

Implementation of the *Financial Institutions Amendment Act, 2019* (Bill 37):

Consultation Regarding Restricted Insurance Licences

Purpose:

This document is for the purpose of seeking feedback from the insurance industry and other interested parties regarding the introduction of a restricted insurance agent licence in BC.

Background:

Following public consultations beginning in 2015, Bill 37, the *Financial Institutions Amendment Act, 2019*, was passed by the BC Legislature in 2019. This bill introduced various reforms to the *Financial Institutions Act* (FIA) and the *Credit Union Incorporation Act*. Bill 37 is being brought into force in stages and consideration is now being given to bringing into force sections that will implement the framework for a restricted insurance agent licence in BC (see ss. 30, 31 and 60 of Bill 37). Restricted insurance agent licences are corporate-level licences in that they will authorize a corporate licensee (e.g., businesses that are sole proprietors, corporations, partnerships, etc.), through its employees and agents in BC, to sell insurance. They will generally authorize the sale of insurance where it is sold incidentally to the licensee's ordinary business. Restricted insurance agent licences are intended to facilitate easier public access to insurance products while ensuring appropriate oversight of their sale. Government will also need to pass regulations and the Insurance Council of BC (the Council) will need to make rules in order to fully implement a restricted insurance agent licensing regime. The Council will, at a later date, consult on and publish rules regarding but not necessarily limited to initial licensee qualifications, on-going licence requirements, licensee conduct, fees, licence cancellation, and remuneration of licensees.

Scope:

The scope of this consultation is limited to the regulations required to introduce a restricted insurance agent licence in BC. Changes to the FIA or other legislation are out of scope and will not be considered at this time. Some of the topics raised in this consultation may be included in Council rules or in both regulations and rules. The Council will seek feedback regarding proposed rules separately.

Any submissions provided in response to this consultation may be shared with the Council and the BC Financial Services Authority (BCFSA). If certain comments should not be shared with other parties, please clearly indicate that in the submission or covering letter. Please note that all submissions received are subject to the *Freedom of Information and Protection of Privacy Act* and, even where confidentiality is requested, this legislation may require the Ministry to make information available to those requesting such access.

Please note that this consultation is being performed by Ministry of Finance staff and feedback is not binding on the BC Government nor on the Council and BCFSA. Cabinet approval is required for any recommendations on regulation content made by Ministry of Finance staff.

Relevant Sections of Bill 37:

The following sections of Bill 37 amend the FIA but are not yet in force. They will need to be brought into force by regulation as part of the implementation of a restricted insurance agent licensing regime in BC. The new s. 174.1 authorizes the Council to issue restricted insurance agent licences. The regulations will need to prescribe which kinds of businesses are eligible to hold a restricted agent licence and which types of insurance the licences can authorize the sale of. The repeal and replacement of s. 171(3) is a technical amendment that ensures restricted insurance agent licensees are able to transact insurance through their employees and agents. The new s. 225.1(2)(i.1) provides additional rule-making powers for the Council specific to restricted insurance licences.

30 Section 171 (3) is repealed and the following substituted:

- (3) Subsection (2) does not apply to
 - (a) the employees or agents of a person licensed under section 174.1 as a restricted insurance agent, or
 - (b) a person or class of persons exempted by the regulations.

31 The following section is added:

Issue of restricted insurance agent licences

174.1 (1) The council may, in accordance with the rules of the council, issue a restricted insurance agent licence to a person within a prescribed class of persons or who carries on a prescribed class of insurance business.

(2) A restricted insurance agent licence authorizes the licensee, through the licensee's employees and agents in British Columbia, to act or offer to act as an insurance agent in respect of one or more prescribed classes of insurance that are specified in the licence.

[...]

60 Section 225.1 (2) is amended by adding the following paragraphs:

[...]

(i.1) respecting restricted insurance agent licences issued under section 174.1 and restricted insurance agent licensees and their employees and agents, including, without limitation, rules

(i) respecting the education, experience or other qualifications of applicants for those licences and their employees and agents, including rules conferring the discretion to determine equivalent education, experience or qualifications,

(ii) respecting or adopting a continuing professional education program that is required of those licensees, employees and agents,

(iii) restricting post-claim underwriting by those licensees, employees and agents, and

(iv) specifying disclosures that those licensees, employees and agents must make, and standardized wording they must use, in the solicitation, negotiation or procurement of insurance; .

Jurisdictional Survey:

Ministry of Finance staff are aware of three other provinces (Alberta¹, Saskatchewan² and Manitoba³) that offer a form of restricted insurance licence. One more province, New Brunswick⁴, is developing a restricted insurance representative regime.

Some or all of these other jurisdictions offer, or propose to offer, restricted licences for the following types of insurance products:

- Cargo
- Travel
- Credit Protection
- Funeral
- Guaranteed Asset Protection (GAP)
- Rented vehicle
- Portable electronics

¹ For more information on please see <https://www.abccouncil.ab.ca/agentsadjusters/#1450389607986-00be82f7-d056>.

² For more information, please see <https://www.skccouncil.sk.ca/RIA%20Info.htm>.

³ For more information please see <https://icm.mb.ca/component/content/article/87-licensing-info/202-incidenta-sale-of-insurance-restricted-insurance-agents>.

⁴ For more information please see [Notice and Request for Comment – Proposed Rule INS-001 Insurance Intermediaries Licensing and Obligations \(fcnb.ca\)](#).

- Equipment warranty.

Each of the jurisdictions listed above restrict, or propose to restrict, the types of insurance that a licensee can offer to those that are generally considered incidental to the primary business the licensee performs. For example, a customs broker is restricted to transacting cargo insurance.

Some or all of these other jurisdictions offer, or in New Brunswick's case propose to offer, restricted licences to the following types of businesses. The Ministry of Finance recognizes that consistency between provinces may be beneficial and is considering allowing similar businesses to obtain restricted insurance agent licences in BC:

- Deposit-taking institutions generally offering credit protection insurance, travel insurance, and life insurance
- Transportation companies generally offering travel insurance and cargo insurance
- Travel agencies generally offering travel insurance
- Automobile dealerships generally offering credit protection insurance, equipment warranty insurance, and guaranteed asset protection (GAP) insurance
- Marine/watercraft dealerships, recreational vehicle dealerships, farm implement dealerships, construction equipment dealerships generally offering credit protection insurance, equipment warranty insurance, and GAP insurance
- Sales finance companies⁵ generally offering credit protection insurance
- Customs brokers generally offering cargo insurance
- Freight-forwarding companies generally offering cargo insurance
- Equipment dealers generally offering credit protection insurance, equipment warranty insurance, and GAP insurance
- Funeral services businesses generally offering funeral insurance
- Vehicle rental agencies generally offering rented vehicle (personal injury and personal property) insurance
- Mortgage brokers generally offering credit protection insurance
- Portable electronics vendors generally offering portable electronics insurance.

For specifics of the other provinces' restricted insurance agent licences, please consult the links in the footnotes above and the links to the legislation at the end of this document.

Consultation Questions:

Classes of Licensees

The Ministry of Finance recognizes that other provinces already offer restricted insurance agent licences to certain businesses and that prescribing the same or similar classes of eligible licensees will promote consistency and simplicity which can be beneficial to both the insurance sector and

⁵ Sales finance companies specialize in making loans to customers of a particular retailer or manufacturer. For example, General Motors Acceptance Company, which provides financing for the purchase of General Motors products.

consumers in BC. However, the Ministry of Finance also recognizes that there may be unique aspects to BC such that making restricted insurance agent licences available to additional classes, or not making such licences available to classes in contrast to other provinces, may be best. Further, the Ministry of Finance is willing to differ from the approach taken in other provinces based on the experiences with restricted licences in those provinces.

Consideration may also be given to prescribing the following:

- Storage companies offering personal property policies
- Event and ticket sales companies offering event cancellation policies
- Leasing companies (personal property and office furniture) offering damage protection and product warranty policies
- Leasing companies (equipment, vehicles, and heavy machinery) offering vehicle or product warranty policies
- Educational institutions offering travel medical policies to out-of-province students
- Tour Operators and public carriers (i.e., airlines, bus companies, ferry companies) offering trip interruption or cancellation policies.

The Ministry of Finance also recognizes that there are currently exemptions provided for certain businesses in the *Insurance Licensing Exemptions Regulation* (ILER). The Ministry of Finance proposes that the following exemptions be repealed, in whole or in part, in favour of offering a restricted insurance agent licence:

List of current exemptions to be transferred to the restricted licence regime:

- ILER s. 2(1)(a): product warranty insurance
- ILER s. 2(1)(b.1): credit institutions selling credit insurance
- ILER s. 2(1)(c): credit insurance
- ILER s. 2(1)(g): motor vehicle dealers selling vehicle warranty insurance
- ILER s. 2(1)(i): travel agents selling travel insurance⁶
- ILER s. 2(1)(q): transportation company selling travel insurance
- ILER s. 2(2)(a): mortgage (and submortgage) brokers selling credit insurance
- ILER s. 2(2)(b): funeral directors selling funeral services insurance.

The Ministry of Finance would like input from the sector around the following:

- Which businesses should be prescribed as potential licensees for the purposes of FIA s. 174.1(1)?
- Which businesses should not be prescribed?

⁶ The Ministry of Finance recognizes that travel agents are currently able to sell travel insurance under what is effectively a restricted insurance agent licence authorized by ILER s. 2(1)(i) and proposes that travel agents will continue to be able to sell travel insurance through the new restricted insurance agent licence regime under FIA s. 174.1.

- Should any exemptions in the ILER be fully repealed in favour of offering a restricted insurance agent licence?
- Should any exemptions in the ILER be partially repealed in favour of offering a restricted insurance agent licence? For example, the exemption in ILER s. 2(1)(a) for sale of product warranty insurance could be maintained for products below a certain value threshold; a licence would be required to sell product warranty coverage for values over that threshold.

Classes of Insurance

As noted above regarding classes of licensees, the Ministry of Finance recognizes that there are reasons to prescribe classes of insurance that are similar to the classes of insurance available under restricted licensing regimes in other provinces, and reasons to differ from those classes.

The Ministry of Finance also recognizes that some classes of insurance available through exemptions in the *Insurance Licensing Exemptions Regulation* could be repealed in favour of offering them through a restricted licence.

Consideration may also be given to prescribing the following:

- Personal effects property (i.e., offered by storage companies)
- Purchase protection (i.e., offered by retailers and credit card companies)
- Marine craft rental (i.e., offered by marine craft rental companies)
- Damage protection (i.e., offered by personal property and office furniture leasing companies)
- Event cancellation (i.e., offered by event and ticket sales companies).

The Ministry of Finance would like input from the sector around the following:

- What classes of insurance should be prescribed for the purposes of FIA s. 174.1(2)?
- What classes of insurance should not be prescribed?

Incidental Sale of Insurance

The Ministry of Finance proposes that the granting of restricted licences to licensees be restricted to classes of insurance that are incidental to the licensee's ordinary business. Allowing a licensee to sell a class of insurance that is not incidental to their ordinary business may be considered in some cases, but only where a benefit to consumers that outweighs any potential risks is clear.

- Do you have any comments on the proposal to restrict the classes of insurance that can be sold by a licensee to those that are incidental to their ordinary business?
- Should there be any exemptions to this incidental rule? If so, for which businesses or classes of insurance?

General Issues

A successful restricted insurance agent licensing regime will balance the respective interests of consumers and licensees. Consumers will ideally benefit from having insurance products more easily accessible, but this access will be most meaningful if they are provided necessary information and opportunities to make sound decisions. Licensees will benefit and be able to better serve their customers if they can efficiently offer insurance products alongside their primary business operations. Further, appropriate regulatory oversight must be possible. The following questions are based on general features contained in other provinces' restricted insurance agent licence regimes or the regulation and rule making authorities in the FIA or introduced by Bill 37.

- Should there be any requirements for warranty cancellations and premium refunds?
- What disclosure and documentation requirements should be required when a restricted insurance agent licensee sells an insurance product? What must they provide to a consumer? When? In what form? Should any disclosures be made by the insurer?
- Should a restricted insurance agent licensee be restricted in selling a policy where the eligibility of the insured is not certain? For example, should the licensee be required to facilitate contact with the insurer providing the policy if the customer has a question the licensee is unable to answer?
- Should there be any restrictions on how a restricted insurance agent licensee holds themselves out, or how they represent the services they offer?
- Should any classes of insurance products sold by a restricted insurance agent licensee be subject to a cooling off period or include a right of rescission?
- Should any restricted insurance agent licensees be limited in the commissions or fees they may charge?
- Should there be any exemptions for low-value products? For example, should a licence not be required for product warranty insurance for products sold for a price below a certain threshold?
- Should value limits be imposed for any types of insurance such that a restricted insurance agent licensee would not be authorized to sell policies with a value over that limit?
- Is a deferred sales model appropriate for any restricted insurance agent licences? For example, an insurance product could not be marketed until a set number of days after the primary purchase is made or contract agreed to.
- Do you have any other comments or feedback?

Please provide written submissions to fiareview@gov.bc.ca on or before Monday, October 3, 2022. Submissions received after this date may not be considered.

Relevant links:British Columbia Legislation:

- [Financial Institutions Amendment Act, 2019 \(Bill 37\)](#) Error! Hyperlink reference not valid.
- [Financial Institutions Act](#)
- [Insurance Licensing Exemptions Regulation](#)

Alberta Legislation:

- [Insurance Act](#)
- [Insurance Agents and Adjusters Regulation](#)

Saskatchewan Legislation:

- [The Insurance Act](#)
- [The Insurance Regulations](#)

Manitoba Legislation:

- [Insurance Act](#)
- [Insurance Agents and Adjusters Regulation](#)

New Brunswick Legislation:

- [An Act to Amend the Insurance Act \(Bill 33\)](#)
- [Insurance Act](#)

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