



NOTICE TO THE PROFESSION AND THE PUBLIC VOLUNTARY UNDERTAKING AGREEMENTS

This Notice to the Profession and the Public is to be read in conjunction with the [Notice to the Profession and the Public - Imposing Terms and Conditions on Certificates of Authority](#) [NTP#2020-12/yh1].

BACKGROUND

In response to the increased number of applications for certificate(s) of authority being adjudicated by the Life Insurance Council and the General Insurance Council (collectively the “Councils”) specifically relating to an Applicant holding another occupation, the Alberta Insurance Council (AIC) has sought the following from the Minister:

1. A Delegation; or
2. An amendment to the Regulations

to permit the Councils to attach terms and conditions to certificates of authority.

Due to the unknown timeline for one of the above changes to be reviewed, the AIC and the Councils have developed an interim resolution.

NOTICE TO THE PROFESSION AND THE PUBLIC

1. The Councils may exercise the powers, duties and functions delegated to them by the Minister of Treasury Board and Finance, pursuant to Ministerial Directives [01/01](#), and [02/01](#).
2. The Councils rely on the common use of the term “*undue influence*” as meaning the assertion of one’s position of power over another to obtain a favourable outcome for the party in power.
3. The Councils rely on the following definition of “*conflict of interest*” as provided by the current Regulation.

“conflict of interest position” means a situation where an insurance agent or an adjuster has an incentive to act other than in the best interest of the client¹

4. The Councils rely on the following definition of “*deposit-taking institution*” as provided by the current *Insurance Act*, RSA 2000, c. I-3;

“deposit-taking institution” means

- (i) *ATB Financial or a bank, credit union, loan corporation or trust corporation, or*
- (ii) *A member institution of the Canada Deposit Insurance Corporation or of any other deposit insurance or guarantee plan prescribed under section 1(1)(l) of the Loan and Trust Corporations Act²*

5. The Councils rely on the following definition of “*sales finance company*” as provided by the current Regulation;

“sales finance company” means a corporation, other than a financial institution, that provides consumer loans, and, for the purposes of this Regulation, a corporation that provides or arranges to provide credit³

6. The Councils have elected to offer an **eligible** Applicant the option to enter into a Voluntary Undertaking Agreement (Agreement).

7. The Agreement is **only** offered to an eligible Applicant seeking to obtain, renew, reinstate or retain certificates of authority who holds another occupation which may place the Applicant in a position to exercise coercion or undue influence in order to control, direct or secure insurance business as contemplated by the Regulation⁴, whereby the undue influence **can** be eradicated through the Agreement.

8. A robust internal process for the AIC has been approved and implemented to ensure that only an eligible Applicant is offered and is entering into the Agreement.

9. Each application will be considered individually, however, an Applicant will be **denied** the opportunity to enter into the Agreement if:

- a. An Applicant is an **officer, employee, or** an **independent contractor of a deposit-taking institution** other than a special purpose trust company within the meaning of the *Loan and Trust Corporations Act* **or sales finance company⁵**.

- i. Applicants are advised to review the following:

- (i) The definition of a “deposit taking institution” at paragraph 4(i);
- (ii) The definition of a “sales finance company” at paragraph 5;

¹ *Insurance Agents and Adjusters Regulation* AR 122/01; at ss. 1(1)(d)

² *Insurance Act*, RSA 2000, c. I-3; at s. 1(n)

³ *Insurance Agents and Adjusters Regulation* AR 122/01; at ss. 1(1)(o)

⁴ ss. 5(1)(f) and 5(2)(d) of the *Insurance Agents and Adjusters Regulation* AR 122/01

⁵ Unless the individual is acting under a restricted certificate; *Insurance Agents and Adjusters Regulation* AR 122/01 at s. 1(4)

- (iii) The Canada Deposit Insurance Corporation; and
- (iv) The Loan and Trust Corporations Act

in order to ascertain whether the occupation in question falls within paragraph 9(a)

or

- b. Where an Applicant's other occupation gives rise to a:
 - i. real conflict of interest,
 - ii. potential conflict of interest, or
 - iii. apparent conflict of interest

when acting as an insurance agent.

Occupations may include but will not be limited to:

- (i) Government Agencies, for example
 - Canada Revenue Agency
 - Canada Border Services Agency
 - Law Enforcement
- (ii) Politicians and Legislators.

or

- c. Where an Applicant's other occupation gives rise to undue influence which **cannot** be eradicated through the use of the Agreement. Occupations may include, but will not be limited to:
 - (i) Politicians
 - (ii) Legislators.

10. The Councils reserve their authority to decide all matters of eligibility based on the facts before them with respect to any request to obtain, renew, reinstate or retain a certificate of authority.
11. The Councils maintain their delegated authority to consider the nature of **any other occupation**, beyond those outlined above, which may give rise to the potential of undue influence and/or may present a conflict of interest.
12. Any questions regarding this *Notice to the Profession and the Public* may be directed to the Director of Legal and Regulatory Affairs at the Alberta Insurance Council.
13. This *Notice to the Profession and the Public* hereby supersedes *Notice to the Profession and the Public* NTP#2020-12/yh4, effective September 2021.
14. This *Notice to the Profession and the Public* may be amended, rescinded or replaced at any time. The Councils will endeavor to provide due notice to the Profession and the Public of any such changes, should they arise.

The [Alberta Insurance Council \(“AIC”\)](#) is an industry regulator responsible for the oversight and market conduct of insurance agents, brokers and independent adjusters in the Province of Alberta. The AIC derives its’ authority through [delegations](#) granted by the Minister of Treasury Board and Finance (“ATBF”), and in accordance with the [Insurance Act](#), RSA 2000 c. I-3 (the “Act”) and its’ [Regulations](#). The AIC provides investigative, governance and administrative services to the Alberta insurance councils including the *Insurance Adjusters Council*, the *General Insurance Council*, and the *Life Insurance Council*, and the *Alberta Insurance Council*.

[Original Signed By]
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