

Insurance & Reinsurance - Canada

Government Enacts Changes to Reinsurer Oversight

Contributed by **Lang Michener LLP**

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On March 29 2007 the government passed Bill C-37 as part of its five-year review of the laws governing financial institutions. However, it reserved the implementation of a number of the bill's components. One such component was recently enacted and will reduce the regulatory cost for licensed reinsurers doing business in Canada.

New Section 489.3 of the Insurance Companies Act and Regulation SOR/2008-167 permit reinsurers to apply for exemption from the oversight of the Financial Consumer Agency of Canada (FCAC). Previously, as is the case with all Canadian federally regulated insurers, reinsurers were:

- required to file assessments with the FCAC;
- obliged to have and publish complaint-handling procedures; and
- required to be members of a third-party dispute settlement mechanism.

However, as the government is seeking to alleviate unnecessary compliance burdens placed on insurers that do not deal directly with individuals or small businesses, it was felt that these requirements, while necessary for insurers, were unnecessary for reinsurers. As a result, reinsurers are now eligible to apply for exemption from this FCAC oversight.

Insurers may apply for exemption from the FCAC oversight if:

- their order to insure risks in Canada is restricted to reinsurance;
- the company provides the FCAC commissioner with a declaration stating that it does not deal with the prescribed group of consumers; and
- the company does not deal with the prescribed group of consumers.

The prescribed consumers are individuals and enterprises, other than financial institutions, which have fewer than 500 employees and gross annual revenues of less than C\$50 million. Insurance companies that deal with financial institutions or larger enterprises may apply for exemption from the FCAC oversight.

Many global financial regulators are likely to respond to the current credit crunch by increasing the attention that they pay to companies under their jurisdiction, which will serve only to increase the cost of compliance with these regulatory rules; however, Canadian regulators have focused their efforts thus far on protecting smaller, less sophisticated consumers.

If reinsurer exemption from the FCAC oversight is part of a continuing trend away from a 'one size fits all' approach to regulation and towards targeted regulation, this will have the effect of lowering costs for financial sector participants in Canada.

For further information on this topic please contact **Hartley Lefton** at Lang Michener LLP by telephone (+1 416 360 8600) or by fax (+1 416 365 1719) or by email (hlefton@langmichener.ca).

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