



September 15, 2015

Mr. Peter Milburn  
Deputy Minister  
FIA & CUIA Review  
Policy & Legislation Division  
Ministry of Finance  
P.O. Box 9470 Stn Prov. Govt  
Victoria, B.C.  
V8W 9V8

**Re: *Financial Institutions Act Review***

Dear Mr. Milburn,

On behalf of insurance consumers in British Columbia and across Canada, the Property and Casualty Insurance Compensation Corporation (PACICC) thanks the Government of British Columbia for this opportunity to comment on current regulatory practices for the financial services industry. We offer eight comments:

### **1. Leadership**

Financial services legislation in British Columbia is sound, with a few opportunities for enhancement discussed below, and the implementation team is strong. PACICC closely monitors the financial health and consumer protection of the insurance industry, and British Columbia has earned a reputation as a leader within the Canadian community of financial services regulators. The team at the Financial Institutions Commission (FICOM) has demonstrated a capacity to focus scarce resources on the most important issues, like the recent reforms in the supervision of actuaries and current work on the threat of a catastrophic earthquake. Financial sector regulation in British Columbia has proven effective.

### **2. Consumers at risk**

There are a large number of vacant positions at this time at FICOM. In our view, it is not possible to fully implement the existing consumer protection legislation in British Columbia if the necessary staff and resources are not in place. It is not possible to

ensure that every financial institution is in sound financial condition and complying with supervisory standards. Promotion of responsible risk-taking by financial institutions, early detection if troubles arise and timely intervention requires a full complement of capable staff. FICOM should move quickly to fill its existing vacancies and re-establish its capacity to implement all of its responsibilities to protect consumers.

### **3. Wind-up of entities**

The failure of an insurance company is rare, nevertheless, since 1980, 36 insurance companies have been ordered into wind-up by Canadian regulators. None of these failures involved insurance companies regulated by British Columbia. There is confusion about the process that FICOM would use if it needed to protect consumers. PACICC believes that the federal *Winding-Up and Restructuring Act* needs to be reformed. These changes include allowing provincial regulators the power make application to federal court to wind-up a provincial insurer in which it has lost confidence. The *Financial Institutions Act* should give clarity and provide the Government the authority to act in the interests of consumers if a company must be closed. The governments in Quebec, Alberta, Saskatchewan and elsewhere have this power, and it should also be introduced in British Columbia.

### **4. Disclosure of Financial Information**

Privacy legislation in British Columbia, as currently enacted, has reduced the capacity of the Government to protect insurance consumers by keeping the financial results and consumer complaint data of provincial insurance companies secret. In particular, all of the senior governments in Canada, except British Columbia, have established a mechanism to share confidential consumer complaint information to enhance the confrontation of inappropriate and criminal practices. All federally regulated insurers operating in the province already release financial data quarterly via the internet. Most of the governments in Canada – but not British Columbia – make available to consumers and other stakeholders basic information about the financial health of insurance companies. Disclosure practices in British Columbia fall short of those found in other provinces, including Alberta, because some critical actions to protect consumers are not permitted under the current privacy legislation.

### **5. Managing earthquake risk**

Each year FICOM requires insurers to report their financial preparedness for a large earthquake. These filings, or a summary of them, should be released to the public annually. For example, insurers should disclose the model(s) used, their Probable Maximum Loss and key assumptions. Insurers should also disclose actions taken to anticipate perils that have not been modeled (e.g. tsunami, landslide) and risks that may not be addressed in the models (e.g. supply chain, business interruption and debris removal).

This is in the public interest for four reasons. Doing so would:

- Encourage preparedness and accountability for all P&C insurers operating in the province;
- Improve understanding of the role that insurance will play (or not play) in the province's recovery from a major earthquake;
- Provide an opportunity annually to remind the province's property insurance consumers of their earthquake risk; and,
- Allow PACICC and other financial analysts to assess the solvency of provincially regulated insurers.

## **6. Recognizing the importance of actuaries**

All international research into why insurers fail shows that the primary cause of insurance failures relate to inadequate pricing and reserving of insurance risk. PACICC encourages recognition of the important role actuaries play in maintaining solvency of insurers. In particular, PACICC recommends that the *Financial Institutions Act* define an actuary to be a fellow in good standing of the Canadian Institute of Actuaries.

## **7. Legally enforceable guidelines**

PACICC supports the concept that FICOM be allowed to issue legally enforceable guidance. This is consistent with international best practices defined by the International Association of Insurance Supervisors (IAIS) Insurance Core Principles.

## **8. Guarantee funds**

Guarantee funds protect consumers from financial loss should their insurer fail. Section 66 of the *Financial Institutions Act* recognizes the importance of guarantee funds in British Columbia. Section 66 of the Act should be harmonized with Sections 817-819 of the *Alberta Insurance Act* and Part V, Division 6 of Saskatchewan's Bill 177 (*An Act respecting Insurance and Insurers and making consequential amendments to other Acts and regulations*).

We look forward to working with the province to enhance financial services legislation in British Columbia.

Best regards,



Paul Kovacs  
President & CEO