

SECTION V

Since the insurance legislation in the various jurisdictions in Canada is not exactly the same, certain differences must be accommodated.

This Section includes certain statutory references that may be necessary to provide the authoritative references for the completion of each jurisdiction's filing.

Foreign companies should note that the jurisdictional requirements outlined in this Section are mostly reproduced from Section V of the P&C-1 Instructions, and are therefore mainly for the information of insurers incorporated under Canadian federal and provincial jurisdictions. These requirements are provided here mainly for the interest of foreign companies; however, some requirements are applicable to federally registered foreign companies and foreign companies licensed to write only marine business in certain provinces.

Note that the differing filing dates have been outlined in Section II, and the mailing addresses are provided in Section IX - Appendix (a).

Newfoundland & Labrador

Other specific instructions necessary to meet Newfoundland & Labrador's requirements may be circulated by the Superintendent to the appropriate insurers, prior to year-end.

Legislation

The Insurance Companies Act: R.S.N. 1990

Language

Contact the Regulator for direction.

Actuary's Report

The actuary's Certificate of Opinion is considered an integral part of the Annual Return and failure to include it would deem the statement incomplete. In addition to this Certificate, provincially regulated companies are also required to submit a full copy of the Actuary's Report with their Annual Return.

Statutory Filings by Federally Registered Insurers

Commencing with the 2002 Annual Return, statutory filings made by Federally registered insurers will only need to be submitted to the Office of the Superintendent of Financial Institutions, Canada.

Prince Edward Island

Other specific instructions necessary to meet Prince Edward Island's requirements may be circulated by the Superintendent, to the appropriate insurers, prior to year-end.

Legislation

Insurance Act: R.S.P.E.I. 1974

Actuary's Report

Insurers are required to file only a Certificate of Opinion with the condition that a copy of the Actuary's Report be available at any time upon request.

Language

Contact the Regulator for direction.

Statutory filings by Federally registered insurers

Federally registered insurers are required to file only the following pages from their Annual Return (P&C-2):

Page 67.10 and 67.30

Nova Scotia

Other specific instructions necessary to meet Nova Scotia's requirements may be circulated by the Superintendent, to the appropriate insurers, prior to year-end.

Legislation

Insurance Act: R.S.N.S 1967

Actuary's Report

Insurers are not required to file their Actuary's Report with the condition that a copy be available at any time upon request.

Language

Contact the Regulator for direction.

Statutory filings by Federally registered insurers

Federally registered insurers are required to file only the following pages from their Annual Return (P&C-2):

Page 10.10, 67.10, 67.20, 67.30, 99.10 and 99.15

New Brunswick

Other specific instructions necessary to meet New Brunswick's requirements may be circulated by the Superintendent, to the appropriate insurers, prior to year-end.

Legislation

Insurance Act: R.S.N.B 1973

Regulations to the Insurance Act:

- (1) The Auto Insurance Classification
- (2) Licence and Examination

| Actuary's Report

| Insurers are required to file only a Certificate of Opinion with the condition that a copy of the Actuary's Report be available at any time upon request.

Language

Filings in either official language are acceptable.

QuebecLegislation

- (1) Companies Act: Part 1, Chapter C-38
- (2) Insurance Act: Chapter A-32

Regulation to the Insurance Act:
Application of the Act, Chapter A-32, r.1

Special Reporting

Every insurer licensed to write business in Quebec, whether incorporated under the laws of Quebec, the laws of Canada or some other jurisdiction, must:

- (a) complete Pages 30.40, 30.45, 30.47, 60.40, 60.41, 70.21 and 70.35 of the Annual Return; and
- (b) complete Page 67.15 if insurer has written, during the current year or in a prior year, policies for a term of more than 12 months. The data reported on Page 67.15 must include:
 - for policies for a term not exceeding 12 months:
 - total premiums for policies written during the current year;
 - for policies for a term of more than 12 months:
 - portion of premiums applicable to the first twelve months of the term for the policies written during the current year;
 - portion of premiums applicable to the following period of the term for policies written in the previous year (from the 13th to 24th months, without exceeding 12 months);
 - portion of premiums applicable to the following period of the term for policies written in the year before the previous year (from the 25th to the 36th months, without exceeding 12 months);
 - and so forth for the following periods until the expiration of the term of premiums written.

A copy of the major letters of credit and/or confirmation from trustees of deposits held for the account of insurers (reported on Page 70.40) must be attached to the Annual Return.

Quebec (cont'd)Actuary's Report

Pursuant to sections 298.15 and 309 of the Quebec Act respecting Insurance every insurer authorised to practice "damage" (property and casualty) insurance in Quebec must attach an actuary's Certificate of Opinion concerning the valuation of the provisions and reserves to its Annual Return.

A copy of the Actuary's Report that establishes and presents the provisions and reserves must be forwarded to the **Autorité des marchés financiers** upon request.

The Actuary's Report must contain a certificate testifying that:

- (i) the reserves maintained by the insurer to guarantee its obligations toward the insured are not less than the reserves required by the Quebec Act or by its "Act of Incorporation", if it is more restrictive;
- (ii) the reserves of provisions are calculated on the basis of appropriate assumptions with respect to the circumstances of the insurer and its contracts of insurance; and
- (iii) the reserves make good and sufficient provision to cover all obligations under such contracts.

The actuary will have to include in the report a description of the assumptions and methods used in the valuation of the said reserves or provisions and also state and justify the criteria that have served as the basis for choices made.

Moreover, the report must also include the other information required by the **Autorité des marchés financiers** of Quebec, for those insurers specifically requested to do so.

Insurers with charters from outside Quebec, which transact insurance in Quebec and for which no specific report is required by the **Autorité des marchés financiers**, must file with the **Autorité** a copy of the Actuary's Report filed with their home jurisdiction, and ensure compliance with the Quebec Act respecting insurance.

Auditors' Report

All insurers licensed in Quebec must submit a copy of the auditors' report required by the Superintendent of Financial Institutions.

In addition, insurers are expected to provide the **Autorité des marchés financiers** with a copy of the annual report for their total business.

Quebec (cont'd)*Letters of Credit*

The **Autorité des marchés financiers** is prepared to recognize approved letters of credit as security maintained in Canada for purposes of reducing the required coverage for unregistered reinsurance. General guidelines concerning the use of letters of credit for this purpose are set out below:

- (i) Letters of credit must be in Canadian dollars and payable in Canada. Letters of credit must be issued by Canadian banks or confirmed by Canadian banks if issued by foreign banks;
- (ii) They must be for a fixed term, at least one year;
- (iii) They must be for a stipulated dollar amount;
- (iv) They must be irrevocable except with at least three months notice to the Regulator. The condition can be satisfied either by a provision in letter of credit or by a letter of confirmation from the issuing bank; and
- (v) The issuing bank, and the confirming bank if applicable, must confirm by letter that it has no claim on the insurance company assets as security for the letters of credit. A sample letter for this purpose is in *Section IX, Appendix (I)*.

Letters of Credit must be in a format acceptable to the **Autorité des marchés financiers**.

In general, letters of credit may be used to offset the required coverage for unregistered reinsurance to the extent of 15% of the amount of the unearned premiums and outstanding losses recoverable from each assuming reinsurer, or \$3.5 million, whichever is less.

On a case by case basis, the **Autorité des marchés financiers** will consider approval of the use of letters of credit in larger amounts, but in no circumstances will the amount of letters of credit approved exceed 15% of the total assets of the insurer. The main criteria in evaluation of these special cases will be the size and financial strength of the unregistered reinsurer.

These limits are applicable to all insurers licensed in Quebec.

A copy of the major letters of credit must be sent with the Annual Return.

Ontario

Other specific instructions necessary to meet Ontario's requirements may be circulated by the Superintendent, to the appropriate insurers, prior to year-end.

Legislation

- (1) Corporations Act: R.S.O. 1990 - Part V
- (2) Insurance Act: R.S.O. 1990

Regulations to the Insurance Act:

- (a) Regulation 669 Financial Statements

Guidelines

Bulletin No. 13/92 - Use of Canadian Depository for Securities Limited

Bulletin No. 01/02 - Investments by Insurers Guideline

Bulletin No. 08/04 - Minimum Capital Test for P&C Insurance Companies

Statutory filings by Foreign insurers licensed in Ontario

Statutory filings (including the Auditor's Report and the Actuary's Report) required to be made by Foreign insurers licensed in Ontario, will only need to be submitted to the Office of the Superintendent of Financial Institutions, Ottawa.

Manitoba

Other specific instructions necessary to meet Manitoba's requirements may be circulated by the Superintendent, to the appropriate insurers, prior to year-end.

Legislation

The Insurance Companies Act: R.S.M. 1987

Regulation to the Insurance Act;
Insurance Company Classes of Insurance

Actuary's Report

Insurers are not required to file their Actuary's Report with the condition that a copy be available at any time upon request.

Language

Filings in either official language are acceptable.

Statutory filings by Federally registered insurers

Statutory filings made by Federally registered insurers, as required by Section 84 of the Act, will only need to be submitted to the Office of the Superintendent of Financial Institutions, Ottawa.

Insurers other than Provincial Insurers and Reciprocal Insurance Exchanges

A report that sets out the particulars of the insurer's business in Manitoba during the year (Section 84). To meet this requirement, insurers must file pages 67.10 and 67.30.

Saskatchewan

Other specific instructions necessary to meet the Saskatchewan's requirements may be circulated by the Superintendent, to the appropriate insurers, prior to year-end.

Legislation

The Saskatchewan Insurance Act

Regulations to The Saskatchewan Insurance Act:

- The Saskatchewan Insurance Regulations 2003

Discounting

Starting with the 2003 Annual Return, actuarial liabilities are required to be reported on a discounted basis. The discounting requirement will apply to Saskatchewan incorporated Property and Casualty insurance companies and to reciprocal exchanges in Saskatchewan for which the Report of the Actuary is required.

Filing RequirementsProvincially Incorporated Insurers and Reciprocal Insurance Exchanges

1. A complete annual return including the auditor's opinion (Section 86)
2. An Actuarial Report if required by the Superintendent.
3. The audited financial statements with auditor's opinion.
4. Audited financial statements for any subsidiaries with auditor's opinion;
5. If subsidiaries are regulated financial institutions, the filings with the primary regulators.

Saskatchewan (cont'd)

In addition to the above, Reciprocal Insurance Exchanges need to file:

6. The name and address of the attorney for the reciprocal insurance exchange.
7. The particulars respecting the reserve fund and guarantee fund maintained by the reciprocal insurance exchange.

For Insurers Other than Provincial Insurers and Reciprocal Insurance Exchanges

1. A report that sets out the particulars of the insurers business in Saskatchewan during that year (Section 87). To meet this requirement the insurers may file pages 10.10 (Corporation information) and the provincial exhibits 67.10 to 67.30.

All annual filings must be filed as follows:

1. If limited by the Superintendent to reinsurance only, 105 days after the financial yearend (Subsection 86(3) & 87(3)).
2. For all other insurers 60 days after the financial yearend (Subsection 86(3) & 87(3)).

Language

Contact the Regulator for direction.

Signature Requirements

For provincial insurers and reciprocal insurance exchanges, the Annual Return shall be verified by the president, vice-president or managing director, or other director appointed for the purpose by the board of directors and by the secretary or manager of the insurer.

Statutory filings by Federally registered insurers

Federally registered insurers are required to file only the following pages from their Annual Return (P&C-2):

Page 10.10, 67.10, 67.30, 99.10 and 99.15

Alberta

Legislation

Insurance Act: R.S.A. 2000

Filing Requirement

Foreign insurers registered in Alberta are not required to file an Annual Return.

British Columbia

For current instructions relating to British Columbia's filing requirements, please consult the website of the Financial Institutions Commission (FICOM) at www.fic.gov.bc.ca.

Legislation

Company Act, RS 1996, Chapter 62
Financial Institutions Act, RS 1996, Chapter 141
Insurance Act, RS 1996, Chapter 226
Insurance (Marine) Act, RS 1996, Chapter 230
Insurance Premium Tax Act, RS 1996, Chapter 232

Regulations to the Financial Institutions Act (FIA) applicable to all foreign insurers:

Capital Requirements Regulation
Extraprovincial Corporations Disclosure of Information Regulation
Financial Institutions Fees Regulation
Insurer Exemption Regulation
Insurance Compensation Plans Regulation
Non-Reporting Company Exemption Regulation
Insurance Company Motor Vehicle Liability Insurance Regulation
Marketing of Financial Products Regulation

Regulations to the Insurance Act applicable to all insurers:

Insurance Classes Regulation
Motor Vehicle Insurance Policy Limits Regulation

Language

Contact the Regulator for direction.

British Columbia (cont'd)

Signature Requirements

| Please consult FICOM's website.

Auditor and Actuary Reports

| Please consult FICOM's website.

Yukon

Other specific instructions necessary to meet the Yukon's requirements may be circulated by the Superintendent, to the appropriate insurers, prior to year-end.

Legislation

The Yukon Insurance Act: R.S.Y. 1986

Regulation to the Insurance Act

Comm. Order 1977/235: #2 - Classes of Insurance

Language

Contact the Regulator for direction.

Actuary's Report

Insurers are required to file only a Certificate of Opinion with the condition that a copy of the Actuary's Report be available at any time upon request.

Northwest Territories

Other specific instructions necessary to meet the Northwest Territories' requirements may be circulated by the Superintendent, to the appropriate insurers, prior to year-end.

Legislation

Insurance Act: Acts of N.T. 1975

Regulation #82 from the Revised Regulation Book
Part I: Classes of Insurance and Insurer's Licences

Language

Contact the Regulator for direction.

| **Nunavut**

| Other specific instructions necessary to meet Nunavut's requirements may be circulated by the Superintendent, to the appropriate insurers, prior to year-end.

| Legislation

| Insurance Act (Nunavut); in force April 1, 1999

| Insurance Regulations (Nunavut); in force April 1, 1999

| Language

| Contact the Regulator for direction.

FederalInsurance Companies Act (ICA)

Legislation governing federally regulated property and casualty companies was most recently proclaimed June 1, 1992, with subsequent amendments.

Regulations issued to date affecting foreign property and casualty companies are as follows:

SHORT TITLE:	STATUTORY AUTHORITY:
Affiliated Persons (Insurance Companies) Regulations	Section 170 of the Insurance Companies Act
Assets (Foreign Companies) Regulations	Section 610 of the Insurance Companies Act
Coming Into Force Order (Act Respecting Insurance Companies and Fraternal Benefit Societies)	Subsection 763(1) of the Insurance Companies Act
Commercial Loan (Insurance Companies) Regulations	Subsection 490(1) and section 703 of the Insurance Companies Act
Complaint Information (Foreign Insurance Companies) Regulations	Sections 605 and 703 of the Insurance Companies Act
Cost of Borrowing (Foreign Insurance Companies) Regulations	Sections 598 to 601, 603 and 703 of the Insurance Companies Act
Credit Information (Insurance Companies) Regulations	Sections 489 and 607 of the Insurance Companies Act
Investments (Foreign Companies) Regulations	Sections 616, 617 and 703 of the Insurance Companies Act
Investment Valuation (Foreign Companies) Regulations	Bill C-82 causes this regulation to be revoked
Miscellaneous Amendments Regulations (Department of Finance and OSFI)	Various

Federal (cont'd)Insurance Companies Act (ICA) (cont'd)**SHORT TITLE:****STATUTORY AUTHORITY:**Reinsurance (Foreign Companies)
Regulations

Section 596 of the Insurance Companies Act

Related Party Transactions (Insurance
Companies) RegulationsSections 533 and 703 of the Insurance
Companies ActVested Assets (Foreign Companies)
RegulationsSubsection 581(1) and section 703 of the
Insurance Companies ActGuidelines and bulletins

In November 1994, OSFI issued a binder: *Guidelines for Property and Casualty Insurance Companies* containing current (and to contain future) **guidelines and bulletins** issued by the Office that are relevant to federally regulated property and casualty insurers.

Guidelines and bulletins issued to date:

<u>Guideline</u>	<u>Issued</u>
Accounting for NHA-insured Mortgage-backed Securities	July 1992
Accounting for Reinsurance of Short-Term Insurance Contracts (draft)	September 1996
Accounting for Structured Settlements	April 1998
Asset Securitization	July 1994
Derivatives Best Practices	May 1995
Derivatives Disclosure - Additional Requirement	October 1995 August 1996

Federal (cont'd)Guidelines and bulletins (cont'd)

<u>Guideline</u>	<u>Issued</u>
Earthquake Exposure Sound Practices	August 1997
Impaired Loans - New Impaired Loans Policy	March 1995 September 1995
Investment Concentration Limit	March 1994
Minimum Asset Test / Deposit Adequacy Test - Substantial Investments in Financial Institutions	August 1993
Processing Information Outside Canada	May 1992
Prudent Person Approach	January 1993
Securities Lending	September 1996 (replaces December 1991)
Transfers of Financial Assets with Recourse	July 1994
Branch Adequacy of Assets Test	December 2002

<u>Bulletins</u>	<u>Issued</u>
Creation of Security Interests	May 1994
Materiality Criteria for Related Party Transactions	December 1993
Substantial Investment in Securities Firms	January 1995
Use of Depositories	December 1996

Federal (cont'd)Unpaid Claims and Adjustment Expenses - Page 20.20, line 13

In accordance with section 667 of the Insurance Companies Act, insurers must not report an amount for Unpaid Claims and Adjustment Expenses that is lower than the Actuary's best estimate.

Letters of Credit

Pursuant to section 9 of the *Assets (Foreign Companies) Regulations*, the Superintendent may allow a foreign company to reduce the total value of assets otherwise required to be maintained in Canada by the amount of a letter of credit drawn on a bank, up to a maximum reduction of 15% of the total value.

Letters of credit may be used to offset the **margin required** for unregistered reinsurance. The maximum that may be used is 10% of the total amount of the unearned premiums and outstanding losses recoverable from **all** assuming insurers (i.e. the equivalent of the amount reported on Page 70.39, line 89, column 06). There is no prescribed limit set for letters of credit from any one assuming insurer.

Letters of credit must be in the standard format required by OSFI, and must be forwarded directly to the Office for approval. In addition:

- (i) Letters of credit must be in Canadian dollars and payable in Canada. Letters of credit must be issued by Canadian banks or confirmed by Canadian banks if issued by foreign banks;
- (ii) They must be for a fixed term, at least one year;
- (iii) They must be for a stipulated dollar amount;
- (iv) They must be irrevocable except with at least three months notice to the Superintendent. This condition can be satisfied either by a provision in the letter of credit or by a letter of confirmation from the issuing bank;

Federal (cont'd)

Letters of Credit (cont'd)

- (v) The issuing bank, and the confirming bank if applicable, must **not have any** claim on the insurance company assets vested in trust with a Canadian trustee for the protection of Canadian policyholders, **as security for the letters of credit; and**
- (vi) Letters of credit should be callable by the beneficiary and will be held in the custody of the Superintendent.

Companies wishing to utilize letters of credit should contact the Office for further information.

Affidavits Verifying Annual Return - Pages 99.10 and 99.15 -

The Affidavit on Page 99.10 must be signed by the Chief Agent. The Affidavit on Page 99.15 must be signed by the President / Chief Executive Officer (refer also to the "Detailed Instructions" for Page 99.15).