



NOTICE OF ADOPTION OF

RULE INS-001 *INSURANCE INTERMEDIARIES LICENSING AND OBLIGATIONS*

AND

RULE INS-002 *FEES*

Introduction

On 23 June 2022, the Financial and Consumer Services Commission (“**Commission**”) approved the making of Rule INS-001 *Insurance Intermediaries Licensing and Obligations* (“**INS-001**”) and Rule INS-002 *Insurance Fees* (“**INS-002**”).

Background

On 9 November 2021, the Commission published notice of the proposed Rule INS-001 for a 90-day comment period. The Commission further published notice of proposed Rule INS-002 on 17 December 2021 for a 60-day comment period. The Commission received 17 comment letters in response to INS-001 and INS-002. A list of respondents is included in **Annex A**.

After consideration, the Commission determined that there were no material changes to either rule and a second comment period was not necessary. A summary of the comments received, together with our responses, are contained in **Annex B** – Summary of Comments and FCNB Responses.

Substance and Purpose of INS-001 and INS-002

Over the years, the insurance industry has undergone significant changes. Rule INS-001 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)*.

Rule INS-001 establishes the classes of licences that may be issued and the licensing qualifications and educational requirements for licensees. That Rule also enhances market conduct rules for insurance intermediaries.

Rule INS-002 will establish the regulatory fees for licensing applications and other related fees and replace the *Licence and Examination Fees for Agents and Brokers Regulation* and the *Assessment Regulation*.

The effective date of the INS-001 and INS-002 are subject to Ministerial approval will coincide with the implementation of related amendments to the *Insurance Act*. The Commission will provide further updates on the transition in a bulletin in the coming months.

Contents of Annexes

Annex A:	List of Respondents
Annex B:	Summary of Comments and FCNB Responses
Annex C:	Rule INS – 01 <i>Insurance Intermediaries Licensing and Obligations</i>
Annex D:	Rule INS-002 <i>Insurance Fees</i>

Questions

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Annex A - List of Respondents

Responses to Rule-001 Insurance Intermediaries Licensing and Obligations

Advocis - The Financial Advisors Association of Canada
Asurion
Aviva Canada
Canadian Association of Direct Response Insurers (CADRI)
Canadian Association of Financial Institutions in Insurance (CAFII)
Canadian Life and Health Insurance Association (CLHIA)
The Co-operators Group
Credit Union Managers Association (CUMA)
Independent Financial Brokers of Canada (IFB)
Insurance Brokers Association of New Brunswick (IBANB)
Insurance Bureau of Canada (IBC)
Insurance Institute of Canada
Primerica Financial Services
UNI

Responses to Rule-002 Insurance Fee Rule

Canadian Association of Direct Response Insurers (CADRI)
Canadian Association of Financial Institutions in Insurance (CAFII)
Insurance Bureau of Canada (IBC)

Section	<p style="text-align: center;">ANNEX B FINANCIAL AND CONSUMER SERVICES COMMISSION RULE INS-001 <i>INSURANCE INTERMEDIARIES LICENSING AND OBLIGATIONS</i> PART 1 – DEFINITIONS AND INTERPRETATION</p>	
	General Support	
	<p>There were 8 comments supporting the modernization of insurance regulation in New Brunswick.</p> <p>Three commenters noted that the proposed rule will bring more consumer protection, while another noted the increased clarity and transparency of the proposed rule. Another commenter supported the implementation of errors and omission insurance requirements for life agents.</p> <p>Three commenters supported the transition to a single rule to replace five regulations.</p> <p>One commenter noted that the proposed rule allows for greater harmonization with other jurisdictions and will ease the licensing process for individuals who are licensed in multiple jurisdictions.</p>	<p>FCNB thank the commenters for their support in the modernization of insurance regulation in New Brunswick.</p>
	Various timelines	
	<p>Three commenters noted that the proposed rule includes timelines for notifying the Superintendent that range from 10, 15 or 20 days and suggested that these timelines should provide for notification in 30 days.</p>	<p>We have reviewed the various reporting and notification periods set out in the proposed rule. Where the requirement to report or notify the Superintendent addressed issues of contact information, suitability or consumer protection, we maintained a reporting or notification period of 10 days. We extended one 15-day period to 20 days and maintained the 30 day notification periods.</p>
1	Definitions	
	<p>Two commenters suggested adding clarity to the definition of “managing general agent”.</p>	<p>We have amended the definition of “managing general agent” to add clarity and to respond to specific feedback.</p> <p>We note that all insurers have an obligation to monitor any intermediary that acts on their behalf.</p>
2	Licences	
	Licensing categories	

	One commenter was concerned that licensing of MGAs would add regulatory burden without addressing the challenges in this space.	Licensing of MGAs was implemented with Amended Act. FCNB's intention is to ensure that MGAs are accountable to FCNB and licensing provides that mechanism. Further, the amendments to the Act place a clear obligation on insurers to oversee MGA's and other intermediaries.
3-5	Exemptions for individuals	
	Two commenters believe that this provision creates new exemptions for "employed agents" One commenter encouraged FCNB to expand the exemption for individuals in section 4 to apply to adjusters. One commenter suggested this exemption apply to a person working from home".	Section 4 is not a new provision. It is currently found in subsection 352(18) of the <i>Insurance Act</i> . The intent is to move this to the rule. There is no intent to change the meaning and thereby exempt agents who are currently required to be licensed. FCNB clarified that the provision only applied to agents and not adjusters. The exemption can apply to employees working from home.
	One commenter was concerned that the terms "incompetency" or "untrustworthiness" were uncertain and requested guidance on these terms.	"Incompetence" and "untrustworthiness" are commonly used terms in the regulation of insurance intermediaries. It is a standard that we expect insurers to be applying in determining whether to do business with an intermediary.
6	Application for a licence	
	Three commenters supported providing the Superintendent with the ability to waive some or all licence requirements which will make it easier for out of province applicants to obtain an equivalent licence in New Brunswick. One commenter commended FCNB for the harmonization and industry flexibility this provision will provide. Two comments thought the proposed rule should automatically recognize an insurance licence from another jurisdiction.	The purpose of subsection 6(3) is to allow for the recognition of equivalency for education purposes. FCNB is not proposing a passport system as applicants will still be required to be screened for suitability to hold a licence.
	One commenter suggested that the minimum age requirement for an insurance licence should be reduced to 18 years of age.	We have maintained 19 as the minimum age requirement as this is the age of majority in NB.
	Education requirements generally	
	Two commenters supported FCNB's efforts to harmonize its education requirements with those of other jurisdictions.	The proposed educational requirements make significant advances in harmonizing the educational requirements with other jurisdictions. There remain some differences but the ability to recognize equivalent education will allow applicants from other jurisdictions to be licensed while ensuring that they meet minimum requirements.

	One commenter suggested that not allowing level 1 agents to do commercial lines, would limit the agents able to conduct business in both personal and commercial lines.	The proposed framework aligns responsibilities with education. The educational requirements for a level 1 focus primarily on personal lines. The additional courses to obtain a level 2 (CAIB 2 & 3 and C131) focus more on commercial lines. A person can complete all of the courses and start their career at a level 2.
	One commenter recommended that designation status and education credentials be uploaded to the portal, similar to the process in Ontario.	FCNB's online licensing portal allows for uploading of educational credentials. FCNB will continue to validate educational requirements to ensure that applicants are properly qualified.
	Continuing Education	
	Five commenters supported mandating continuing education requirements for insurance intermediaries.	FCNB supports continuing education, however, mandating continuing education is outside the scope of the licensing rule project. FCNB will consider continuing education in the future.
7	Renewal of licence	
	One commenter found that the requirement that an applicant not be "objectionable" was vague and requested further details on what would be considered objectionable.	FCNB believes that the term "objectionable" is not vague. It is a commonly used term that is found in the updated <i>Insurance Act</i> and in several other licensing frameworks in Acts overseen by FCNB and also found in licensing frameworks in Nova Scotia and Saskatchewan.
10	Sponsorship by an Insurer	
	One commenter did not support maintaining insurer sponsorship of individual brokers and the requirement to notify the Superintendent of a departure of an individual broker.	The requirement for individuals and businesses to be sponsored is in the amending Act and not the rule (ss. 352(21) and (22)). Likewise, the duty of the insurer to notify the Superintendent is in the Act (s. 352(24)). The Rule provides some clarification. The requirement for sponsorship is consistent with several other jurisdictions.
11	Termination of Sponsorship	
	One commenter thought the requirement to file the termination of sponsorship of an agent within 15 day was quite onerous.	We have reviewed the timing of notifications throughout the rule and have extended the notification to 20 days. This will streamline the different notification timeframes.
	PART 2 – GENERAL INSURANCE AGENTS	
17-19	Licensing qualifications and educational requirements – general insurance agents	
	Three commenters have concerns about the elimination of the distinction between agent and broker. One commenter had concerns that there was no distinction between agents (employees) and the brokers they sponsor in New Brunswick. The concern was regarding the direct oversight they had over agents, but not the same level of oversight with brokers.	The distinction between agents and brokers was eliminated in the Amending Act. This proposed framework is consistent with several jurisdictions. Section 361.1 of the <i>Insurance Act</i> (which was part of the 2021 Act to Amend) requires an insurer who authorizes an intermediary to act on its behalf to establish and maintain a system to ensure that the intermediary complies with the Act, the regulation and terms or conditions on a licence. This would apply to employees and independent brokers and is consistent with requirements that have been in place in Ontario for several years.
	Three commenters were concerned with the new level 3 general insurance agent category. The level 3 agent, as the only level	Under the proposed transition, there will be level 2 agents who could qualify as a level 3 agent. Each level 2 agent will be looked at individually to determine whether they meet the qualifications

	<p>qualified to manage an insurance agency, could limit the licenced representatives that could operate a local office. One commenter was concerned that some of their managing agents may not be transitioned into level 3 licences.</p>	<p>of a level 3 agent. Consideration will be given to experience, responsibilities, education, licensing status in other jurisdictions and other relevant information.</p>
	<p>One commenter was concerned that the new criteria for level 1 and 2 agents restricts Level 1 to carry on personal lines and Level 2 to carry on personal lines and commercial lines. They were concerned that their agents would not be able to continue to engage in their current sales activities.</p>	<p>Under the new framework, a level 1 can do personal lines and level 2 (or level 3) agents can do personal and commercial lines. Existing agents may seek a level 2 licence during the transition and an assessment will be made of their qualifications on a case by case basis.</p>
20-25	Supervision – level 1 and level 2 general insurance agents	
	<p>Several commenters raised concerns regarding the supervision requirement of agents. These concerns included:</p> <ul style="list-style-type: none"> • The supervision requirement was overly prescriptive and the requirement of countersignatures or notations in paper or electronic systems was particularly onerous; • The supervision requirement will be burdensome operationally and could pose client service challenges for local offices. <p>One commenter suggested that level 1 and 2 general insurance agents should have greater autonomy.</p> <p>Other commenters asked how reviews will be conducted.</p> <p>Another commenter wondered how many staff a supervisor could oversee.</p>	<p>We have updated the requirements to require the supervisor to adopt and follow a written supervision plan that demonstrates reasonable and prudent supervision of the insurance activities of the person being supervised. The supervision plan should take into consideration the particular circumstances of that person being supervised, the work being done and the number of staff being supervised. This may include regular reviews of a person’s work and countersignatures and notations.</p> <p>It is an organization’s obligation to determine what is the appropriate number of staff one supervisor can supervise. The Rule sets out factors to be considered, including the training and experience of the person being supervised and of the supervisor and the complexity of the activity being conducted.</p> <p>FCNB will review the supervision plan during sight visits and may recommend changes.</p> <p>FCNB intends to publish a bulletin on the topic of supervision to provide additional guidance for implementation.</p>
	<p>One commenter stated that FCNB should consider physical or virtual presence in relation to supervision. Another commenter was pleased that the proposed rule eliminated the requirement to conduct all duties in a physical office location.</p>	<p>The supervision requirements are principle based. The supervision can be a physical presence or virtual; however, it must be reasonable and prudent.</p>
	<p>One commenter suggested that brokerages would need to be in constant communication</p>	<p>The Rule requires a level 1 and level 2 agent to have a supervisor for the first 12 months. We have clarified the Rule to require a written supervision plan. This can include the delegation of</p>

	<p>with FCNB about internal staffing because of the supervisory rule requirements.</p> <p>One commenter was concerned with the new requirement for an individual being supervised to report a change in supervisor.</p>	<p>supervision in cases of short-term absences such as a vacation. The rule requires that FCNB be notified of the name or changes of the supervisor. We believe this requirement is necessary to maintain prudent oversight and will not be overly onerous.</p> <p>The obligation to report a change in supervisor is on the individual licence holder, since that individual is prohibited from conducting licensed activities without a supervisor. FCNB believes that the reporting period is reasonable given that these would not be frequent occurrences.</p>
26 67	Reinstatement – general insurance agents Reinstatement - adjusters	
	<p>Two commenters did not support requiring individuals with a lapsed licence over five years to re-take all qualifying courses.</p>	<p>We have reviewed the reinstatement requirements across various jurisdictions and we do not believe this requirement is overly onerous. The intent is to make sure that people who are out of the industry for five years should refresh their education.</p> <p>Jurisdictions that have reinstatement requirements require requalification after two years.</p> <p>In addition, the Rule allows the Superintendent to waive some of the requirements for a licence (including Requalification) if a person has a) equivalent licensing qualifications and educational requirements based on education, training and experience; (b) issued a substantially similar licence in another jurisdiction; or (c) engaged in equivalent or comparable work in the insurance industry.</p>
	PART 5 – RESTRICTED INSURANCE REPRESENTATIVES	
31	Definitions	
	<p>One commenter recommended that “mortgage insurance” be called “mortgage default insurance” to distinguish it from credit protection insurance products.</p>	<p>The definition of “mortgage insurance” is a defined class of insurance. We have reviewed our definition and found that it is the same as the definition used by other jurisdictions with restricted regimes.</p>
32-34	Restricted insurance representative	
	<p>Two commenters supported the increased consumer protection provisions of the proposed rule.</p> <p>One commenter noted that while they supported the disclosure to consumers that a restricted insurance representative is not a licensed insurance agent and the consumer may want to consult a licensed agent, the commenter did not believe it</p>	<p>The framework provides for significant disclosure requirements to help consumers make an informed decision. There are also obligations on the insurer and the restricted insurance representative to ensure that employees are properly trained and knowledgeable.</p> <p>Consumers are ultimately responsible to take any necessary additional steps.</p>

	likely that consumers will take this additional step and postpone the decision.	
	Once commenter noted that credit unions work with more than one insurer and asked that the rule clarify that a single licence can be obtained for multiple types of insurance, including in situations where there is a relationship with more than one insurer.	A restricted insurance representative licence only requires a single sponsoring insurer for a licence. Also, the requirement to have a sponsoring insurer is in the <i>Insurance Act</i> .
	One commenter noted difference between FCNB's proposed definitions and key provisions related to the new restricted insurance licensing regime, and the counterpart provisions in the three existing Western Canada Restricted Insurance Agent licensing regimes. [CAFI] The commenter also felt that the terminology should be "restricted insurance agent" to harmonize with the terminology used in western provinces and that all provisions applicable to restricted insurance representatives be grouped together in one part.	We have reviewed the requirements for restricted insurance representatives and found that the definitions related to the restricted licensing regime are closely aligned with other jurisdictions and most variations are minor. Where there are differences, it was done to strengthen consumer protection. The term "restricted insurance representatives" is used in the <i>Insurance Act</i> and in the rule for consistency. The restricted insurance framework provisions are in single part for ease of convenience.
	One commenter suggested that the restricted insurance licensing regime should have its own industry advisory group, similar to that in Saskatchewan.	We appreciate the suggestion; however, this is outside the scope of the intermediary licensing rule.
	One commenter suggested that mortgage default insurance be excluded from the restricted insurance licensing framework.	All other jurisdictions that have a restricted framework include mortgage insurance. Including mortgage insurance within the framework provides protections for consumers and regulatory oversight.
35	Licensing criteria – restricted insurance representative	
	One commenter felt it would be an onerous regulatory burden to require information on the number of employees acting on behalf of a restricted insurance representative.	The intent is to obtain the number range of employees engaged in the business of insurance at the time of application. The Superintendent has the authority to request a list of employees for compliance reviews or investigation of a complaint.
36-37	Obligations for restricted insurance representatives	
	One commenter sought clarity on when a business would be required to register a name with the New Brunswick Corporate Registry.	Not all businesses are required to register with the New Brunswick Corporate Registry. The requirements are set out in other legislation, such as the <i>Partnerships and Business Names Registration Act</i> .
38-39 and	Suitability	

73-75		
	<p>One commenter found that “knowledge” was a better qualifier than “suitability” for licensing.</p> <p>Two commenters found the term “suitable” to be unclear.</p>	<p>The term “suitability” is used in the New Brunswick <i>Insurance Act</i> and similar legislation in other jurisdictions and is consistent within the regulation of financial sectors. Suitability is broader than knowledge and includes character concerns.</p>
	<p>One commenter found that it would be very onerous and not achievable to verify that an employee of a restricted insurance representative has not had an insurance licence refused, revoked or suspended.</p>	<p>Restricted insurance representatives should be screening all individuals who are engaged in the business of insurance. This can be a screening question as part of the application for employment. This requirement will protect consumers from individuals who have had their licence refused, revoked or suspended.</p>
40	Separate application	
	<p>One commenter recommended that “for the related product or service” should be replaced with the following: “for the related debt obligation, product or service.” It also suggested that the word “form” was problematic as it suggested a physical or standalone document.</p>	<p>We see a debt obligation (i.e., the loan), as a product or a service. Adding “debt obligation” is not consistent with our plain language objective.</p> <p>“Form” would include online forms and does not prevent the separate insurance application from being on the “same digital flow”.</p>
41	Prohibition against tied selling	
	<p>One commenter suggested a review of this provision in the context of mortgage default insurance.</p>	<p>We recognize that there are other regulatory requirements related to mortgages; however, the framework ensures that conduct and consumer information are appropriate from an insurance marketing standpoint. The provision is consistent with Alberta and similar to Saskatchewan. However, we have made some changes to improve the readability.</p>
42-50	Disclosure obligations of restricted insurance representative	
	<p>One commenter felt that it would be difficult to provide the required disclosure in writing at the time of application since an application may be taken over the phone. They suggested that the disclosure could be provided verbally with written disclosure to follow.</p>	<p>We have adapted section 42 to allow for disclosure at the application stage to be verbal, but there remains a requirement that the restricted insurance representative provide this information in writing within 20 days of the insurance coming into force. The customer then has 20 days from the time of receiving this written information to exercise their right to rescind the contract. This harmonizes with other jurisdictions.</p>
	<p>One commenter had concerns with the provision that imposes different and heightened disclosure requirements for a particular type/class of insurance products and suggest that it should apply equally to all types/classes of insurance, rather than just one.</p>	<p>The requirements in section 43 [now section 44] enhance consumer protection by dealing with identified issues.</p>
	<p>One commenter did not support the requirement to disclose to consumers that a restricted insurance representative is not</p>	<p>Section 45 [now 46] recognizes that the person promoting the product is not a fully licensed agent and it may benefit the client to speak to a licensed agent. The restricted insurance</p>

	a licensed insurance agent and the consumer may want to consult a licensed agent and suggested that the unintended but equally unacceptable consequence would be the tilting of what is otherwise a level playing field.	representative is not recommending or promoting a particular agent. The decision whether to speak to a fully licensed agent rests with the consumer.
	One commenter thought there was overlap between sections 46 and 52 and suggested they be combined.	Section 46 [now 47] is a disclosure obligation, whereas section 52 establishes the right to rescind. This approach is consistent with the other jurisdictions that include the right to rescind.
44	Compensation disclosure	
	We received three comments on the disclosure of compensation. One commenter suggested that dealerships fully disclose their commission. Two commenters suggested that the amount of compensation and the basis for disclosing the compensation is difficult to calculate and it would be better to disclose that the person is receiving compensation.	Compensation over 30% provides a significant inducement for restricted insurance representatives to promote a product that may not be in the client's interests. Requiring disclosure of amounts that exceed 30% of the price paid by the consumer for the insurance product provides important information to allow the consumer to make a fully informed decision and furthers consumer protection. We appreciate that there are different models for compensating restricted insurance representatives and the amounts paid can vary. However, the basis for calculating the compensation should be easy to explain to a consumer.
51	Oversight obligations of insurer	
	One commenter recommends that FCNB define 'reasonable and demonstrable procedures regarding the disclosure requirements of restricted insurance agents.	This provides a principle-based approach. What is reasonable varies with the circumstances. Insurers are well suited to determine what is reasonable.
52	Right to rescind	
	One commenter was pleased to see that mortgage default insurance was not subject to a right to rescind.	We thank the commenter for their support.
53	PART 6 – EXEMPT INCIDENTAL SALES	
54-55	Exemption from licensing requirement for portable electronics vendors	
	One commenter was pleased that portable electronics insurance was part of exempt incidental sales. The commenter further suggested that there should be clarity that "portable electronics insurance" can continue to be sold as a service contract.	The proposed framework recognizes that many of these products are insurance (and not a service contract) and therefore are subject to regulation under the <i>Insurance Act</i> and related regulations/rules.
	One commenter suggested that the sale of "portable electronics insurance" should also be considered "incidental" at two additional points of sale: when the	We have updated the Rule to refer to "exempt sales of insurance" as suggested by the commenter

	customer (i) activates wireless services; and (ii) seeks repair of a device.	
57-58	PART 7 – ADJUSTERS	
59-63	Licensing qualifications and educational requirements – adjusters	
	One commenter was concerned with the requirement for 24 months of experience before a level 1 assistant adjuster could apply for a level 2 adjuster licence. This requirement would have a significant impact on the sponsorship and supervision responsibilities of insurers. It felt that level 1 assistant adjusters should have greater autonomy.	Under the proposed changes the existing level 1 and level 2 will be merged into a new level 1. The existing level 3 is the equivalent of the new level 2. Under the existing regime an individual will need 24 months experience as a level 2 to obtain a level 3. Usually this would be in addition to the 12 months experience as a level 1, so a total of 36 months experience. Under the Rule, a person only needs 24 months as a level 1 to obtain a level 2 licence (s. 60).
	One commenter recommended that FCNB consider a principles-based approach rather than the prescriptive requirements currently set out in the proposed rule. It strongly recommended Sections 60 and 61 of the proposed rule be revised to require a <i>set number</i> of educational courses rather than mandated courses as currently drafted.	The courses are specific to the educational needs for adjusting. This includes the Insurance Institute adjusting courses. The courses are also consistent with several other jurisdictions.
	One commenter did not support the requirement to complete the educational requirement for a level 1 assistant adjuster prior to the issuance of a licence and thought the educational requirements should be completed with 12 months of the licence being issued.	The requirement for a prerequisite course is consistent with several other jurisdictions and enhances consumer protection by requiring adjusters to have a minimum education. This avoids individuals who fail to complete the course being forced out of the job they have been doing for the last 12 months or longer.
	There were two comments regarding the mandatory progression for level 1 adjusters. One commenter supported this change, while another commenter opposed the removal of mandatory progression.	FCNB has determined that mandatory progression negatively impacted individuals who preferred to remain as an assistant adjuster and who were not interested in advancing to work on more complex matters. A level 1 assistant adjuster must be under supervision.
64-66	Supervision – adjusters	
	We received several comments regarding supervision of adjusters. One commenter found the proposed restrictions to be overly prescriptive and would place a strain on experienced adjusters to review and manage file of level 1 assistant adjusters. The commenter found the requirement for countersignatures or notations to be particularly prescriptive.	We propose to maintain direct/close supervision for level 1 licensees. However, the requirement for countersignatures or notations for claim reports or settlement offers would only be in place for the first 12 months of holding a level 1 licence.

	Two commenters suggested that subsection 65(1) was overly broad and could capture administrative tasks.	We have reviewed subsection 65(1) and clarified the drafting to refer to adjusting activities rather than insurance activities generally.
	One commenter thought that section 64(2) was sufficient and recommended that section 65(1) be removed to prevent inconsistencies.	We have reviewed these provisions and made clarifications and do not see any inconsistencies with subsection 64(2) and subsection 65(1).
	PART 10 – DESIGNATED REPRESENTATIVES	
77-79	Responsibilities of a designated representative	
	One commenter found the responsibilities of the designated representative to be too sweeping and broad.	The designated representative is the primary person responsible for the organization. We have modified the provisions to clarify that we were not requiring direct supervision of all employees. This is consistent with some other regulators and other financial sectors. This does not mean that a designated representative cannot delegate some responsibilities to others, but he or she is ultimately responsible.
	One commenter suggested that sections 77 and 78 were duplicative. It also noted the use of the terms “firm” and suggested “entity” was a better term.	Section 77 relates to adjusting firms, agencies and managing general agents while section 78 relates to restricted insurance representative. Separate provisions are necessary given that FCNB’s authority with respect to restricted insurance representatives is limited to employees engaged in carrying on insurance. Section 77 only applies to “licensed firms” which is defined in the rule as adjusting firms, agencies and MGAs. Section 78 applies to restricted insurance representatives and clarifies that the obligations are only with respect to insurance activities undertaken by employees.
80	Change of designated representative	
	One commenter suggested that 20 days was not sufficient to find a replacement for a designated representative.	It is important that licence holders have a designated representative in place. Therefore, when one ceases, there should be a replacement in place relatively quickly. Where a licence holder is having difficulty finding a permanent replacement, the Rule allows for a temporary replacement. We have amended section 80(1) to cover circumstances when the designated representative is temporarily absent, ill or incapable of acting.
	PART 11 – MARKET CONDUCT	
81	Use of personal information	
	We received several comments regarding the use of personal information and consent to use of personal information. Some commenters suggested the need for a definition of “personal information”.	We clarified that personal information is in the context of applicable privacy legislation. By adding “applicable privacy legislation” this also responds to concerns related to the need for the customer’s consent to collect and use the information.

	Other commenters suggested that these provisions overlapped or were inconsistent with privacy legislation.	
	Another commenter noted that the reporting of privacy breaches to the Superintendent was duplicative as these are already reported to the Office of the Privacy Commissioner of Canada.	The Rule requires the reporting of privacy breaches to the Superintendent so that the Superintendent is aware of the privacy breach and can monitor the licensee's response to the privacy breach to ensure that there are no suitability issues.
	One commenter thought the requirement to report to the Superintendent any privacy breaches "without delay" was too onerous.	We made changes to the Rule to require notification that is harmonized with the wording of the federal privacy legislation.
	One commenter was unclear if a requirement set out in a rule constituted a "lawful authority under federal privacy legislation."	The proposed Rule, once in force, would have the same effect as a regulation and would fall within the category of "required by law".
	One commenter suggested that the terminology of "those acting on its behalf" should be clarified.	We clarified that "those acting on its behalf" means those acting on behalf of a licensed restricted insurance representative.
82-84	Market conduct	
	One commenter sought clarity on the use of a brand name.	Brand names would be captured by business name".
85	Conflicts of interest	
	One commenter suggested that disclosure of potential conflict of interests should be permitted to be sent to the customer after a transaction has been completed.	Conflicts need to be disclosed before or at the time of the transaction. The intent is to protect the consumer prior to them making a decision whether the product is appropriate for their needs.
90-93	PART 12 – DUTY TO REPORT	
	Two commenters recommended that the reporting period of 10 days for any change in the agent's name, employer or contact information was a challenge, and further recommended the reporting period be extended to 15 or 30 days. One commenter suggested clarifying 'reasonable grounds' related to a designated representative's obligation to notify an insurer of unsuitable licence holders.	The obligations in sections 90 and 91 are on the individual licensee who would have this information. FCNB believes that these reporting periods are reasonable given that these would not be frequent occurrences, and some could impact a person's suitability. Likewise, we believe that that the timelines in sections 92 and 93 are reasonable. What is "reasonable grounds to believe" varies with the circumstances. This wording is consistent with the obligation on insurers in the amended Act. This provides a principle based approach while protecting consumers.
94-98	PART 13 – ERRORS AND OMISSIONS INSURANCE	

	<p>Several commenters supported the introduction of a requirement to maintain errors and omission insurance, noting that this harmonizes with requirements in place in other jurisdictions.</p> <p>One commenter suggested that the firm should be able to provide details on the persons covered under the insurance to the regulator.</p> <p>One commenter suggested that there be an exemption from this requirement for trust and loan companies who are not required to have error and omissions insurance under the federal <i>Trust and Loan Companies Act</i>.</p>	<p>How intermediaries provide proof of E&O is outside the scope of the rule.</p> <p>We updated paragraph 94(3)(b) to cover trust and loan companies.</p>
99-111	PART 14 – TRUST ACCOUNTS	
	<p>One commenter noted that some of the requirements in the Rule conflict with the requirement in s.364(2) of the Act.</p>	<p>Section 364 of the <i>Insurance Act</i> was amended and many of the provisions in the Act, including subsection 364(2), have been moved out of the Act and moved into the Rule and updated</p>
	<p>One commenter sought clarity on the requirement of a trust account for adjusters.</p> <p>Two commenters suggested that this provision should not apply to restricted insurance representatives.</p>	<p>There is no obligation on an insurer to pay money owed to a claimant or other person to an adjuster. They are free to pay the money to the claimant or service provider directly. However, if they pay the money to the adjuster on the claimant or other person's behalf, that money is trust money and must be handled according to the Rule. Further, the adjuster must pay that money out to the person who is entitled to the money.</p> <p>We updated the Rule to clarify that the triggering event will be when the person becomes entitled to the money rather than receipt of the money by an adjuster. This is to ensure that the funds are paid to the proper person in a timely manner.</p> <p>The requirement to pay trust funds to an insurer is initiated by a demand from the insurer. If a contract provides for payment schedules, that would not contravene this provision.</p> <p>We have reviewed these provisions and believe that they should apply to restricted insurance representatives, if that person receives trust money. If the restricted insurance representative is not receiving trust money, the provisions would not apply.</p>
113	PART 16 – TRANSITIONAL PROVISIONS	
114	General insurance agents	
	<p>Three commenters recommended that licensed agents and adjusters should have</p>	<p>We will be working with all licensees to ensure that they are transitioned to the appropriate level of licence considering their</p>

	<p>their licences grandfathered in the current system.</p>	<p>training, experience and current responsibilities to ensure that there is no unnecessary disruption.</p> <p>All individuals will be transferred into the new licensing structures without additional educational requirements. However, some individuals may need to provide additional information to determine the appropriate level of licence.</p> <p>FCNB will be issuing a bulletin providing more details on the transition.</p>
	<p>One commenter requested that any agents who maintain a Class 2 licence automatically have a travel insurance licence.</p>	<p>Any agent who is currently authorized to carry on travel insurance activity will be eligible for a travel insurance licence.</p> <p>The intent going forward is that anyone doing travel insurance would be required to hold a separate travel insurance agent licence. The educational requirements for the travel insurance agent will be published in a bulletin.</p>
	<p>Other comments</p>	
	<p>One commenter noted that the rule is silent on public adjusters and requested clarity.</p>	<p>The definition of adjuster in the Act includes public adjusters. Therefore, all the requirements in the rule also apply to public adjusters.</p>
	<p>One commenter requested a lead time of 12 to 18 months to allow for implementation.</p>	<p>Industry has had significant notice of the proposed changes through the introduction of the Act in June 2021 and publication of the Rule for comment in November 2021.</p>

FINANCIAL AND CONSUMER SERVICES COMMISSION
RULE INS-002 *INSURANCE FEES*

General Comments	
One commenter was pleased to see the fees for restricted insurance representatives mirror the fee structure in Manitoba, Saskatchewan, and Alberta.	We thank the commenter for their support.
Two commenters requested further clarity on the circumstances where the Superintendent would find it “fair and reasonable” to provide a refund for an application.	The fees collected cover the costs of reviewing an application. Refunds are intended to be in exceptional cases at the discretion of the Superintendent based on a case-by-case review.
Two commenters supported removing the distinction in fees between residents and non-residents.	We thank the commenters for their support.
One commenter asked that industry be provided adequate notice of the rule coming into effect.	Industry has had significant notice of the proposed fee changes through the publication of the Fee Rule for comment in December 2021.
One commenter questioned when recoverable expenses would apply and suggested a rate cap on recoverable expenses.	The practice of FCNB is to only seek recoverable expenses related to compliance actions in exceptional circumstances, usually where there have been repeated non-compliance issues.
One commenter noted that transfer of a sponsor in the case of a business organizations would now pay an application fee and urged FCNB to address this concern.	We appreciate the comments and have updated the rule to provide an exemption from the application fees in certain circumstances.



ANNEX C

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 meets 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 to facilitate insurance transactions between an insurer and agencies or agents, 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 and submitting applications for life insurance or accident and sickness insurance arranged by itself or through an agency or agent with whom it has a written agreement;
 - (ii) entering into a written agency agreement with an agency or agent for life insurance or accident and sickness insurance; or
 - (iii) supervising and monitoring the activities of a life insurance or accident and sickness insurance agency and agent with whom it has a written agreement;
- (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 as an agent 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 is either of the following:
 - (a) an officer or salaried employee of a licensed insurer, who does not receive commissions;
 - (b) 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 as an agent 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 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 20 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 each 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) adopt and follow a written supervision plan that demonstrates reasonable and prudent supervision of the general insurance activities of the person being supervised;
 - (c) provide the Superintendent, when requested, with information with respect to the person being supervised.
- 24. (1) An individual who is required to be under supervision shall not conduct any general insurance agent 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;

- (3) For the purpose of subsection (2), 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 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 summary of the terms, including limitations, exclusions and restrictions, of the insurance offered;
 - (ii) a 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
 - (i) in the case of a contract of group insurance, the application and a certificate will be sent to that person.
43. A restricted insurance representative, or an employee of a restricted insurance representative, shall provide the insured in writing, within 20 days of the insurance coverage coming into force, with all of the following:
- (a) the disclosure set out in paragraph 42(a) and (b)
 - (b) the application and documentation describing the insurance;
 - (c) the policy or, in the case of group insurance, the certificate;
 - (d) written documentation that evidences the insurance.
44. 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.

- 45. (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 of the amount of compensation, inducement or benefit or the basis for calculating the amount of the compensation, inducement or benefit.

- (2) A restricted insurance representative, or an employee of a restricted insurance representative, shall provide the insured in writing, within 20 days of the insurance coverage coming into force the disclosure set out in subsection (1).

- (3) For clarity, subsection (1) does not include a salary paid to an employee of the restricted insurance representative.

- 46. 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.

- 47. 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.

- 48. 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.

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 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.
50. 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.

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 43 and subsection 45(2) 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 SALES OF INSURANCE

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 f related to 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) provide appropriate instruction consistent with the type of activity conducted by the person being supervised;
 - (b) adopt and follow a written supervision plan that demonstrates reasonable and prudent supervision of the adjusting activities of the person being supervised;
 - (c) review and approve all claim reports and settlement offers of the person being supervised for 12 months from the date of the licence;
 - (d) document the review and approval through countersignatures or notations in paper or electronic systems for 12 months from the date of licence;
 - (e) provide 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 adjusting 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 all insurance activities of the licensed firm.
- (3) The designated representative of a licensed firm is responsible to specifically ensure that:
- (a) staff are adequately trained and supervised, 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, or in the case of a temporary absence due to illness or incapacity to act or other similar circumstance, 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 or substitute 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 behalf of a restricted insurance representative shall comply with applicable privacy legislation and shall only collect and use personal information as permitted by applicable privacy legislation, that is:
 - (a) necessary to carry out an insurance transaction,
 - (b) appropriate for the fulfillment of the service or product provided or a related purpose; and
 - (c) is kept only as long as necessary or required by law.
- (2) An insurance intermediary and those acting on behalf of a restricted insurance representative 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, as soon as feasible, of any breach of privacy legislation including an 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) a 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) an investigation commenced, disciplinary action taken, or decision rendered by a regulatory or professional body;
- (c) a filing in bankruptcy or filing of a consumer proposal;
- (d) a change in other employment or business activity;
- (e) a change in employer;
- (f) any civil actions commenced, or decision rendered in relation to financial activities, fraud or breach of trust;
- (g) an 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 any of the following:
 - i. a member institution of the Canada Deposit Insurance Corporation;
 - ii. 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;
 - iii. a trust and loan company incorporated or continued pursuant to the *Trust and Loan Companies Act*.
- (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 person entitled to the money 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 the person becoming entitled to 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 on the application 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.

Effective date

123. This Rule comes into force on a date or days to be fixed by proclamation of Bill 33 *An Act to Amend the Insurance Act* and specifically paragraphs 1(a), (b) and (c), sections 4, 13, 21 and 22, paragraphs 23(a) and (b), sections 26, 27, 30, 37, 45 to 53, 58, 60 to 62, 72 to 74, 77, 78, and 81 to 89, paragraphs 93(a) and (b), sections 95 and 96, paragraphs 97(f), (g), (k) to (o) and (q), and sections 98 to 100.



ANNEX D

**FINANCIAL AND CONSUMER SERVICES COMMISSION
RULE INS – 002 INSURANCE FEES**

**PART 1
DEFINITIONS**

1. (1) In this Rule “Act” means the *Insurance Act*.
- (2) The definitions contained in the *Act* apply to this Rule, unless the terms in question are defined in this Rule.

**PART 2
FEES PAYABLE TO THE COMMISSION**

2. (1) All fees set out in this Rule are payable to the Commission.
- (2) The fee payable for each application for, or renewal of, a one-year licence for an individual is:
 - (a) \$125 for a level 1, level 2 or level 3 general insurance agent;
 - (b) \$125 for a life insurance agent;
 - (c) \$125 for an accident and sickness insurance agent;
 - (d) \$75 for a travel insurance agent;
 - (e) \$200 for a special insurance broker;
 - (f) \$125 for a level 1 assistant adjuster;
 - (g) \$125 for a level 2 adjuster;
 - (h) \$125 for a level 3 senior adjuster;
- (3) The fee payable for each application for, or renewal of, a two-year licence for an individual is:
 - (a) \$250 for a level 1, level 2 or level 3 general insurance agent;
 - (b) \$250 for a life insurance agent;
 - (c) \$250 for an accident and sickness insurance agent;
 - (d) \$150 for a travel insurance agent;
 - (e) \$400 for a special insurance broker;
 - (f) \$250 for a level 1 assistant adjuster;
 - (g) \$250 for a level 2 adjuster;
 - (h) \$250 for a level 3 senior adjuster;
- (4) The fee payable for an application for or a renewal of a one-year licence for a restricted insurance representative licence is based on the number of employees or other persons acting on behalf of

the restricted insurance representative in the business of insurance at the time of the application or renewal:

- (a) \$150 for 1 to 4 employees or other persons;
 - (b) \$225 for 5 to 10 employees or other persons;
 - (c) \$375 for 11 to 15 employees or other persons;
 - (d) \$500 for 16 to 20 employees or other persons;
 - (e) \$700 for 21 to 99 employees or other persons;
 - (f) \$1,500 for 100 to 249 employees or other persons;
 - (g) \$3,000 for 250 to 499 employees or other persons;
 - (h) \$5,500 for 500 or more employees or other persons.
- (5) The fee payable for an application for, or a renewal of, a one-year licence for an adjusting firm is \$150.
- (6) The fee payable for an application for, or a renewal of, a one-year licence for an agency is \$150.
- (7) The fee payable for an application for, or a renewal of, a one-year licence for a managing general agent is \$150.
- (8) The fee payable for a licence for an individual in subsection (2) and (3) may be waived, at the discretion of the Superintendent, if the following criteria is met:
- (a) there is an amalgamation, merger or reorganization of a sponsoring insurer or licensed firm;
 - (b) there are twenty or more individual licences impacted by the amalgamation, merger reorganization or arrangement.

PART 3 RECOVERABLE EXPENSES

3. Pursuant to subsection 373(8) of the *Act*, the following expenses are recoverable by the Commission:
- (a) \$50 per hour for each employee of the Commission involved in the compliance review;
 - (b) disbursements properly incurred by the Commission for a compliance review;
 - (c) fees paid or payable to an expert;
 - (d) disbursements properly incurred by an expert;
 - (e) fees paid or payable for legal services;

- (f) disbursements properly incurred in connection with the provision of legal services.

**PART 4
REFUNDS**

- 4. An application fee is not refundable, unless the Superintendent considers the refund, or part of the refund, is fair and reasonable.

**PART 5
OTHER FEES**

- 5. There is a fee payable of \$25 for each of the following:
 - (a) a letter of licencing history;
 - (b) a certified copy of a licence;
 - (c) a cheque or payment that is refused due to non-sufficient funds.
- 6. The amount for the purposes of paragraph 94(5)(a) of the *Insurance Act* is \$50.

**PART 6
EFFECTIVE DATE**

- 7. This rule comes into force on a date or days to be fixed by proclamation of Bill 33 *An Act to Amend the Insurance Act* and specifically paragraphs 1(a), (b) and (c), sections 4, 13, 21 and 22, paragraphs 23(a) and (b), sections 26, 27, 30, 37, 45 to 53, 58, 60 to 62, 72 to 74, 77, 78, and 81 to 89, paragraphs 93(a) and (b), sections 95 and 96, paragraphs 97(f), (g), (k) to (o) and (q), and sections 98 to 100.