



# CIAA CFO Panel Arizona 2007

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# CIAA CFO Panel

## THINGS THAT KEEP AN INSURANCE CFO UP AT NIGHT!



# Canadian Regulatory Changes

- Definition of Insuring “in Canada” Risks
  - Draft Advisory: Application to Foreign Companies including Reinsurers
- Branch Adequacy of Assets Test (BAAT)
- Treatment of Marine Insurance Under part XIII (Foreign Companies) of the Insurance Companies Act.

## Part XIII amendments

- Announced on May 14, 2007 as part of technical amendments to the Insurance Companies Act to ‘clarify inconsistencies in terminology in Part XIII’
- Only cosmetic changes to the legislation
- The major change is being introduced through an administrative advisory defining when policies will be considered in Canada: the regulatory focus is on the location of insurance, rather than the location of risk.
- OSFI has initiated work on amending its regime for regulating foreign companies’ Canadian insurance operations based on the fact that:
  - risks located in Canada but insured outside Canada will no longer be subject to Part XIII requirements; and
  - risks located outside Canada but insured in Canada will become subject to Part XIII requirements.
- Amendments to the reporting instructions for regulatory returns, to the vested assets requirements (e.g. BAAT) would be made.
- Marine insurance removed from the exemptions under Part XIII .

## Draft Advisory – June 19<sup>th</sup> 2007

- Considerations for where a risk is based
  1. Interaction leading to the policy formation or renewal (where the policy application is solicited, received, where terms & conditions negotiated, where acceptance is communicated or from where it is issued).
  2. Where information is provided about the policy, premium is received, claims adjudicated from and paid.
  3. The jurisdiction with which the policy is most closely connected, having regards to law with which policy must comply, and the currency of the premium and where the parties consider the risk to have been insured.
  4. Location where the policy is promoted (activities in the furtherance of the sale of a product or service).

## Draft Advisory – June 19<sup>th</sup> 2007 (continued)

- Considerations

- The listed indicia are not exhaustive (a business could consider other items but must be prepared to defend them).
- OSFI’s view is that item 1 related to Interaction carries the most weight.
- Where there are “in Canada” and “out of Canada” aspects to the business model, the location where “most” of the “material” aspects occur drives the determination.
- OSFI views as “in Canada” where;
  - Two or more aspects of policy formation or renewal (excluding policy issuance) are in Canada, or
  - Any one of where the application is received, terms & conditions are negotiated, acceptance is communicated or acceptance is received and the policy is serviced and the product is promoted in Canada, or
  - Any one aspect policy formation or renewal (excluding policy issuance) are in Canada and the policy jurisdiction is Canada.

## Draft Advisory – June 19<sup>th</sup> 2007 (continued)

- OSFI views as “out of Canada” where:
  - Where information is provided about the policy and the the policy relates to a foreign jurisdiction, and
  - Where applications are received in Canada, premium is received in Canada in a foreign currency and the policy is issued in Canada but negotiation of terms and conditions are out of Canada, or
  - Where communication of acceptances in Canada, premium is received in Canada in a foreign currency but applications are received and the policy is issued out of Canada.
- While guidance has been provided, the number of permutations of indicia is large.
- OSFI has indicated that, commencing 01/01/2009, all business will be assumed to be ‘in Canada’ unless OSFI has provided a ruling that it is ‘out of Canada’
- This will settle down over time...but what until then?

## “In Canada” Risks Impacts

- Many transitional issues are still to be worked out:
  - Treatment of existing business and related reserves / vested assets
  - The need for client disclosure for ‘out of Canada’ risks
  - Company IT implications – designed to identify reporting based on risk location
  - Impact on credit for reinsurance – Multi-region contracts, contact may not have sufficient work done in Canada – thought signed by the Chief Agent.
  - Impact on the capacity of the Canadian reinsurance market is uncertain
  - Impact of change in taxation base – diversion of CRA in starting point for taxation from the P&C2
  - Foreign regulator / taxing authority implications – they may still tax (putting foreign tax credits at risk).
  - The impact on Captives is not addressed

# Branch Adequacy of Assets Test (BAAT)

- OSFI has changed the treatment of applicable recoverable from unlicensed reinsurers within the BAAT computation effective fiscal 2007
- It is now a reduction of Available Assets (ie the nominator) rather than an addition to Margin Required (ie the denominator).
- This change has the effect of significantly increasing the BAAT percentage.
- While this result was somewhat expected, OSFI had cautioned to wait for a few quarters before seeking any reductions.

# Branch Adequacy of Assets Test (BAAT) (continued)

Illustrative Example of the Calculation Change	New Calculation	Prior Calculation
Available Assets (before unregistered Reinsurance)	258	258
Unregistered Reinsurance	(84)	0
<b>Total Net Assets Available [A]</b>	<b>174</b>	<b>258</b>
Margin Required (before unregistered Reinsurance)	37	37
Unregistered Reinsurance	0	84
Margin Required [B]	37	121
<b>Excess Net Assets Available over Margin Required</b>	<b>137</b>	<b>137</b>
<b>BAAT [A/B]</b>	<b>470%</b>	<b>213%</b>

# Marine Insurance

- Foreign companies (and monoline marine companies) will be required to apply to amend their Orders to Insure to include ‘marine insurance’
- Multiline domestic companies have the option
- Marine insurance will be subject to the Advisory referenced above in determining whether it is ‘in Canada’
- The income tax implications are unclear