

OVERHAUL OF THE INSURANCE INTERMEDIARY REGIME IN NEW BRUNSWICK NOW IN EFFECT

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On February 1, 2023, the Financial and Consumer Services Commission of New Brunswick ("**FCNB**") issued the final versions of two new rules: Rule INS-001 - *Insurance Intermediaries Licensing and Obligations* and Rule INS-002 - *Insurance Fees* ("**Rule 001**", "**Rule 002**", and, collectively, the "**New Rules**"). The New Rules significantly overhaul the licensing regime for intermediaries, by, among other things, creating new license classes, a new licensing regime to allow agencies, adjusting firms, and managing general agents to act as licenced intermediaries and a new licensing regime for restricted insurance representatives. These changes have resulted in the repeal of the following regulations under New Brunswick's *Insurance Act* (the "**Act**"):

- *Adjusters Regulation*;
- *Agents and Brokers Regulation*;
- *Licence and Examination Fees for Agents and Brokers Regulation*;
- *Licence Revival Fee Regulation*; and
- *Life Insurance Agent Licensing Regulation*

Updates to Licence Classes

Rule 001 creates new licence classes. For example, a person who held a life, accident and sickness agent licence now holds a life insurance agent licence. Similarly, a class I agent licence is now known as a level I general insurance agent licence.

For the most part, license classes were automatically updated when the Rule came into force without any action on the part of licensees. However, licensees who held a class II resident agent licence or a non-resident agent or broker license (other than a life insurance agent or broker licence), must request a general insurance agent licence (level 1, 2 or 3) upon their next renewal and must provide details of their qualifications and educational requirements. Licences will remain valid until the next renewal.

New Licensing Framework for Agencies, Adjusting Firms and Managing General Agents

The New Rules also establish a framework requiring agencies, managing general agents and adjusting firms

carrying on insurance business to become licenced as insurance intermediaries. Such entities have until April 1, 2023 to submit a completed application through FCNB's licensing portal. The specific requirements for the license application are set out in Part 8 of Rule 001.

New Licensing Framework for Restricted Insurance Representatives

Rule 001 introduces a restricted insurance representative licensing regime similar to the existing regime in Saskatchewan, Manitoba and Alberta for incidental sellers of insurance.

The following types of applicants may apply for a restricted insurance representative licence:

- 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.

The Rule also lists an expansive list of the authorized classes or types of insurance for which incidental sellers may apply. Note that travel insurance may only be issued by deposit-taking institutions.

Businesses that are required to obtain a restricted insurance representative licence pursuant to the new regime have until May 1 to submit a completed application. The specific requirements for the license application are set out in Part 5 of Rule 001.

Pursuant to Rule 001, insurers must ensure that a restricted insurance representative acting on its behalf has reasonable and demonstrable procedures respecting the disclosure requirements under the Rule, a process in place to verify that the procedures are being followed and the knowledge and skills to carry on the type of insurance activity being conducted.

Exemption for Portable Electronics Insurance

Notably, there is a licensing exemption for portable electronics vendors, or persons acting on their behalf, who are selling portable electronics insurance related to a portable electronic device, provided that the purchaser

receives the following at the time of the sale:

- a. a written summary of the terms of the portable electronics insurance displayed in a prominent manner,
- b. a written summary of the circumstances upon which the insurance can be terminated and the procedures for making a claim, and
- c. a written statement of the purchaser's rights to rescind the insurance contract and obtain a full refund at the time of the sale.

These requirements are similar to the requirements in Quebec, wherein a similar exemption applies.

Third Party Administrators

Rule 001 confirms that third party administrators are exempt from the licensing requirements in the Act. As such, Saskatchewan remains the only province with a licensing regime specifically for third party administrators.

Fees

Rule 002 compliments Rule 001 by setting out the applicable fees for insurance intermediaries in New Brunswick for matters such as applications and renewals.

Conclusion

The New Rules represent a significant overhaul of the licensing regime for intermediaries and should be reviewed carefully. In particular, intermediaries who are now required to be licensed should take heed of the application timelines communicated by the FCNB.

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A Cautionary Note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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