



Reference: Foreign Insurance Companies

Our File: P2878-5

August 15, 2007

To: Foreign life companies (including foreign fraternal benefit societies)
Foreign property and casualty companies

Subject: Part XIII of the *Insurance Companies Act*

On May 14, 2007, OSFI issued a letter to the insurance industry outlining the steps it proposes to take to implement the amendments to Part XIII of the *Insurance Companies Act* contained in *An Act to amend the law governing financial institutions and to provide for related and consequential amendments*, S.C. 2007, c. 6. The amendments to Part XIII clarify the regulatory scope that applies to Canadian branches of foreign insurance companies. OSFI recommended to the Department of Finance that the amendments to Part XIII come into force on January 1, 2009.

Following the coming into force of the amendments to Part XIII:

(1) risks located in Canada but insured outside Canada by foreign companies will no longer be subject to Part XIII requirements (including reporting and vesting requirements);

and

(2) risks located outside Canada but insured in Canada will become subject to Part XIII requirements.

In order to ease the transition for OSFI and foreign companies, in respect of scenario (1) above, OSFI will presume all risks reported on the books of a branch as at January 1, 2009 to have been insured in Canada and therefore to be subject to Part XIII requirements, unless the foreign company satisfies OSFI – or OSFI otherwise comes to the view – that some or all of those risks were insured outside Canada.

In respect of scenario (2) above, OSFI expects that foreign companies will, within a reasonable timeframe after the coming into force of the amendments to Part XIII, use their best efforts to identify all the risks located outside Canada that were insured in Canada prior to January 1, 2009 and comply with Part XIII requirements in respect of those risks. This approach is consistent with the *Winding-up and Restructuring Act* and the nature of the clarifications brought to Part XIII.



Following the coming into force of the amendments to Part XIII, some foreign companies may have an excess of vested assets in relation to the risks they insured in Canada. Foreign companies will be able to seek a release of vested assets held in respect of risks they prove to OSFI were insured outside Canada, so long as they demonstrate that, following the release, they will hold sufficient vested assets in Canada for all the risks they insured in Canada regardless of the location of such risks.

To assist foreign companies in determining where a risk was insured, OSFI will issue its Advisory entitled “Insurance in Canada of risks” in final form in the coming weeks.

For additional information or if you have any questions regarding the contents of this letter, please contact Philippe-A. Sarrazin, Director, Legislation and Policy Initiatives by telephone at (613) 998-4190 or by email at philipe.sarrazin@osfi-bsif.gc.ca

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