

EXPLANATORY NOTES:

Proposed By-Laws for the Registered Insurance Brokers of Ontario

BACKGROUND AND CONTEXT FOR CHANGE

The Registered Insurance Brokers of Ontario (RIBO) was incorporated in 1981 through letters patent issued under the *Corporations Act* as a corporation without share capital. Its corporate registration is continued automatically following the enactment of the Ontario *Not-For-Profit Corporations Act, 2010* (ONCA) which came into force on October 19, 2021.

RIBO's constating documents must be brought into compliance with ONCA by October 19, 2024. To do so, and to ensure that there is no disruption or unintended consequences, RIBO Council has prepared by-laws that are consistent with ONCA requirements and support a modern self-regulatory organisation (SRO) with a public protection mandate.

BY-LAW MAKING AUTHORITY

As a corporation, and in accordance with section 11 of the *Registered Insurance Brokers Act* (the "Act"), RIBO may establish by-laws relating to RIBO's administrative and domestic affairs, so long as they are not inconsistent with the Act and related regulations.

SUMMARY OF NEW PROPOSED BY-LAWS

By-Law 1- "Governing the Affairs of RIBO"

By-Law No. 1 establishes the foundation for all other by-laws and relates generally to the conduct of the affairs of RIBO as a not-for-profit corporation under ONCA. This by-law consolidates various corporate authorities found in the current by-laws that remain largely unchanged. This includes, for example:

- setting requirements for general matters (e.g. registered office, execution of docs, annual reports and conflict of laws), and;
- financial matters (e.g. financial year, auditor and financial review, banking arrangements and borrowing powers).

The new by-law also introduces some new terminology, for example, referring to “director” as opposed to Council member. It also sets out the classes of membership, clarifying that individuals and firms are both members of the Corporation, but only individual members are eligible to vote. The by-law similarly clarifies that public members (i.e. those appointed by the provincial government) are not members of the Corporation for the purposes of voting at an Annual General Meeting or any Special Meeting of the Members.

The new By-Law No. 1 clarifies that the RIBO Manager (as defined in the *RIB Act*) is both the CEO of the Corporation and an Officer of the Corporation. Further, to be consistent with ONCA requirements, it establishes other Officer roles for the Corporation (President, Vice-President, Secretary and Treasurer) and allows for the establishment of additional Officer roles if required. The by-law also provides that, except for the President position, two or more offices may be held by the same person.

Key Changes

- The new By-Law No. 1, being brought forward for your consideration, sets out requirements for providing notice to members, and establishes quorum for both Council Meetings and meetings of members. A quorum at any meeting of members would be, twenty-five individual members. (Note: current by-laws require six members to be present in person or by proxy). The new proposed by-law also sets out the Committees of Council. In order to provide flexibility, the by-laws specify only those Committees that are required under the Act (i.e. Qualification and Registration Committee, Complaints Committee(s); and the Discipline Committee.
- The proposed by-law includes an expanded provision that deals with the qualification of directors and would permit the Council or its Committees to adopt policies from time to time to govern their composition. These include, but are not limited to, regional diversity, professional skills, and general ‘needs of the Corporation’ (see 6.3 B in the attached proposed By-Law No. 1). The new by-law, if approved, would provide that Directors are to be elected by the Individual Members by ordinary resolution at each meeting of members at which an election of Directors is required. This election would take place in accordance with the requirements contained in the new By-Law No. 2.
- The proposed by-law also includes term limits for Directors i.e. a maximum of two three (3) year terms and provides a process by which vacancies on Council can be filled.
- The proposed by-law, in alignment with ONCA, provides indemnities for Council Members, Officers & Others. Further, it provides increased protections for Directors and Officers and establishes a statutory duty of care for Directors to carry out their responsibilities in good faith and with due diligence.
- Also of note, is that, in accordance with ONCA, the new by-laws provide individual licensees or “members” with the ability to confirm, reject or amend any changes to the by-laws that are made by Council resolution. Under the current by-laws this power is given exclusively to Council.

By-Law 2- “Nomination and Election of Directors”

By-Law No. 2 deals with nomination and election of Council members, including voting powers, procedures for the nomination and election of Directors, and requirements for Annual General Meetings and Special Meetings of Members. These matters are currently covered under By-Law 21 relating to the Composition and Election of Council.

The new By-Law No. 2, if approved, would set out a new process for the election of Directors to take place annually at the Annual General Meeting of Members. The by-laws provide a detailed process as follows:

- Solicitation for nominations would occur a minimum of three months prior to the election date (same date as AGM).
- The proposed by-laws set out requirements for nominees which include submitting an application form together with a summary of their skill sets and other qualifications needed to match the approved Director profile by the nomination deadline.
- Council, through the Nominations Committee, would then identify those applicants that best meet the needs of Council and propose nominees to the membership.
- The by-law also requires Council to notify all members at least 21 days prior to the Meeting of Members about its proposed nominees and provide biographical profiles for such nominees.
- Consistent with ONCA provisions, the new by-law allows for “Nominations from the Floor”. This allows an individual member to be nominated by any individual member to stand for election as a Director, provided they are eligible and sufficient notice (a minimum of seven days prior to the Meeting) is provided.
- The by-law also provides a process for acclamation with approval of the members at the Meeting of Members, where the number of nominees equals the number of positions available and no notice of the nomination from the floor was received.
- A vote would occur during the Meeting of Members only if there is a greater number of nominees than open Director positions. The by-laws provide that the vote may occur electronically, by proxy and in person. The by-laws also provide a process for a recount, and for a Petition Against the Election.

By-Law No.3 - “Classes of Registration”

By-Law No. 3 addresses the registration and qualification requirements for RIBO licensees. It includes the registration and renewal of certificates for both firms (brokerages) and individuals, as well as the classes of licence for registered firms and individuals. It also sets out continuing education requirements, conditions for maintaining registration, and general notice requirements that apply to all licensees.

The new By-Law No. 3 clarifies existing by-laws and codifies existing policy and administrative practices – they do not substantively add new requirements to licensees. Most of these items are covered under various sections of the current by-laws.

Those sections which have been either reproduced in whole or reworded for clarity are:

- Part xii fees;
- 12.1; part xv classes of membership;
- 15.1; 15.2 – 15.8 which discuss licence restrictions, requirements for the fully unrestricted licence, and allowing members to hold an accident and sickness licence;
- 15.10 reasons for suspension;
- 15.11 reinstatement eligibility; and
- 15.12 continuing education requirements.

By-law No.20 relating to the application for a certificate of registration and information changes was also reworded for clarity. Changes include setting out the circumstances where changes need to be reported to RIBO and the ability for RIBO to request information from licensees. In order to encourage the timely reporting of information changes including sponsorship changes to RIBO, the notification requirement was shortened from 30 calendar days to 10 calendar days.

Individual Classes of Registration

The new by-law, if approved, would simplify the existing licensing framework into three levels:

- The Level 1 licence formerly referred to as the Level 1 Acting Under Supervision licence,
- The Level 2 licence, formerly referred to as the Unrestricted Technical Licence and;
- The Level 3 licence, formerly referred to as the Unrestricted/Principal Broker Licence.

The new by-law also clarifies the transition of existing licensing levels and restrictions to the Level 1, 2, and 3 licences. This simplifies the existing licence restrictions, with a view to conducting a review and consultation in the future on RIBO's licensing regime. Any resulting changes may require further by-law changes.

Firm Classes of Registration

The new by-law, if approved, would set out the different categories of firm licences (Active, Non-Active, and Consultant) and the limitations, conditions and restrictions that apply to those licences. The proposed by-laws clarify existing requirements for firm licencees to maintain registration. Note: No significant changes have been made to these by-law provisions and no new requirements have been incorporated into the by-laws.

Supervisory roles – Principal Broker, Deputy Principal Broker and Supervising Broker

The new by-law sets out eligibility requirements as well as supervision requirements for individuals appointed to these roles. Note: No significant changes have been made to these by-law provisions.

Out of Province Registrant and Related Requirements

The new by-law, relating to eligibility requirements for out of province licence holders, is substantially similar to the existing by-laws for such licensees whose place of business or residence is not in Ontario. The new by-law clarifies requirements with respect to Canada Free Trade Agreement labour mobility and licence recognition requirements, and the ability of RIBO to set additional qualification requirements for such individuals.

Continuing Education Requirements

The new by-laws are substantially similar to the existing by-laws concerning continuing education requirements for licensees. The new by-laws set out RIBO's authority to establish categories of required professional development for continuing education hours. It also includes the authority to establish requirements for the number of hours that need to be completed annually for individual licensees as well as Principal Brokers, Deputy Principal Brokers and Supervising Brokers. The categories and number of hours are not specified in the by-laws in order to ensure RIBO can easily adapt these requirements to changing industry needs. The new by-laws also clarify requirements for requesting a continuing education exemption for individuals, Principal Brokers, Deputy Principal Brokers and Supervising Brokers.

Administration of Registration and Related Matters

The new by-laws incorporate provisions of the existing by-laws related to administrative suspensions of a registration or the placement of conditions, restrictions or limitations on a registration made by either the Discipline, or Qualification & Registration Committee. A new provision was added to allow members to hold a non-practicing registration if they renew and complete annual continuing education hours to maintain their registration.

In addition, the new by-laws specify additional circumstances when a licensee's registration may be suspended, this includes not completing a renewal application or complying with annual continuing education requirements and the requirement for the CEO to provide a 30-day Notice of Suspension. These by-laws do supersede the existing powers of Committees to order a suspension or place any other conditions, restrictions, or limitations on a registration as a result of a Discipline Order or other Committee decision. To support consumer protection, the By-laws, also provide the CEO with the authority to immediately suspend a licensee under the following circumstances:

- i. There are reasonable and probable grounds to believe that the Licensee is operating in a manner that creates an immediate risk to the public;
- ii. The Active Firm fails to maintain the required Errors and Omissions and Fidelity or Crime insurance policy coverage; or
- iii. An Individual Licensee's qualifying exam(s) results become nullified.

The by-laws also clarify the requirement of individuals to be employed or authorized to represent a registered firm, and the requirements for maintaining their registration.

The new By-Law No. 3 further sets out the term of the registration and provides for the cancellation or expiry of registrations when an individual or firm licensee has not renewed their registration or has not been actively employed or sponsored for a period of 12 months, consistent with existing requirements. Further to this, the proposed by-law sets out existing cancellation and reinstatement requirements that otherwise apply to individual and firm licensees.

Proposed Articles of Amendment for the Registered Insurance Brokers of Ontario

Background and Summary

The Letters Patent for the Corporation are dated August 27, 1979, and provided the following as the objects for which the corporation was to be incorporated:

- (A) To encourage through self-discipline and self-regulation a high standard of business conduct among registrants; and*
- (B) To contract with the Government of Ontario and to receive monies to carry on the affairs of the Corporation.*

Articles of Amendment under the Ontario Not-for-Profit Corporations Act, 2010 must be completed and filed to amend, add, change or remove provisions set out in a Not-for-Profit's articles (e.g., corporation name, minimum/maximum number of directors, purposes and provisions, etc.). The proposed Articles of Amendment would amend the objects of the Corporation by striking out section B listed above since RIBO is no longer in receipt of funds nor contracts with the Government of Ontario in carrying out its mandate.

The updated Objects would read as follows:

To encourage through self-discipline and self-regulation a high standard of business conduct among registrants.