



M E M O R A N D U M

The attached membership criteria, at inception, listed the following as “non-discretionary criteria”:

1. “Membership be restricted to firms meeting minimum membership size as measured in number of lawyers. Presently, it is recommended that the minimum size be 50.” In developing the CLLAS Associate Firm initiative in 2015, CLLAS determined that the minimum firm size criteria is best viewed as a guideline as opposed to a hard minimum.
2. “Membership be denied to firms which have claims (reserved or paid) excess of \$500,000. Again, we see this criteria as being relaxed once CLLAS established a track record with its reinsurers.” CLLAS’ basic membership criteria were established in 1988 when little in the way of underwriting and historical loss information existed. During the round of merger activity from 1998 to 2000, the Board concluded that the \$500,000 criteria was no longer appropriate and that a firm’s overall loss experience was more important than an isolated large loss. As stated in the attached, CLLAS will review a firm’s experience against the CLLAS-wide experience as opposed to simply looking at criteria as hard thresholds.

CANADIAN LAWYERS LIABILITY ASSURANCE SOCIETY
("CLLAS")

MEMBERSHIP CRITERIA & PROCEDURES FOR ADMISSION

OBJECTIVE

The purpose of membership criteria is to preserve the fiscal integrity and preferred status of CLLAS. The two most important reasons for this are:

- i) to minimize expected future losses;
- ii) to enable CLLAS to obtain reinsurance on the best possible terms by maintaining a superior loss history.

BACKGROUND INFORMATION

While past claims history is an important indicator of expected future claims, there can be many moderating factors.

For instance, a firm with an otherwise impeccable record apart from one large “unlucky” claim may be considered a very good risk even though, because of that one claim, loss history is not good. Thus, we may be tempted to make a judgement call and admit such firm into CLLAS in spite of its loss history. While admission of such a firm into CLLAS may do nothing to unduly increase the risk of future losses, it will most certainly affect CLLAS’ loss history which is composite of the loss history of all members.

Since loss history will be of paramount importance in maintaining the ability of CLLAS to obtain reinsurance on preferential terms, it follows that entry should be barred to any firm whose admission would jeopardize CLLAS’ loss history, even if there are extenuating circumstances which indicate the firm has no undue exposure to future losses. This is a policy which should remain in force at least until CLLAS has established a strong track record and relationship with its reinsurers and/or is substantially less dependent on reinsurance.

Notwithstanding that the quantitative consideration vis-à-vis historical loss experience etc. are acceptable, other qualitative considerations can be equally important. For example, the following:

- profile of the firm’s practice;
- the firm’s growth history and how such was accomplished (i.e. internal vs merger);
- its reputation within the profession;
- its partnership structure;
- its loss prevention practices.

In this regard, it is important to make some general subjective assessment of a new firm’s exposure to risk and, in particular, if such an assessment is consistent with the risk exposure of existing members of CLLAS.

Thus, it is essential that CLLAS’ membership criteria be based on both quantitative and qualitative considerations.

QUANTITATIVE MEMBERSHIP CRITERIA

Non-discretionary Criteria

1. Size of Firm – Membership be restricted to firms meeting minimum membership size as measured in number of lawyers. Presently, it is recommended that the minimum size be 50.
2. Large Losses – Membership be denied to firms which have claims (reserved or paid) excess of \$500,000. Again, we see this criteria being relaxed once CLLAS has established a track record with its reinsurers.

Discretionary Criteria

In assessing a particular firm for membership, the following five quantitative tests would be analyzed on the basis of the firm's historical exposure/loss experience. (Note: Ideally, such would be analyzed over a period of six to ten years).

- | | |
|--------------------------------|---|
| 1. Growth of Firm | This test would measure the growth of the firm over the immediately preceding six years as measured by the firm's average size during the period relative to its current size. The critical target ratio (i.e. the average size relative to current size) would be 0.65 which represent an annual growth rate of approximately 15%. A firm which has actual ratio below 0.65 (i.e. has a higher growth rate than 15%) will be considered less favourable than a firm with a higher ratio. |
| 2. Report Claim Frequency | This test would measure the historical rate at which claims have been reported as measured by the number of claims reported per 1,000 lawyer/years of exposure. The critical target rate would be 50. A firm which has an actual rate above 50 will be considered less favourable than a firm with a rate below 50. |
| 3. Loss Claim Frequency | This test would measure the historical rate at which loss claims (i.e. claims giving rise to or expected to give rise to a loss) have been incurred as measured by the number of such claims per 1,000 lawyers/years of exposure. The critical target rate would be 20. A firm which has an actual rate above 20 will be considered less favourable than a firm with a rate below 20. |
| 4. Excess Loss Claim Frequency | This test would measure the historical rate at which loss claims in excess of \$100,000 have been incurred as measured by the number of such claims per 1,000 lawyer/years of exposure. The critical target rate would be 2. A firm which has an actual rate above 2 will be considered less favourable than a firm with a rate below 2. |

5. Loss Per Exposure This test would measure the historical cost rate of loss claims with each claim capped, however, at \$100,000 as measured per lawyer/years of exposure. The critical target rate would be \$500. A firm which has an actual rate above \$500 will be considered less favourable than a firm with a rate below \$500.

It is further proposed that a composite index of the foregoing test be generated in accordance with the following formulae and weights:

<u>Test</u>	<u>Formula</u>	<u>Weight</u>
1	$\frac{\text{Actual Ratio}}{\text{Target Ratio}} - 1$.15
2	$1 - \frac{\text{Actual Rate}}{\text{Target Rate}}$.15
3	$1 - \frac{\text{Actual Rate}}{\text{Target Rate}}$.40
4	$1 - \frac{\text{Actual Rate}}{\text{Target Rate}}$.15
5	$1 - \frac{\text{Actual Rate}}{\text{Target Rate}}$.15

The composite index would be generated by multiplying the formula amount by the weight for each test and summing the results. If the composite index is positive, the firm would be acceptable from a quantitative perspective. If the index is negative, the firm would be considered to have failed the discretionary quantitative criteria and unless closer scrutiny of the individual test results coupled with a review of qualitative considerations could justify a decision to the contrary, the firm would be rejected.

In establishing the foregoing tests, it is important to note the following:

1. The critical targets as established above compare as follows to the founding CLLAS membership and the profession in general:

<u>Test</u>	<u>Target</u>	<u>Founding CLLAS Members *</u>	<u>Estimate Profession</u>
1	0.65	0.80	.90 **
2	50	20	120
3	20	7	80
4	2	0.6	2
5	\$500	\$165	\$1,600
Composite Index	N/A	+0.61	-1.53

* Per average of Founding CLLAS Members

** Estimate

2. The targets will have to be monitored and adjusted from time to time.

The admission of new members to CLLAS lies within the discretion of existing members and qualification according to the foregoing quantitative criteria will not assure admission. The discretion of existing members may be exercised upon any ground which they may consider relevant including, but not limited to, the applicant's:

1. standing and reputation within the legal community;
2. ongoing stability;
3. internal organization;
4. degree of concentration in "high risk" practice area; and
5. acceptance of CLLAS policies.

Procedure for Admission of New Members

1. A firm making application for membership in CLLAS (the "applicant") shall complete a Form of Subscription and an application form which shall be in two parts as follows:
 - i) a part designated as "non-confidential" containing information of a general nature about the applicant which will be open to review and discussion by Axxima Insurance Services, the Membership Committee and the Advisory Board of CLLAS; and
 - ii) a part designated as "confidential" containing detailed information respecting the claims history of the applicant which detailed information shall be maintained in confidence by Axxima Insurance Services and the Membership Committee of CLLAS.
2. The Form of Subscription and application form shall be accompanied by a cheque for a sum equal to \$200 per lawyer. If the application is accepted, this sum shall be retained by CLLAS as a non-refundable membership fee. If the application is denied, this sum, less a processing fee of \$2,500, shall be refunded.
3. The application shall initially be reviewed by the Membership Committee and Axxima Insurance Services who may carry out such interviews with the applicant or seek such additional information from the applicant as they deem necessary.
4. If the Membership Committee is prepared to recommend the applicant for membership, it shall, through Axxima Insurance Services, apply to the reinsurers for approval of the proposed recommendation.
5. The Membership Committee shall communicate its recommendation (positive or negative) and the position of the reinsurers, if any, to the Advisory Board of CLLAS.
6. If the decision of the Advisory Board is against admission of the applicant, the applicant shall be so notified.
7. If the decision of the Membership Committee is in favour of the applicant or if the Membership Committee, for any other reason, wishes to bring the matter before the Advisory Board, the Membership Committee shall call a meeting of the Advisory Board to consider and decide upon the admission of the applicant. Admission of the applicant shall require a vote of 80% of the members as provided in the Reciprocal Agreement.