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FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.

Year-end Considerations



Bulletin

No.G-02/92

- General

[bulletinToTheAttentionOf]

This Bulletin is directed to all companies licensed to do business in Ontario. Each company should provide a copy of this Bulletin to its independent auditor.

The purpose of the Bulletin is to highlight a number of requirements related to the annual year-end filing and related audit.

Duty of auditor and others to report contraventions of the Insurance Act

The Insurance Act requires auditors and others providing professional services to insurance companies licensed in Ontario to report any breach of the act to the company and to the Superintendent of Insurance.

Without limiting the scope of Section 445 (formerly Section 410) of the Insurance Act, some of the non-compliance situations that auditors or other professionals might run across during the course of their work could include companies which have:

- undertaken activities for which they are not licensed,
- violated licence conditions or undertakings made to the Ontario Insurance Commission,
- made investments prohibited by the Insurance Act,
- made loans prohibited by the Insurance Act,
- paid commissions to persons who are not licensed to sell insurance,
- failed to pay the benefits under the automobile insurance policies within the time limits set out in Regulation 273/90,
- failed to use the approved application for automobile insurance,
- used rate tables for automobile insurance different from those filed with the

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Ontario Insurance Commission, and

- used underwriting criteria for automobile insurance which contravene Regulation 275/90.

The Ontario Insurance Commission is not directing that audits or any other professional engagement be extended to include procedures specifically designed to detect these conditions. However, the Insurance Act does impose an obligation to report if such information comes to the attention of the auditor or another person rendering professional services. These provisions do not affect solicitor/client privilege.

Audit

All insurers licensed in Ontario, including those also registered or licensed federally or by other provinces, are required to file audited financial statements with the Ontario Insurance Commission. The companies have received specific instructions regarding filing requirements in December 1991. Companies should ensure their auditors have this instruction letter.

Penalties for late filing

It is a good sign that most companies meet the filing deadlines and that there are not many instances where prosecution under the Provincial Offences Act is required. However, each year there are a few insurers that do not meet the filing deadline for the annual statements. Unless there are exceptional circumstances involved - and we are normally advised of these before the filing date - we are not prepared to disregard late filings. Last year four companies were prosecuted and fined.

Donald C. Scott
Commissioner

February 24, 1992

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