

**CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY  
("CLLAS")**

**Minutes of a Meeting of the Advisory Board**

8:45 a.m.  
Davies Ward Phillips & Vineberg LLP  
40<sup>th</sup> Floor, RBC Centre  
155 Wellington Street West  
Toronto, Ontario

**Wednesday, June 21, 2017**

**Present:**

Nicholas Leblovic (Chair)	Davies Ward Phillips & Vineberg LLP
Melanie M. Koszegi	Davies Ward Phillips & Vineberg LLP
Barry Bresner	Borden Ladner Gervais LLP
Gordon Goodman	Cassels Brock & Blackwell LLP
Donald Milner (via phone)	Fasken Martineau DuMoulin LLP
Ken Crofoot	Goodmans LLP
Bill Scott	McCarthy Tétrault LLP
Dan MacDonald (via phone)	McMillan LLP
David Morritt	Osler, Hoskin & Harcourt LLP
Julia Holland	Torys LLP
Mike Swartz (via phone)	WeirFoulds LLP
Patrick Mahoney	Office of the General Manager, CLLAS
Norma Ibbetson	Office of the General Manager, CLLAS
Joe Tontini	Axxima
Ryan Durrell	Axxima

**Absent:**

John Esvelt	Dentons LLP
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**1. Constitution of Meeting**

The Chair brought the meeting to order.

**2. Appointment of Secretary**

Norma Ibbetson acted as Secretary.

**3. Approval of Minutes of the February 22, 2017 Meeting of the Advisory Board**

**It was moved by David Morritt and seconded by Bill Scott that the minutes of the February 22, 2017 meeting of the Advisory Board be approved. The motion was carried unanimously.**

**4. Business Arising Out of the Minutes**

All business arising out of the minutes is being dealt with elsewhere in the agenda.

**5. Comments of the Chair**

Nick Leblovic reported to the Board about the reinsurance renewal meetings in London. The key dynamics in the discussions were the continuing soft market conditions, the upcoming Underwriting Period renewal (commencing July 1, 2017), and CLLAS' stated desire to get a 25% reduction in reinsurance rates. Cognizant of the competition from the commercial brokers and the start of a new Underwriting Period, the underwriters agreed to a very significant reduction.

As a result of the premium reduction, all CLLAS firms confirmed their commitment to CLLAS with the exception of Dentons. As advised a number of years ago, Dentons Canada is leaving CLLAS effective June 30, 2017 to join the Dentons international program.

Lenzner took the decision not to join CLLAS as a full member at July 1, 2017 but will continue participation in the Associate Firm and will review full membership again next year. The Chair advised that he and Axxima would focus on expanding participation in the CLLAS Associate Member program over the balance of 2018.

**6. Pro-Form Insurance Services**

Bob Wilson joined the meeting. He reported that there had been a restructuring of the program, such that at renewal there are only two layers of limits versus the expiring eight layers, i.e.:

- Layer 1 - \$50 million excess of \$50 million
- Layer 2 - \$60 million excess of \$100 million

The insurers generally preferred the risk profile of taking a smaller piece of a larger layer. The renewal of the commercial excess layers has gone well, and there will be an overall rate reduction of 25% for the coming year. The two-year rate guarantee will be in effect again. All participants from 2016/17 will continue on the 2017/18 year in variance capacities.

Mr. Wilson advised that there were no changes expected to the policy wording except that he is working on getting agreement from the insurers to following CLLAS' lead in agreeing to tolling agreements.

Mr. Wilson advised that the CLLAS International program would be renewing at expiring rates. He saw this as a positive development given the program's loss experience, in particular, on one policy year. He reminded the Board that the International program is marketed as a group but each firm is rated separately based on claims experience.

A schedule summarizing the AM Best and S&P ratings of all the insurers on the excess and international programs was included in the hand-out materials. Also included is a rate summary going back to 2001 which highlights the decrease in rates year over year.

Mr. Wilson will also be providing some information on a new cyber program through Hub and its London partner for information purposes. He indicated that he was happy to answer questions after CLLAS has reviewed the information package. The Chair asked that he send the package to Joe Tontini at Axxima.

Mr. Wilson advised that firms will be renewed based on expiring limits, unless Hub is advised otherwise. He then left the meeting.

## **7. Reinsurance Renewal**

Joe Tontini and Ryan Durrell reported on the reinsurance renewal.

### *Cyber Insurance Initiative*

Coverage for cyber risks continues to be of interest to CLLAS members. CLLAS has previously amended its professional liability policy to clarify that third-party cyber coverage is included as it relates to professional services. After the discussions at the February Board meeting, various markets were approached on a “no-name” basis for premium and coverage indications specific to cyber risks. The results of this exercise were summarized in a memorandum to the Board dated June 14, 2017 that was included in the Board meeting package. In addition, CLLAS conducted a cyber security protection benchmark survey to determine the extent of cyber protection among the CLLAS firms.

It was the consensus of the Board that Axxima should move forward to firm up the details of a group buying program, including policy wordings and premiums, subject to each firm completing a full application prior to binding the coverage. Axxima will try to arrange for a CLLAS-specific application form process. The Board requested that Axxima prepare a short communication that can be used internally with firm management to get buy in.

An updated summary of the rates and limits from the various markets (including the program mentioned by Bob Wilson) will be circulated to the Board members (i.e. an updated version of the chart on Page 4 of the June 14<sup>th</sup> memorandum) along with an application.

### *Reinsurance Renewal*

The Board received a copy of a June 14, 2017 report on the placement. The primary renewal objective primarily for this year was to achieve an overall premium reduction of 25% for CLLAS members.

The markets were asked for a 20% reduction in reinsurance rates based on the competitive quotes that the commercial brokers were proposing and the benefit of having CLLAS firms recommit to CLLAS for another five years. Most underwriters agreed to the requested reduction.

### *Return of Surplus/Premium Credit*

It was noted that a formal surplus management policy would be discussed and, if appropriate, adopted later in the meeting. CLLAS’ surplus position at the end of December 2016 was \$14,500,000. In considering CLLAS’ surplus position it is prudent to take into account surplus attributable to departing Subscribers as well as regulatory surplus requirements. Taking all

factors into consideration, there is \$3.6 million of available surplus. CLLAS' actuary recommends the application of \$700,000 of surplus towards premium credits for 2017/2018.

There was some discussion about the need to retain adequate surplus to account for the hardening of markets and the necessity of CLLAS retaining more risk. CLLAS' surplus management policy allows for this.

**It was moved by Ken Crofoot and seconded by Gordon Goodman that the distribution of surplus by way of premium credit for 2017/18 of \$700,000 be approved. The motion was carried unanimously.**

#### *Policy Wording*

Other than issuing the First and Second Excess Policies, which will be new for 2017/18, CLLAS does not expect to amend any of the policy wordings for the coming year. The wordings for the two new policies are still being finalized but they should be similar to the existing wordings used for the policies purchased from the commercial market.

A memo summarizing the final renewal terms will be provided for the September Board meeting.

### **8. Report of the General Manager's Office**

Mr. Mahoney reported.

#### *Financial Statements Quarter Ending March 31, 2017*

CLLAS's financial management report for the three months ended March 31, 2017 was included with the meeting materials.

CLLAS experienced a small underwriting loss (premiums minus claims and expenses) of \$915,000 first three months of 2017. After taking into account investment income (including unrealized gains arising during the quarter) the loss was reduced to \$850,000. The loss is primarily due to a case reserve on a "drop down" claim. Expenses for the first quarter are about 8.8% over budget. Expenses associated with the July 1, 2017 reinsurance placement are typically largely incurred in the second quarter however circumstances for the renewal dictated the need for a special underwriting submission that lead to CLLAS securing reinsurance renewal terms in April. Also of note was work down on the cyber initiative and the amended subscribers' agreement. At March 31, 2017, CLLAS had a surplus of \$13.6 million.

The key regulatory solvency test that CLLAS is required to comply with is known as the Alberta Maintenance of Reserve and Guarantee Fund ("AMRGF"). CLLAS must maintain "cash and approved securities" in excess of the reserve fund plus the guarantee fund required by the Alberta regulator. The AMRGF required for CLLAS at March 31, 2017 was \$9.8 million. CLLAS' cash and approved securities totaled \$22.2 million, i.e. well in excess of the minimum requirement.

CLLAS also monitors its Minimum Capital Test ratio. At March 31, 2017, CLLAS' MCT ratio is estimated to be 444%, well above CLLAS' minimum requirements but down slightly from 464% at December 31, 2016.

Mr. Mahoney also referred the Board to the risk metrics monitored by CLLAS on a quarterly basis. The results for March 31, 2017 are within CLLAS' risk tolerances.

#### *Regulatory Update*

Included in the Board package was a report on a meeting of Alberta-based reciprocals held by the Alberta Regulator in Edmonton in June. One item of interest to CLLAS is that Quebec is looking at introducing reciprocal legislation. Also, there will be another round of changes to IFRS, (accounting for insurance contract) in 2021 that will impact the financial reporting of CLLAS.

#### *Business Plan for Regulator – FY17 to FY19*

The Business Plan, which has been filed with the regulator, was included with the Board materials and is for the period December 31, 2017 to December 31, 2019.

#### *Surplus Management Policy*

As part of the Own Risk and Insolvency Assessment (ORSA) process, the Board established an internal surplus target equal to a Minimum Capital Test (MCT) ratio of 210%. Having established a formal target, the next step in the process is for CLLAS to consider and adopt a Surplus Management Policy wherein CLLAS manages its surplus position via premium adjustments in order to ensure it maintains an appropriate level of surplus. Included in the Board material was a draft policy.

**It was moved by Gordon Goodman and seconded by Barry Bresner that the surplus policy as presented be approved. The motion was carried unanimously.**

#### **9. Report of the Audit Committee**

Gordon Goodman reported. The Committee met on February 16, 2017 and that report was provided to the Board at their February meeting. No further report was required.

#### **10. Report of the Claims Committee**

Barry Bresner reported and provided a high level overview of claims activity. The Committee continues to meet quarterly in person, and as needed by phone and email. The next meeting is scheduled for July 5, 2016.

#### **11. Report of the Risk Management Committee**

There was no report from the Risk Management Committee

**12. Report of the Policy Committee**

Don Milner reported. Over the past year, the CLLAS Policy Committee undertook an initiative to update the CLLAS Subscribers' Agreement. The original agreement had been amended a couple of times, but was largely unchanged from 1988. The redraft focused on modernizing the agreement, clarifying the wording of various provisions and ensuring that the agreement is aligned with current CLLAS practices. Legal counsel experienced both with subscribers' agreements and the Alberta insurance regulatory environment was retained to assist. The final agreement previously circulated in May to the Board was provided with the Board material. Mr. Mahoney advised that a couple of additional minor changes to the agreement were expected and so an execution copy of the agreement should be ready shortly.

Mr. Mahoney was requested to prepare a short memo for the Board summarizing the key changes to the agreement to facilitate the execution of the agreement by the subscribers.

**13. Report of the Investment Manager at March 31, 2017**

The report of the investment manager was included with the Board materials for information.

**14. Other Business**

There was no other business.

**15. Next Meeting**

The next scheduled meeting of the Board will be on September 6, 2017.

There being no further business, the meeting was terminated.

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Chairman

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Secretary