeking your confirmation that under the Yukon *Insurance Act* insurers are permitted to underwrite creditor's group insurance, including job loss coverage, under their existing life and accident and sickness insurance licenses, and that enrollment

into these products continues to be permitted to take place at banks, credit unions, mortgage brokerages, auto dealers and retailers without further requirement to be licensed.

We look forward to the opportunity to discuss this issue with you and your staff.

Yours truly,

A handwritten signature in blue ink, consisting of a stylized 'L' followed by a cursive 'D' and a horizontal line.

Lyne Duhaime
Senior Vice-President, Market Conduct Policy and Regulation