

Regulatory Statement

Requirements for Placement of Insurance with Unauthorized Insurers

Regulatory Statement Number	24-006
Legislation:	<i>Financial Institutions Act, Insurer Exemption Regulation</i>
Related Forms:	Placement of Insurance with Unauthorized Insurers Return
Date:	February 28, 2024
Distribution:	B.C. insurance agents

PURPOSE

This Regulatory Statement provides the requirements for, and sets out the position of the Superintendent of Financial Institutions (“Superintendent”) on, the placement of insurance with unauthorized insurers by insurance agents under Section 76 of the *Financial Institutions Act* (“FIA”) and Section 9 of the *Insurer Exemption Regulation* (“IER”).

This Regulatory Statement replaces Information Bulletin INS-06-010 “Placement of Risks with Unauthorized Insurers.”

This Regulatory Statement should be read in conjunction with Regulatory Statement 24-005 [Placement of Insurance with Unauthorized Insurers Return](#) and the Insurance Council of British Columbia’s (“Insurance Council”) [Notice ICN 21-001 'Use of Unauthorized Insurers'](#).

BACKGROUND INFORMATION

Insurance agents are not permitted to place risks in British Columbia (“B.C.”) with unauthorized insurers, except in a narrow set of circumstances as provided by section 76 of the FIA and section 9 of the IER.

This Regulatory Statement sets out the circumstances under which the legislation permits an insurance agent to place a risk with an unauthorized insurer and includes expectations for compliance with those requirements.

REQUIREMENTS

Under Section 76 of the FIA and Section 9 of the IER, licensed insurance agents may place a risk with an unauthorized insurer if:

- (i) the insurance agent has not directly or indirectly solicited the client for the placement of the risk; and
- (ii) the insurance agent has been authorized by the client to place the insurance with an unauthorized insurer.

Insurance agents or insurers must not rely on section 76 of the FIA to circumvent the FIA’s authorization requirements. Insurance agents must use appropriately authorized insurers to insure risks in B.C.; this is both a legislative responsibility and a duty of care to their clients. A list of insurers authorized in B.C. is available on BCFSa’s [website](#).

Classification: **Public**

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Insurance agents should note that the Insurance Council has set out additional requirements in its Notice ICN-21-001 including an assessment of and disclosure to the insured of why the risk cannot be placed with an authorized insurer, and the risks associated with the placement with an unauthorized insurer.

Approval for Unauthorized Insurer to Inspect or Adjust or Appraise

If a risk is placed with an unauthorized insurer, section 76(3) of the FIA prohibits that insurer from making an inspection or adjusting or appraising a loss in B.C. unless the following conditions are met:

- the contract must be placed in accordance with section 76 of the FIA;
- the insurance premium tax was paid; and
- the unauthorized insurer seeks and receives the written approval of the Superintendent to inspect or adjust or appraise a loss under the contract.

In seeking the Superintendent's approval to inspect or adjust or appraise a loss, unauthorized insurers should be aware that the Superintendent will typically require that the insurer:

- provide an undertaking to the Superintendent that it will appear in court in Canada with respect to the claim;
- agree to honor any order imposed by the court system in Canada;
- appoint an attorney in B.C. to accept service; and
- use an adjuster that is appropriately licensed with the Insurance Council to inspect, adjust or appraise the claim.

The Superintendent may establish additional requirements on a case-by-case basis, including requiring the insurer to establish sufficient assets in Canada for settlement of the claim.

ADDITIONAL RESOURCES

The Insurance Council licenses and regulates insurance agents, salespersons, and adjusters. More information on licensee requirements and obligations can be found on its [website](#).

The *Insurance Premium Tax Act* requires the insured to file and pay insurance premium tax if the insured enters into an insurance contract with an unlicensed insurer. Additional tax may also be payable by the insurers. More information can be found on the Insurance Premium Tax [website](#).

CONTACT INFORMATION

For questions about this Regulatory Statement, please contact BCFSA at insurance@bcfsa.ca.

LEGISLATION

FIA, s. 76

Insurer Exemption Regulation

Copies of the legislation are available from [BC Laws](#).

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