

# Regulatory Statement

## Registering a Captive Insurance Company

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<b>Regulatory Statement Number</b>	INS-18-006
<b>Legislation:</b>	<i>Insurance (Captive Company) Act</i> <i>Financial Institutions Act</i>
<b>Related Forms:</b>	Application for Initial Registration as Captive Insurance Company
<b>Date:</b>	October 1, 2018
<b>Distribution:</b>	All Interested Applicants

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### PURPOSE

This Regulatory Statement (“Statement”) outlines the application process through which an applicant can register with the Superintendent of Financial Institutions (“Superintendent”) to carry on insurance business in British Columbia (“BC”) as a captive insurance company (“captive”).

### BACKGROUND INFORMATION

Under the *Insurance (Captive Company) Act* (“ICCA”), a company that proposes to carry on captive insurance business in BC must apply to the Superintendent for registration. Those interested in forming a captive may first arrange a meeting with BC Financial Services Authority (“BCFSA”) staff to discuss the proposed captive’s plan for operations. This may help identify where prospective applicant may not be eligible to act as a captive or its proposal would not be feasible under the captive legislation and may save the applicants valuable resources.

### LEGISLATION

The following legislation applies to captives in BC:

- the ICCA and the *Insurance (Captive Company) Regulation* (“ICCR”);
- prescribed provisions of the *Insurance Act* that apply to a captive as per [Section 4](#) of the ICCA Regulation;
- Sections [39 to 46](#), [63](#), [64 \(2\)](#), [70](#), [75](#), [80](#), [81](#), [105](#), [133](#), [211](#), [213](#), [215](#), [218](#), [243](#), [244](#), [246](#), [247](#) and [259](#) of the *Financial Institutions Act* (“FIA”); and
- the *Business Corporations Act* (“BCA”), with the exception of [Divisions 4](#) and [8](#) of Part 9, which do not apply to a captive.

### Permitted Captives

There are three types of captives that may be registered under the ICCA:

1. A **pure** captive insures the risks of its parent; its parent’s affiliated corporations; and officers, directors, employees, agents, or independent contractors while acting on behalf of the parent or parent’s affiliated corporation.
2. An **association** captive insures the risks of: the association’s members; their affiliated corporations; and officers, directors, employees, agents, or independent contractors while acting

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on behalf of the association's members or their affiliated corporations. The association must have been in existence for at least one year.

3. A **sophisticated insured** captive insures the risks of: a group of "sophisticated insureds"; their affiliated corporations; and officers, directors, employees, agents, or independent contractors while acting on behalf of the sophisticated insured or affiliated corporation. A sophisticated insured is an insured who can demonstrate to the Superintendent expertise in insurance matters and whose aggregate annual premiums, insured by an insurance company, total at least \$500,000.

#### Company Name

A captive must not carry on business using a corporate name that includes the word "insurance", or a form of the word, unless included in the phrase "captive insurance company".

### **REQUIREMENTS**

Applicants must submit the following materials in respect of an application for initial registration:

- non-refundable [application fee](#) payable to BCFSa;
- non-refundable [registration fee](#) will become due to BCFSa if the captive receives consent to registration;
- completed [Application for Initial Registration as Captive Insurance Company](#);
- certified copy of the company's Certificate of Incorporation, Memorandum, and Articles (once incorporated with BC Registry Services);
- corporate organization chart of parent(s) company or association (where applicable);
- parent company's or association's Resolutions to authorize the:
  - establishment of a captive; and
  - designation of an individual(s) to act for the parent or the association in matters relating to compliance with regulatory authorities and to negotiate letters of credit, guarantees or indemnities for, or on behalf, of the parent or association as may be the case;
- audited financial statements of the parent(s) or the association (including auditor's report);
- audited financial statements of affiliated companies (if applicable);
- completed [Personal Information Return](#) ("PIR") with accompanying documents for each senior officer, director and shareholder owning 10 per cent of more voting shares;
- draft copies of all insurance policies;
- draft copies of all reinsurance agreements;
- copy of Investment Policy;
- Actuarial report by qualified independent actuary (Fellow of Canadian Institute of Actuaries) providing actuarial analysis or feasibility study including estimates of loss and premium rating;
- Projections for a three-year forecast horizon including:
  - pro forma financial statements including balance sheet and income statement;
  - maximum retained risk (per loss and annual aggregate);
  - loss experience
- detailed plan of operations with supporting data, including:
  - background information in respect of parent company or association;
  - risks to be insured (direct, assumed and ceded) by line of business;
  - description of any fronting arrangements;
  - description of the reinsurance program;
  - organization and responsibility for loss prevention and safety including the main procedures followed and steps taken to deal with events prior to possible claims;
  - loss experience of proposed insureds for the past five years, (if any); and
  - description of claims handling procedures;

- copy of guarantee or indemnity agreement, if the proposed captive enters into a guarantee or indemnity under which a parent, sophisticated insured, member organization or affiliated corporation may incur liability for the benefit of the captive.

BCFSA staff may request additional information where further clarification is required to assess the application for registration, or a potential concern has been identified.

## **OTHER INFORMATION**

### Annual Renewals

Captives must annually renew their registration by submission of a complete renewal of captive registration application. For information on this process, please reference Regulatory Statement [INS-18-008 – Renewal of Registration of a Captive Insurance Company](#).

### Corporate Governance

A captive is required to obtain approval from the Superintendent prior to making changes to its ownership, articles, or memorandum, or prior to ceasing to conduct captive insurance business in BC.

### Directors and Senior Officers

Directors and senior officers are required to notify the Superintendent in writing of any material change in their PIRs. New directors or officers must submit a full PIR.

### Auditors and Actuaries

A captive is required to notify the Superintendent in writing of the appointments of a new auditor or a new actuary and provide evidence that they meet the requirements of an approved auditor or actuary, within 30 days after the appointment.

For the purposes of [Section 9\(1\)\(a\)](#) of the ICCA, the Superintendent considers an auditor as approved, if the auditor is a member or a partnership whose partners are members, in good standing of a provincial or territorial organization of chartered professional accountants, within Canada, who are authorized by the organization to conduct audit service. For the purposes of [Section 9\(1\)\(b\)](#) of the ICCA, the Superintendent considers an actuary as approved, if the actuary is a Fellow of the Canadian Institute of Actuaries.

### Coverage

If the captive proposes to change the insurance policies it issues, the captive is required to notify the Superintendent 30 days prior to effecting the changes.

### Guarantee or Indemnity

When a captive proposes to enter into a new, or amend an existing, guarantee or indemnity, the captive is required to file a copy of the guarantee or indemnity with the Superintendent 30 days prior to its execution.

### Reinsurance

If the captive enters into or amends a reinsurance agreement or treaty, the captive is required to file a copy of the new or amended agreement or treaty with the Superintendent within 30 days after its execution.

## **INSTRUCTIONS**

To make an enquiry or to request a meeting with BCFSA staff in respect of an application, please contact Statutory Approvals at [statapprovals@bcfsa.ca](mailto:statapprovals@bcfsa.ca) or at (604) 398-5034.

All notices, information or documentation referenced in this Statement may be submitted via the [Integrated Regulatory Information System](#) (“IRIS”), a secure portal through which regulated entities may provide information to BCFSa. IRIS, as well as [instructions](#) on how to set up an account and submit an application through IRIS, may be accessed on BCFSa’s website.

Application fees may be paid in IRIS by credit card (Visa or Mastercard). Payment by credit card through IRIS is an integrated part of a submission and will be remitted when the applicant submits the required application materials. Please contact [statapprovals@bcfsa.ca](mailto:statapprovals@bcfsa.ca) for instructions on how to remit payment if you wish to pay an application fee by electronic fund transfer, wire, or cheque.