



**Response to Consultation on
Proposed Regulations for the Amended Insurance Act**

October 1, 2009

Submitted to:

Superintendent of Insurance, Alberta Finance and Enterprise

Submitted by:

RIMS Canada Council
RIMS Southern Alberta Chapter
RIMS Northern Alberta Chapter

BACKGROUND

The RIMS Canada Council (RCC) represents Canada's largest group of commercial insurance purchasers. Together, the RIMS Northern and Southern Alberta Chapters represent the largest group of commercial insurance purchases in Alberta. We appreciate the opportunity to express the views of our members to Alberta Finance and Enterprise on the Proposed Regulations for the Amended Insurance Act.

The Risk and Insurance Management Society, Inc. (RIMS) is a not-for-profit organization dedicated to advancing the practice of risk management, a professional discipline that protects physical, financial and human resources. Founded in 1950, RIMS represents nearly 4,000 industrial, service, nonprofit, charitable, and governmental entities. The Society serves over 10,500 risk management professionals around the world.

RIMS has over 950 individual members in Canada, representing more than 400 of Canada's largest companies and organizations in both the public and private sectors, including financial institutions, retail, consumer products and services, energy and utilities, agriculture, transportation, real estate, educational institutions, and municipal, provincial and federal governments.

The RCC is a standing committee of RIMS that addresses Canadian activities and strategic initiatives of RIMS and risk management in Canada. The RCC is comprised of representatives from each of the ten RIMS chapters from across Canada.

Please see Appendix A for more information about RIMS and RIMS in Canada.

COMMENTS ON THE PROPOSED REGULATIONS FOR THE AMENDED INSURANCE ACT

The RCC and the RIMS Alberta Chapters offer the following input on the Ideas for Discussion put forward in the Consultation Paper:

1. Disclosure of Limitation Periods

RCC and the RIMS Alberta Chapters support the proposed regulation on Disclosure of Limitation periods since this will provide further consumer protection.

We also support there not being a requirement for the insurer to provide notice to a third party claimant.

2. Transitional Provision

RCC and the RIMS Alberta Chapters feel that the new regulations should only apply for contracts of insurance that have been entered into after the new provisions go into effect. This would include claims that are in progress.

3. Require Insurance Companies to Participate in Industry Ombudservice Organizations

The RCC and RIMS Alberta Chapters support this regulation in order to form the foundation for a comprehensive complaint handling and reporting system.

6. Disclosure of Compensation and Potential Conflict of Interest Related to Group Insurance Products

RIMS, the RCC and RIMS Alberta Chapters support full disclosure at all stages of all insurance transactions.

11. Innocent Co-insured

The RCC and RIMS Alberta Chapters supports the new section that provides an innocent co-insured the right to claim their portion of a loss where the cause of a loss is caused by an intentional or criminal acts of one of the co-owners of a property. However, we do not feel that the innocent co-insureds provision should be limited to individuals but should apply to all corporations. There are a multitude of corporate situations which involve legitimate exposure to the risk of loss which is addressed by the provision; examples include the various co-insureds covered under a Course of Construction policy in construction projects, or several corporations joined together by a joint venture agreement, or even internally when the corporation is a co-insured with the directors or officers. Fairness, and the realities of corporate activity in our society and the commercial world, support the full application of the co-insured provision to corporations.

12. Innocent Co-insured

We feel that compelling claimants/insureds to submit to examinations under oath is too far-reaching, invasive and unnecessary. During the investigation process the claimant/insured must cooperate fully with the insurer. The insurer is free to ask the claimant/insured to submit to an examination under oath, but the claimant/insured should be free to refuse. After considering the results of its investigation and the level of the insured's cooperation, the insurer then decides whether to accept or deny the claim. The claimant/insured, however, should enjoy the protections of the procedural guidelines of litigation when submitting to an examination under oath, and not be exposed to such a potentially invasive and adversarial process during the "utmost good faith" stages of claim investigation.

13. Fire Insurance Coverage

The RCC and RIMS Alberta Chapters are concerned about the Proposed Regulation 13.2. Large organizations using commercial insurance could run into a situation where they do not know that one of their properties is vacant and a loss occurs. This proposed regulation would result in no insurance coverage in such a situation. Current statutory conditions are working and strike a balance, so there is no need for additional regulations that may be confusing and add ambiguity. Insurance companies can add this to their contract if they want, but should not be part of regulations.

14. Disclosure of Dispute Resolution Process

The RCC and RIMS Alberta Chapters are in full agreement that there should be clear and concise information that the insured is able to understand as to the dispute resolution process. It will be very important that this information is written in plain language. It may be beneficial to reference educational materials within the regulation that the insured could then access through either the Ombudsman or linked to an internet site.

15. Exclusion from the Application of Statutory Conditions for Certain Classes of Insurance (Credit, Guarantee, Surety, Mortgage, Title and Loss of Employment Insurance)

The RCC and RIMS Alberta Chapters do not feel that there should be exclusions for certain classes of insurance. Statutory Conditions form part of the contract of all insurance contracts. Not all conditions are applicable to every contract. If the conditions do not apply to certain classes, then they are irrelevant. If you exclude, could affect something unanticipated.

CONCLUDING COMMENTS

The RCC and RIMS Alberta Chapters appreciate the Alberta Government's initiatives in requesting input on the proposed regulations. We thank Alberta Finance and Enterprise for the opportunity to respond to this Discussion Paper.

We would be happy to provide representatives to meet with Alberta Finance and Enterprise officials or to comment further as the consultation process proceeds. We look forward to your consideration of the views of commercial insurance purchasers as you move forward with your finalizing the Regulations to the Insurance Amendment Act.

Sincerely,

Kim Hunton
Chair, RIMS Canada Council
Ottawa, Ontario

Phil Corbeil
Chair, RCC Communications and External Affairs Committee
Calgary, Alberta

Angela Haywood
President, RIMS Southern Alberta Chapter
Calgary, Alberta

Brian Proctor
President, RIMS Northern Alberta Chapter
Edmonton, Alberta

Attachments:

Appendix A – Background Information on RIMS in Canada

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RIMS

The Risk and Insurance Management Society, Inc. (RIMS) is a proactive voice on behalf of risk managers, dedicated to supporting their function and enhancing their profile as vital elements in organizational success. Founded in 1950, RIMS represents nearly 4,000 industrial, service, nonprofit, charitable, and government entities. The Society serves 10,500 risk management professionals around the world by providing the highest quality products, services and information to manage risk effectively. These services include the largest annual conference on risk management, risk management education, publications, research and networking opportunities, both online and through its extensive chapter network.

RIMS IN CANADA

RIMS has over 950 individual members in Canada, representing many of Canada's largest companies and organizations in many industries, including financial institutions, retail, consumer products and services, energy and utilities, agriculture, transportation, real estate, educational institutions, and municipal and provincial governments. RIMS provides a peer network for its Canadian members through ten chapters across the country. In regular meetings, risk managers exchange ideas and engage in networking with their local industry counterparts. RIMS also facilitates contact with a broad array of service providers in the insurance industry, and with subject matter specialists and technicians of every stripe.

The RIMS Canada Council addresses RIMS' Canadian activities and strategic initiatives. These include an annual Canadian Risk Management Conference, risk management education opportunities, liaison with government and other Canadian associations and communication with Canadian members through the online RIMS Canada newsletter, the RIMS Canada Council website and other channels.

WHAT IS RISK MANAGEMENT?

Risk comes in many forms, and the risk management profession encompasses a wide scope of functions. There is some level of risk associated with almost all organizational decision making and operations. The role of risk management is to address risk for the organization's benefit.

Risk managers help protect their organizations' property, assets, image and people from internal and external events that could threaten the organization's integrity. Risk managers apply the risk management model of risk identification, assessment, measurement, mitigation and monitoring to the satisfaction of their organization's management and governance structure, ensuring that federal and provincial laws and regulations are followed. Most risk managers assume a critical role in the area of risk financing through the placement and supervision of insurance programs and internal financing measures. Risk managers represent one of the largest groups of buyers and administrators of commercial insurance, and, as such, they are aware of impacts and practical implications of developments in the local and global insurance markets.

With an increasing awareness of the need for risk management at the corporate governance level, many risk managers are being asked to assume responsibilities for enterprise-wide risk management structures and activities. Addressing risk appropriately is a key component of achieving due diligence.

RISK MANAGEMENT EDUCATION

Canadian risk managers can obtain the basic-level Canadian Risk Management (CRM) designation by taking three courses: Risk Assessment, Risk Control and Risk Finance. Courses are offered at universities across Canada, and online and by correspondence through University of Toronto (English) or Université Laval (French).

The RIMS Fellow® (RF) designation is the credential for the experienced risk professional. To become a RIMS Fellow, candidates must hold the CRM designation, complete prescribed university classes and twelve days of RIMS Fellow Workshops, have at least five years of industry experience and commit to ongoing professional development.

To provide up to date information for risk managers, RIMS produces research reports and publications including the monthly Risk Management Magazine, the Riskwire daily online news service, and the real-time online Benchmark Survey. RIMS also offers professional development workshops, industry-specific symposia and a wide range of conference programming.

RIMS supports risk management education in Canada through the William H. McGannon Foundation.

FOR MORE INFORMATION ABOUT RIMS IN CANADA

RIMS in Canada website: www.rimscanada.ca
RIMS website: www.rims.org
Contact: Bonnie Wasser, RIMS Canadian Consultant
Telephone: 416-636-9745
email: bwasser@sympatico.ca



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