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Introduction

The Canadian Association of Direct Relationship Insurers (CADRI) is the voice of insurance enterprises that offer automobile, home and commercial insurance directly to Canadians. We advocate for flexible and evolving regulatory and legislative frameworks governing automobile, property and commercial insurance to enable product and service innovation so that Canadians can easily choose insurance that serves their needs through the delivery channels of their choice.

CADRI appreciates the opportunity to review and comment on “Consultation Paper Insurance 2019 – Licensing of Insurance Adjusters and Damage Appraisers in New Brunswick” (May 2019). We bring the perspective of national companies which provide insurance to Canadians across the country. To do so, we employ, train and supervise insurance agents and adjusters ensuring that the highest standards of customer service are upheld. Through CADRI, our members were consulted in the development of the Canadian Council of Insurance Regulators’/Canadian Insurance Systems Regulatory Organization’s *Guidance on Fair Treatment of Customers* and seek to be compliant with it.

FCNB’s “comprehensive review” of the current adjuster and damage appraisers’ regimes seeks to “ensure that the regimes are current, enhance consumer protections and remove any unnecessary administrative burdens” and “to increase harmonization with other provinces.” We support all these goals.

We appreciate FCNB’s proposals to:

- make claims processes satisfying for clients,
- reduce the number of adjuster licenses required in New Brunswick from four to three,
- modernize the licensing regime by removing adjusters’ specialization requirements,
- eliminate the necessity to progress between licence levels, within a specified timeframe
- update the educational rules, with a few exceptions, and
- eliminate the separate licence category for damages appraisers, while maintaining oversight and consumer protection.

These are significant steps to streamlining the licensing regime and aligning it with other jurisdictions across the country.

It is important for us to reiterate that CADRI's members are national in scope and serve customers in varying provincial and territorial jurisdictions. Recognition of the size, scope and corporate oversight of these employees by regulators and their regimes is critical. Moreover, regulators' efforts to harmonize rules with their provincial counterparts are very important to us and to the smooth operation of our service to clients.

In reviewing the proposed changes through that lens: scope of operations and degree of employee oversight, we would observe that FCNB's proposed changes do, in some cases, appear to be designed for smaller, independent companies who have a roster of adjusters for hire.

As we look ahead to the potential of implementing the proposed changes, they will have a significant impact from an operational perspective. Given the training and supervision provided to employees by our members, we strongly question the need for individual claims adjusters to be licensed locally. Relying on corporate governance and industry standards, rather than licensing, has worked elsewhere in Canada and we believe it would work in New Brunswick.

Brief answers to the consultation questions are attached in Appendix 1.

1. Adjuster Licensing Requirements

As a principle, we believe that adjusters who are employees and, as such, are subject to industry codes of conduct and corporate policies to ensure fair treatment of consumers, customer service and regulatory compliance, do not require provincial or territorial licensing. This approach has been demonstrated successfully in Alberta, British Columbia, Manitoba, Nova Scotia, Ontario and Saskatchewan.

If New Brunswick continues with its intent to license adjusters, we have the following compliments, comments and suggestions.

Definition of adjuster

CADRI supports the definition of adjuster, as proposed. We applaud New Brunswick's efforts to harmonize the definition with other jurisdictions. Adjusters fulfill much the same function regardless of the province or territory they live and work in.

Licence levels

We welcome the move from four levels of licences to three.

In addition, eliminating mandatory progression from one level to another, in a prescribed timeframe, will allow companies and adjusters to determine the appropriate level for a person in the context of the office's needs and the adjuster's career aspirations. As noted in the consultation document, removing the progressive requirements also aligns with other jurisdictions.

Similarly, CADRI endorses New Brunswick's elimination of specialization categories. Placing the responsibility on the supervisor to ensure the adjuster is well-trained to handle cases competently reflects contemporary workplace policy. Our members provide training specific to their products and business lines, so they are addressing the issue that specialization was targeting.

Temporary Adjusting in Emergency Situations

When a severe weather event strikes, Canadians want to get back to normal daily life as soon as possible. CADRI's members appreciate the seamless issuing of temporary papers for adjusters from other jurisdictions who come to New Brunswick to speed things up during these high-volume periods.

We do not have any concerns in renaming this paperwork, "temporary authorizations".

We would like to reiterate that harmonizing the length of time the out-of-province adjusters can stay on a file with other jurisdictions would be appreciated. Some other Atlantic provinces allow longer periods for the temporary adjusters to do their work. The lengthier cases tend to be the more complex ones. Having to switch adjusters mid-process can be disruptive to clients.

Elimination of subsection 358(5) re: incapacity

CADRI supports FCNB's intention that customers need to count on adjusters having the appropriate qualifications – no matter the circumstances.

3. Educational and Educational Experience

CADRI generally supports the proposal to move from four licensing levels to three. Relative to the educational requirements, our members train personnel in house and have strict internal supervisory standards, corporate codes of conduct and compliance policies. In this context, the skills and knowledge acquired by completing the CIP are out of sync with the requirements of a level 1 assistant adjuster's function.

Recognition for adjusters from other jurisdictions

Putting in a new regime whereby the Superintendent could recognize equivalent training or adjusting experience obtained in another jurisdiction would enable seasoned adjusters to seamlessly apply their experience to the benefit of New Brunswick customers.

We recommend a refinement to the proposed approach: that an adjuster from a jurisdiction where there are three levels of licences should automatically qualify for the equivalent level in New Brunswick regardless of their years of experience.

4. Supervision

CADRI members find that proposed approach to level 1 licensees, in that they cannot 'own' a file, does not recognize the training provided by their employers and the experience they can bring to both customer service and protection.

In addition, the current modernization process opens the opportunity for the regime to embrace new workplace realities. Increasingly the workforce has flexible work hours and the prospect of working remotely. In the latter situations, companies have policies and protocols to supervise these workers virtually. CADRI encourages FCNB to weave this modern approach to customer service into its regulations.

5. Renewal of Licence

We support the changes in licensing approach to move to two-year licences.

6. Reinstatement

CADRI commented on the issue of reinstatement of agents' licences in its comments on "Modernizing the New Brunswick Insurance Licensing Framework" in 2016. We suggested that agents whose licences have lapsed should be allowed to requalify.

CADRI believes that requiring adjusters to redo their CIP requirements is onerous. CIP courses which have been completed and passed do not have an expiration date and should be considered valid if an adjuster whose licence has lapsed chooses to take steps to requalify.

7. Duty to Report

CADRI appreciates that FCNB seeks to ensure that the regulator is informed when an adjuster changes their employment, their name or ceases to act as an adjuster. Requiring five days' notice can be challenging. Similarly, the 10 business days' notice periods for supervisors and designated representative can be a tight target.

CADRI members propose an across-the-board, 30-day allowance to report such changes.

11. Transition

CADRI supports FCNB's proposal to transition from four to three licence levels.

12. Damage Appraisers

CADRI supports New Brunswick harmonizing its approach with other jurisdictions and eliminating the necessity to license damage appraisers.

Conclusion

CADRI appreciates the opportunity to participate in New Brunswick's work to update its licensing regime.

There are several proposals outlined in the Consultation Paper which will remove some regulatory burdens and ease efforts to provide New Brunswick customers with excellent customer service.

We look forward to continuing the conversation with FCNB as it reviews these issues and the submissions from other participants and stakeholders.

Yours sincerely,



Alain Thibault
CEO and Chairman
CADRI

Appendix 1

Consultation Paper Insurance 2019 – Licensing of Insurance Adjusters and Damage Appraisers in New Brunswick – Questions posed

CADRI has answered relevant questions. For longer responses please refer to the submission above.

1.1 Do you agree with the definition of ‘adjuster’ as proposed, or, alternatively, how would you propose that “adjuster” be defined?

Yes, agree with new proposed definition.

1.2 Do you agree with the proposed exemption from licensing for certain types of adjusting, or, alternatively, what types of adjusting, if any, do you propose should be exempt? Please elaborate on why they should be exempt.

Agree with proposed exemptions for life insurance, accident and sickness insurance, marine insurance, aircraft insurance and legal expense insurance.

1.3 Do you agree with the proposed adjuster licensing levels or, alternatively, how should adjuster licensing levels be structured?

Agree with 3 levels instead of 4 levels.

1.4 Do you agree with the elimination of adjusting specializations? Please elaborate on your response.

Agree with proposal.

1.5 Do you agree with the elimination of the current mandatory progression requirements? Please elaborate on your response.

Agree with proposal.

1.6 Do you have any concerns about the proposal to eliminate subsection 358(5)? Please elaborate on your response.

No concerns.

1.7 Please comment on any other matters for consideration on these issues.

Please see CADRI’s preceding submission.

2.1 Do you agree with the proposed minimum standards for an adjusting firm to obtain a licence, or, alternatively, what would you propose?

NA

2.2 Do you agree with the proposal for a designated representative, or alternatively, what would you propose? Please elaborate on your response.

NA

2.3 Please comment on any other matters for consideration on this issue. *NA*

3.1 In consideration of any comments that you provided on licensing levels, do you have any comment on the proposed educational requirements for each level of licence?

Our members train personnel in house and have strict internal supervisory standards, corporate codes of conduct and compliance policies. In this context, the skills and knowledge acquired by completing the CIP are out of sync with the requirements of a Level 1 assistant adjuster's function.

3.2 In consideration of any comments that you provided on licensing levels, do you have any comment on the proposed minimum experience requirements for each level of licence?

CADRI members can work with the minimum experience levels.

3.3 If you are suggesting licensing levels and/or educational requirements different than those being proposed by the Commission, what would be appropriate with respect to extensions (if applicable)?

3.4 In consideration of any comments that you provided on licensing levels and educational requirements, do you have any comment on the proposal respecting licensing of applicants from another jurisdiction?

We support that the Superintendent could recognize equivalent training or adjusting experience obtained in another jurisdiction would enable seasoned adjusters to seamlessly apply their experience to the benefit of New Brunswick customers.

We recommend a refinement to the proposed approach: that an adjuster from a jurisdiction where there are three levels of licences should automatically qualify for the equivalent level in New Brunswick regardless of their years of experience.

Please clarify whether the term "another jurisdiction" would include adjuster licences from the US?

3.5 Please comment on any other matters for consideration on this issue. *NA*

4.1 Do you have any comment on the proposed supervision requirements and restrictions for a Level 1 assistant adjuster?

Disagree, Level 1 licences currently require 12 months experience and specific CIP courses, yet you do not allow Level 1 adjusters to "own" the claim file.

"A level 1 cannot adjust an insurance claim in their own right;"

This limits the availability of adjusters since it is a big gap between Level 1, 2, 3 licences under the new proposal.

4.2 Do you agree with the proposed definition of "supervision", or, alternatively, how do you propose "supervision" be defined?

Agree with proposal.

4.3 Do you agree with the proposed with respect to limitations on the number of Level 1 assistant adjusters that can be supervised by a supervisor, or, alternatively, what do you propose?

Agree. Company policies will ensure that an appropriate level of supervision is applied.

4.4 Do you agree with the proposed responsibilities for a designated representative, or, alternatively, what do you propose?
NA

4.5 Please comment on any other matters for consideration on this issue. *NA*

5.1 In consideration of any comments that you provided on licensing levels, do you agree with the proposal with respect to the renewal of adjuster licences, or, alternatively, what do you propose?

Agree with 2 year licence and renewal process.

5.2 Please comment on any other matters for consideration on this issue. *NA*

6.1 In consideration of any comments that you provided on other topics, do you have any additional information that should be considered by the Commission in establishing the appropriate timeframe to require an adjuster who has been out of the industry to requalify for a licence?

The educational requirements are CIP courses. CIP courses once completed and passed do not have an expiration date. It is not likely or needed that an individual retake the same CIP course, adjusters would still hold a credit for the CIP courses they have taken or may have completed their CIP designation.

If adjusters have completed their CIP designation perhaps the requirement to redo the CIP courses could be waived. Instead could adjusters requalify with a Level 1 licence and use an experience timeframe of 12 months, 24 months to re-establish their qualification.

6.2 Please comment on any other matters for consideration on this issue. *NA*

7.1 Are there additional matters that should be reported by a licensee?

No.

7.2 Are there additional matters that should be reported by a designated representative?

No.

7.3 Do you agree with the proposed time period for giving notice, or, alternatively, what do you propose? Please elaborate on your response.

CADRI proposes a 30-day notice period.

Applications for Employment Insurance request a reason for departure from a finite list. A similar list should be provided for employers to choose from.

7.4 Please comment on any other matters for consideration on this issue. *NA*

8.1 Are there additional acts that an adjuster should be prohibited from doing with respect to adjusting a loss?

No. Agree with proposal.

8.2 Are there additional protections that should be in place to protect clients' personal information?

No. Agree with proposal.

8.3 Please comment on any other matters for consideration on this issue. *NA*

9.1 Is the proposed errors and omissions insurance adequate? If not, what do you propose? Please elaborate on your response.

Agree with proposal.

9.2 Do you agree with the proposed notice that an errors and omissions insurer should provide to the Superintendent before being permitted to cancel or refuse to renew an errors and omissions policy, or, alternatively, what do you propose? Please elaborate on your response.

Agree with proposal.

9.3 Please comment on any other matters for consideration on this issue. *NA*

10.1 Do you agree with the proposed requirements for an adjuster who receives trust monies, or, alternatively, what do you propose? *NA*

Agree with proposal.

11.1 Do you agree with the proposed transition, or, alternatively, what do you propose?

Agree with proposal.

11.2 Please provide any additional comments with respect to adjuster licensing in New Brunswick? *NA*

12.1 What are the risks to consumers of eliminating the requirement that damage appraisers be licensed? What are the benefits of eliminating the licensing requirement?

CADRI agrees with the proposed changes to eliminate the need for damage appraisers to have a licence. No other provinces require damage appraisers to hold a licence.

12.2 If the Commission maintains the requirement for damage appraisers to be licensed, what are the appropriate training and experience requirements for obtaining a licence?

12.3 Do you agree with the current definition of "damage appraiser", or, alternatively, what do you propose?

12.4 Are there additional activities that should be excluded from being considered as acting as a damage appraiser? Please elaborate on your response.

12.5 Are there additional acts that a damage appraiser should be prohibited from doing with respect to appraising a loss? Please elaborate on your response.

12.6 Please provide any additional comments with respect to damage appraisers working on claims in New Brunswick?