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TO: MEMBERS OF THE FACILITY ASSOCIATION

ATTENTION: CHIEF EXECUTIVE OFFICER

BULLETIN NO.: F16 - 085

DATE: OCTOBER 31, 2016

SUBJECT: MAIL VOTE - AMENDMENTS TO THE PLAN OF OPERATION

Members are asked to vote on several changes to the Facility Association Plan of Operation (Plan) via the attached ballot.

The changes are being recommended to the membership by the Facility Association Board of Directors and have been shared with the Canadian Council of Insurance Regulators (CCIR).

The proposed changes are attached for your review (Appendix I). Also attached are the changes presented in a tabular format showing the existing Plan wording, the proposed Plan wording, and a note explaining the change (Appendix II).

Most of the changes are relatively minor and are being proposed to achieve greater accuracy and/or reflect actual practice. Those that would not be considered minor would be those that pertain to:

- provisions for the removal of Directors,
- appointing the Actuary at the Annual General Meeting (AGM),
- provisions for the Board to delegate authority over certain Risk Sharing Pool (RSP) related write-off requests to the President and CEO
- staggering the terms of the Independent Directors

Please return the attached Ballot to Facility Association by November 21, 2016.

Members are reminded that amending the Plan of Operation requires approval of the proposed amendments by at least 51% of member votes within 60 days of the vote mailing and the appropriate regulatory approval. If the proposed amendments are approved, members will be advised of appropriate effective dates and implementation timelines.

If you have any questions regarding the proposed changes, please contact me directly at 416-644-4915 or at dsimpson@facilityassociation.com

David J. Simpson, M.B.A., FCIP, C. Dir.
President & CEO

Attach.



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BALLOT

_____ as a member of the Facility Association hereby,
Company name

pursuant to Article XIX section 2 of the Plan of Operation of Facility Association;

approves and consents to **disapproves of and opposes**

the proposed amendments of the Plan of Operation of Facility Association as set out in the attachment to Bulletin F16-085.

In brief, the proposed changes pertain to:

- provisions for the removal of Directors,
- appointing the Actuary at the Annual General Meeting (AGM),
- provisions for the Board to delegate authority over certain Risk Sharing Pool (RSP) related write-off requests to the President and CEO
- staggering the terms of the Independent Directors

Dated _____ **day of** _____ **20** _____

Name

Per: _____

Title: _____

**Please sign and return the Ballot by November 21, 2016
either by fax 416-842-0241 or email tcheung@facilityassociation.com
to the attention of Tina Cheung**

PROPOSED AMENDMENTS TO THE PLAN OF OPERATION

1. Amend line 6 of Articles III section 3 by deleting the word “form” and replacing it with the word “from”.
2. Amend Article V section 1 by inserting the words “or collected from” after the words “charged against” in the third last line of the section.
3. Amend Article V sub-section 3 (a)(i) by inserting the word “accident” between the words “In any” and “year” in the eighth line of the sub-section.
4. Amend Article VI section 2 by deleting the existing section and replacing it with the following:

“2. The annual general meeting of members shall receive the annual reports of the Chairman of the Board, the President and Chief Executive Officer and the Auditor, shall elect directors and fix their compensation, if any, shall appoint the External Auditor and the Appointed Actuary for the ensuing year and consider such other matters as may be properly brought before the meeting.”

5. Amend Article VII by inserting the following as Section 3 and renumbering the Sections that follow:

“3. It being desirable that one of the two independent directors be elected each year, the Board may direct that an independent director be elected or appointed for, or to complete, a one year term. A person holding office as an independent director may only serve as a director for a maximum of three terms.”

6. Amend Article VII by adding the following:

“8. A director shall be removed from office in the event that he or she no longer qualifies to hold the position of director in accordance with the provisions of Section 1 of this Article or in the event that such person would be required to cease holding such office under the provisions set out in the Canada Not-For-Profit Corporations Act.

9. A director may be removed from office on the basis of having committed an act or a failure to act which could reasonably cause meaningful harm to the Association where such removal is approved by affirmative vote of at least 75% of the other directors.”

7. Amend Article VIII section 3 subsection (h) by deleting “, and over premises and equipment”.
8. Amend Article VIII section 3 subsection (m) by deleting the existing sub-section and replacing it with: “(m) review and determine applications for write-offs by Servicing Carriers or by members within the monetary amounts authorized by the Board.
9. Amend Article IX section 2 subsection (b) in the second line of the second last paragraph by deleting the words “Chapter 8”.
10. Amend the last sentence of Article IX subsection 2(b) by deleting the words “or I.B.N.R.” and replacing them by: “, I.B.N.R. or actuarial present value adjustment.”
11. Amend Article XI subsection 2(d) by deleting the subsection reference “(b)(i)”.
12. Amend Article XIX section 7 by deleting it and replacing it by:

“7. The President and Chief Executive Officer shall have the power to approve proposed amendments to the Rules of Operation as set out in section 3 (o) of Article VIII. All other proposed amendments to the Rules of Operation shall be reviewed by the Governance and Human Resources Committee which shall have the power to approve such proposed amendments. Any such approved amendments shall be effective at such times as is designated or, where applicable, by operation of law and Members shall be advised of all such amendments and the effective date thereof”.

| Article/Section | Current (version dated Oct 27 2012) | Proposed | Reason for the change |
|--------------------------------|---|---|--|
| Article III Section (3) | ... however, that the continuing insurer may be relieved <i>form</i> such obligations if another insurer has agreed to assume such obligations in a manner satisfactory to the Board.’ | ... however, that the continuing insurer may be relieved <i>from</i> such obligations if another insurer has agreed to assume such obligations in a manner satisfactory to the Board.’ | Correct ‘form’ to ‘from’. |
| Article V Section (1) | At the end of each fiscal year, profit or loss for each class of business shall be determined separately for each accident year in each jurisdiction in accordance with accounting procedures approved by the Board. Calculations for an accident year shall include all policies earned during such calendar year. Profit shall be credited or distributed to each member and loss shall be charged against each member in accordance with the member’s appropriate participation ratio determined in the manner hereinafter set forth in this Article V. | At the end of each fiscal year, profit or loss for each class of business shall be determined separately for each accident year in each jurisdiction in accordance with accounting procedures approved by the Board. Calculations for an accident year shall include all policies earned during such calendar year. Profit shall be credited or distributed to each member and loss shall be charged against <i>or collected from</i> each member in accordance with the member’s appropriate participation ratio determined in the manner hereinafter set forth in this Article V. | To achieve additional clarity and to reflect current practice. |
| Article V Section (3)(a)(i) | 3.(a) With respect to all business in Class 1 (a), participation ratios will be as follows: (i) in each jurisdiction in which a risk sharing pool is not in operation at any time during the year, other than the Northwest Territories, Nunavut and Yukon, each member will be liable for that proportion of private passenger non-fleet non-pool Association experience and all amounts expended in connection with such class that its respective “voluntary private passenger non-fleet third party liability direct earned car years” bears to the relevant provincial or territorial total of all such car years for all members for such jurisdiction. In any year in which a loss is sustained with respect to such business the member’s participation amount shall be reduced by three times the member’s “voluntary private passenger non-fleet third party liability direct earned car years” for business designated in the Automobile Statistical Plan as “Classes 08, 09, 10, 11, 12, 13, 18 and 19”. | 3.(a) With respect to all business in Class 1 (a), participation ratios will be as follows: (i) in each jurisdiction in which a risk sharing pool is not in operation at any time during the year, other than the Northwest Territories, Nunavut and Yukon, each member will be liable for that proportion of private passenger non-fleet non-pool Association experience and all amounts expended in connection with such class that its respective “voluntary private passenger non-fleet third party liability direct earned car years” bears to the relevant provincial or territorial total of all such car years for all members for such jurisdiction. In any <i>accident</i> year in which a loss is sustained with respect to such business the member’s participation amount shall be reduced by three times the member’s “voluntary private passenger non-fleet third party liability direct earned car years” for business designated in the Automobile Statistical Plan as “Classes 08, 09, 10, 11, 12, 13, 18 and 19”. | To achieve additional clarity and to reflect current practice. |

| Article/Section | Current (version dated Oct 27 2012) | Proposed | Reason for the change |
|--|--|---|--|
| Article VI Section (2) | 2. The annual general meeting of members shall receive the annual reports of the Chairman of the Board, the President and Chief Executive Officer, and the Auditor, shall elect directors and fix their compensation, if any, and consider such other matters as may be properly brought before the meeting. | 2. The annual general meeting of members shall receive the annual reports of the Chairman of the Board, the President and Chief Executive Officer and the Auditor, shall elect directors and fix their compensation, if any, shall appoint the External Auditor and the Appointed Actuary for the ensuing year and consider such other matters as may be properly brought before the meeting. | Adds a requirement for the members to appoint the Appointed Actuary at the annual general meeting (AGM). |
| Article VII Section (3) <i>New</i> | Board of Directors | “3. It being desirable that one of the two independent directors be elected each year, the Board may direct that an independent director be elected or appointed for, or to complete, a one year term. A person holding office as an independent director may only serve as a director for a maximum of three terms.” | Insert new section 3. Provides term limits for Independent Directors and staggers the terms of Independent Directors |
| Article VII Section 8 and 9 <i>New</i> | | <p>“8. A director shall be removed from office in the event that he or she no longer qualifies to hold the position of director in accordance with the provisions of Section 1 of this Article or in the event that such person would be required to cease holding such office under the provisions set out in the Canada Not-For-Profit Corporations Act.”</p> <p>“9. A director may be removed from office on the basis of having committed an actor a failure to act which could reasonably cause meaningful harm to the Association where such removal is approved by affirmative vote of at least 75% of the other directors.”</p> | Insert new sections. Provides terms and language for the removal of a Director. |

| Article/Section | Current (version dated Oct 27 2012) | Proposed | Reason for the change |
|--|---|---|--|
| <p>Article VIII Section (3)(h)</p> | <p>3 (h) manage, direct and supervise the daily operation of the Association and its mechanisms including the exercise of general authority over staff, including engagement and discharge, and over premises and equipment</p> <p>3 (p) consider and determine all matters concerning premises, equipment and facilities utilized or employed by the Association</p> | <p>3 (h) manage, direct and supervise the daily operation of the Association and its mechanisms including the exercise of general authority over staff, including engagement and discharge.</p> <p>3 (p) consider and determine all matters concerning premises, equipment and facilities utilized or employed by the Association</p> | <p>Removes reference to premises in VIII (3)(h) because it is captured more fully in VIII (3)(p).</p> <p>There is no change to VIII (3)(p). It is provided here for reference only.</p> |
| <p>Article VIII Section (3)(m)</p> | <p>3 (m) review and determine Servicing Carrier applications for write-offs within monetary amounts authorized by the Board;</p> | <p>3 (m) review and determine applications for write-offs by Servicing Carriers or by members within the monetary amounts authorized by the Board.</p> | <p>Gives the President & CEO write-off authority for member companies (in addition to Servicing Carriers) subject to amounts authorized by the Board. For example, RSP using member companies.</p> |

| Article/Section | Current (version dated Oct 27 2012) | Proposed | Reason for the change |
|--|--|--|--|
| Article IX Section (2) (b) 2 nd last paragraph | The rates will be adjusted retroactively in accordance with the formula described in the Accounting and Statistical Manual, <i>Chapter 8</i> , which, on average, increases (decreases) the rate by 0.5% for each 5% of increase (decrease) in that loss ratio. | The rates will be adjusted retroactively in accordance with the formula described in the Accounting and Statistical Manual which, on average, increases (decreases) the rate by 0.5% for each 5% of increase (decrease) in that loss ratio. | Deletes specific chapter reference so the Plan of Operation does not need to be amended each time the manual is reorganized. |
| Article IX Section (2)(b) Last paragraph | “Loss Ratio” refers to losses only, does not include loss expense or I.B.N.R. and is computed by accident year and by jurisdiction. | “Loss Ratio” refers to losses only, does not include loss expense or I.B.N.R. <i>or actuarial present value adjustment</i> and is computed by accident year and by jurisdiction. | Adds actuarial present value adjustment(s) to achieve additional clarity and to reflect current practice. |
| Article XI Section (2)(d) | Voluntary private passenger non-fleet third party liability direct earned car years: as defined in Article V, Section 4(b)(i) | Voluntary private passenger non-fleet third party liability direct earned car years: as defined in Article V, Section 4. | Deletes obsolete reference to (b)(i). |
| Article XIX Section (7). | The Governance and Human Resources Committee shall have the power to amend the Rules of Operation by resolution at any time and from time to time and the President and Chief Executive Officer shall have the power to approve amendments thereto as set out in <i>section 9</i> of Article VIII, such amendments to be effective at such time as is designated or by operation of law. Members shall be advised of all such amendments and the effective date thereof. | The President and Chief Executive Officer shall have the power to approve proposed amendments to the Rules of Operation as set out in section 3 (o) of Article VIII. All other proposed amendments to the Rules of Operation shall be reviewed by the Governance and Human Resources Committee who shall have the power to approve such proposed amendments. Any such approved amendments shall be effective at such time as is designated or, where applicable, by operation of law and Members shall be advised of all such amendments and the effective date thereof. | To achieve additional clarity and to reflect current practice. |