



NEWFOUNDLAND AND LABRADOR
BOARD OF COMMISSIONERS OF PUBLIC UTILITIES

ST. JOHN'S OFFICE
120 Torbay Road
P.O. Box 21040
St. John's, Newfoundland and Labrador
Canada, A1A 5B2
Fax: (709) 726-9603

GRAND FALLS-WINDSOR OFFICE
18 High Street
Grand Falls-Windsor
Newfoundland and Labrador
Canada, A2A 1C6
Fax: (866)-489-8879

DIRECTIVE **A.I. 2010-02**

ISSUED: **April 15, 2010**

TO: **All insurers, including Facility Association, transacting the business of automobile insurance in the province of Newfoundland and Labrador**

SUBJECT: *Automobile Insurance Prohibited Underwriting Regulations*
Renewal of Risks in the FARM due to Lapse In Coverage
Private Passenger and Commercial Vehicles

Following review of recent Facility Association Residual Market (FARM) placement reports filed with the Board by agents and brokers it has been determined that a number of insureds are being renewed though the FARM with the reason for renewal cited as "Lapse in Coverage".

Under the *Automobile Insurance Prohibited Underwriting Regulations* a regular market insurer is within its right to decline to insure any risk where there is a lapse in coverage of 24 months or more. Declination due to a lapse in coverage results in the risk being placed in the FARM.

A review of reported 2009 and 2010 FARM placements shows that a number of policies were renewed in the FARM with the reason for placement cited as a lapse in coverage. Some of these policies have been renewed in the FARM for up to three years. At issue is not the initial placement of a risk in FARM due to a lapse in coverage but rather its renewal in the FARM due to a lapse in coverage.

The Board has determined that once a risk has been insured through the FARM for any policy period the lapse in coverage condition no longer applies as the insured has had a policy of insurance for the preceding 6 or 12-month period. In such cases, regular market insurers can no longer rely on a lapse in coverage of 24 months or more as a reason to decline the risk.

Based on the foregoing, this is to advise that the renewal of risks in the FARM based on a lapse of coverage of 24 months or more is contrary to the *Automobile Insurance Prohibited Underwriting Regulations*. Facility Association has been directed to issue a Bulletin to its Servicing Carriers and their assigned agents and brokers advising that risks currently in the FARM as a result of a previous lapse in coverage cannot be renewed in the FARM and must instead be offered to regular market insurers for placement.

Upon receipt of this directive you are required to notify the Board of compliance with the foregoing and provide copies of the notice sent to all agents/brokers advising of the requirements contained herein.

Should you have any questions regarding this matter please contact the Board's Director of Regulatory and Advisory Services, Mr. Robert Byrne, rbyrne@pub.nl.ca, (709)-726-0742 or the Board's Compliance Auditor, Mr. Ryan Oake, roake@pub.nl.ca, (709)-726-1097.

Yours truly,



Cheryl Blundon
Director of Corporate Services
and Board Secretary