



ALBERTA LAWYERS  
INSURANCE ASSOCIATION

**ALBERTA LAWYERS INSURANCE ASSOCIATION**

**and**

**ALBERTA LAWYERS INSURANCE EXCHANGE**

**2019 BUDGET**

Approved by the ALIA and ALIEX Boards, November 27, 2018



ALBERTA LAWYERS  
INSURANCE EXCHANGE

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## **BACKGROUND**

The *Legal Profession Act* requires the Law Society of Alberta to establish and maintain an insurance program for lawyers. Generally, every Alberta lawyer in private practice must purchase a base level of professional liability insurance coverage, with the purchase of excess coverage being voluntary.

In 1988, the Law Society of Alberta established a subsidiary corporation, Alberta Lawyers Insurance Association (“ALIA”), to manage the professional liability insurance program for insured Alberta lawyers. ALIA handles all claims against Alberta lawyers. It provides protection to those lawyers and compensation to members of the public who have suffered insured losses due to the actions of insured lawyers. ALIA operates as a separate financial entity.

In 2014, Alberta Lawyers Insurance Exchange (“ALIEX”) was established and licensed by the Superintendent of Insurance (Alberta) as an insurance reciprocal. ALIEX provides lawyers professional liability (“Part A”) and trust safety (“Part B”) insurance, funding claims in excess of the ALIA’s \$500,000 group deductible. ALIA purchases reinsurance and excess insurance to provide additional protection.

With ALIEX in place, effective July 1, 2014, ALIA withdrew as a subscriber from the Canadian Lawyers Insurance Association (“CLIA”), a reciprocal insurance exchange that provides professional liability insurance for practicing lawyers in some other provinces and territories. Claims pre-July 1, 2014 continue to be run off under the CLIA reciprocal. ALIA remains a subscriber to CLIA for the purposes of the voluntary excess insurance program.

An insurance reciprocal is not a legal entity and requires a principal attorney to act on its behalf. ALIA acts as the principal attorney for ALIEX and manages ALIEX pursuant to a Management Agreement. The Superintendent of Insurance regulates reciprocals as if they were provincial companies and requires the operations of the reciprocal to be overseen by an Advisory Board which must conduct itself as if it were a corporate board.

Despite the interconnection between the operations and strategic plans of ALIA and ALIEX, separate budgets are prepared, as set out in the pages that follow.

## **COMMENTARY ON THE BUDGETS AND FINANCIAL MODEL**

In keeping with standard practice, the ALIA and ALIEX budgets are broken out into revenue and expenses. Although budget forecasts are necessarily speculative, there are particular challenges in preparing a budget where the major contributing revenues and expenses will, of necessity, remain undetermined for many months. ALIA/ALIEX's major sources of revenue are its investment income and, more significantly, the premiums received by ALIA/ALIEX for both Part A and Part B which will not be determined until the spring of 2019, when the actuary's report is received. Similarly, the losses and expenses that will have to be paid by ALIEX for both Part A and Part B are being estimated more than a year in advance.

Further, given the lack of history in the operation of ALIEX and its ongoing growth and evolution, reliance on previous experience may not significantly enhance the forecasts.

Accordingly, the figures used in the budgets for the significant line items may be seen as "placeholders" that are based on the best information available at this time, as set out in the detailed commentary below.

The following pages provide the respective 2019 budgets for ALIA and ALIEX accompanied by explanations of the elements of each budget.

## ALIA 2019 BUDGET

	<u>2019 Budget</u>	<u>2018 Forecast</u>	<u>2018 Budget</u>	<u>Variance 2019 Budget to 2018 Budget</u>	<u>Variance 2018 Forecast to 2018 Budget</u>
<b>Revenue</b>					
Premium - Professional liability	\$ 27,375,500	\$ 27,150,000	\$ 28,472,000	\$ (1,096,500)	\$ (1,322,000)
Premium - Trust safety	3,115,000	3,330,000	3,517,000	(402,000)	(187,000)
Premium ceded - Professional liability	(930,000)	(837,000)	(744,000)	(186,000)	(93,000)
Premium ceded - Trust safety	(358,000)	(360,400)	(362,800)	4,800	2,400
Net premium	29,202,500	29,282,600	30,882,200	(1,679,700)	(1,599,600)
Investment income	6,600,000	6,120,000	6,370,000	230,000	(250,000)
Unrealized gain (loss) on Investments	-	500,000	-	-	500,000
Management fee - ALIEX	472,600	472,600	472,600	-	-
Voluntary excess insurance administration fee	145,000	140,000	135,000	10,000	5,000
	<u>36,420,100</u>	<u>36,515,200</u>	<u>37,859,800</u>	<u>(1,439,700)</u>	<u>(1,344,600)</u>
<b>Expenses</b>					
Provision for claims and related costs - Professional liability	22,000,000	22,000,000	19,000,000	3,000,000	3,000,000
Provision for claims and related costs - Trust safety	200,000	200,000	1,200,000	(1,000,000)	(1,000,000)
Premium paid to ALIEX - Professional liability	4,471,000	4,271,000	4,884,000	(413,000)	(613,000)
Premium paid to ALIEX - Trust safety	531,000	531,000	631,000	(100,000)	(100,000)
Salaries and benefits	3,337,400	2,558,000	3,115,300	222,100	(557,300)
Management fee - Law Society	3,012,000	3,696,000	3,696,000	(684,000)	-
CLIA retroassessment	-	635,500	635,500	(635,500)	-
Provision for input tax credits	-	(4,368,000)	600,000	(600,000)	(4,968,000)
Contractors	547,500	486,000	557,000	(9,500)	(71,000)
Investment fees	320,000	290,000	290,000	30,000	-
Bank and credit card charges	440,000	410,000	392,000	48,000	18,000
Professional fees	419,500	413,000	451,500	(32,000)	(38,500)
Risk management	17,500	-	130,000	(112,500)	(130,000)
Administration	250,700	168,700	170,500	80,200	(1,800)
CLIA wind up	55,000	10,000	-	55,000	10,000
	<u>35,601,600</u>	<u>31,301,200</u>	<u>35,752,800</u>	<u>(151,200)</u>	<u>(4,451,600)</u>
<b>Surplus</b>	<b><u>\$ 818,500</u></b>	<b><u>\$ 5,214,000</u></b>	<b><u>\$ 2,107,000</u></b>	<b><u>\$ (1,288,500)</u></b>	<b><u>\$ 3,107,000</u></b>

## **Revenue:**

### *Premiums – Professional liability (Part A) and Trust Safety Insurance (Part B);*

An analysis of Part A and Part B premium revenue is provided in Appendix 1. The levies used in the draft budget assume a \$300 increase for the Part A levy and no change in the Part B levy from the levies that were approved for the 2018/19 policy year. The actual levies for 2019/20 will be determined in the spring of 2019 by the ALIEX Advisory Board.

The estimated number of insured lawyers used in the budget is based on an estimated growth of 2% from 2018 levels. This growth rate was derived from actual increases over the last three years.

### *Premiums ceded – Part A and Part B*

Premiums ceded for both Part A and Part B represents the premium paid to third party reinsurers for reinsurance. Within the 2019 budget, we allocated 80% of the reinsurance premiums to ALIA and 20% to ALIEX. This allocation is consistent with the recommendation of our actuary.

The budget for Part A reinsurance assumes no increase from what we paid in the second half of 2018. As the reinsurance year is six months out of sync with our fiscal year, the reinsurance that we purchased in mid-2018 takes us through to mid-2019.

The Part B excess insurance has two layers of coverage providing an aggregate of up to \$25 million – layer 1 is with AIG and provides coverage in excess of \$3 million up to \$13 million. Layer 2 is with CHUBB and provides coverage in excess of \$13 million up to \$25 million. The budget for Part B excess insurance assumes no increase from what we paid in the second half of 2018.

### *Investment income*

The budget for investment income is conservative and based on our average investment income for the past three years and consists of interest, dividends and realized gains or losses on sales of investments within the ALIA investment portfolio. The actual amount of investment income can vary considerably from budget depending on investment market conditions and the extent to which we are required to liquidate investments to pay claims.

### *Unrealized gain (loss) on investments*

Accounting convention requires that we record to income the changes in the market value of our investments from one reporting period to another. We do not budget for these unrealized gains or losses on the investment portfolio as it is inherently difficult to predict investment markets.

### *Management fee – ALIEX*

ALIA charges ALIEX a management fee to recover costs related to the claims management, governance, and other administrative support provided by ALIA to ALIEX. The details as to how the 2019 management fee is determined are provided in Appendix 3.

### *Voluntary excess insurance administration fee*

ALIA administers the voluntary excess insurance program provided by CLIA to insured Alberta lawyers. ALIA charges a fee to CLIA of 10% of the excess insurance premium purchased by insured lawyers.

### **Expenses:**

#### *Provision for claims and related costs – Part A and Part B*

The Part A claims provision budget is based on ALIA's average claims expense over the past five years. The Part B claims provision budget is based on the average claims expense over the past two years. The actual provision for claims and related costs is determined annually at year end based on the actuary's valuation of ALIA's claims liability. The claims provision includes both indemnity payments and legal costs. The legal costs include coverage counsel opinions, repair counsel costs and defence counsel costs.

#### *ALIEX premiums – Part A and Part B*

ALIEX charges ALIA a premium for Part A and Part B coverage in excess of ALIA's deductible of \$500,000 for both parts of the insurance program. The premium is determined annually by the Advisory Board and is determined when the levy is set. An analysis of this premium is provided in Appendix 2.

#### *Salaries and benefits*

This budget line item includes the cost of ALIA's full time staff consisting of 25 full time equivalents (FTE's) in 2019 relative to 22 FTE's in 2018. This staff team supports the operations of both ALIA and ALIEX (ALIEX has no employees). The increase in the salary budget of \$222,100 relates to the following factors:

- Additional FTE's for a senior defence counsel, a paralegal and a business coordinator;
- An assumed increase of 2% in our salary bands to keep pace with the Alberta labour market; and
- Planned changes in salary band levels in some positions to maintain pay equity with comparable roles in similar organizations.

#### *Management fee*

The Law Society charges ALIA an annual management fee to recover ALIA's share of costs (including ALIA's proportionate share of premises rent and amortization) incurred by the Law Society that support the operations of the indemnity program. Support is provided to ALIA by departments within the Law Society including Human Resources, Accounting, Customer & Office Services, Communications, Membership, Business Technology, Governance, and loss prevention services (through the Early Intervention, Practice Management and Practice Advisor teams). A review of the fee by ALIA and Law Society management during 2018 resulted in a reduction of \$684,000 from 2018 to 2019.

An analysis of the management fee is provided in Appendix 3.

### *CLIA retroactive assessment*

In 2014, CLIA assessed ALIA with a retroactive assessment of \$5,084,000 was being declared based on Alberta's declining subscriber account surplus with CLIA. The first half of this assessment was paid in fiscal 2014 with the balance paid in four equal annual installments. The last payment of \$635,500 was issued in 2018.

### *Provision for input tax credits*

During 2018, ALIA successfully contested a ruling by Canada Revenue Agency (CRA) that disallowed ALIA's ability to claim input tax credits (ITC's) on expenses. The 2018 forecast includes the recovery of \$4,368,000 in previously disallowed ITC's. The 2019 budget reflects no provision for ITC's as they will be fully recovered during 2019 in the normal course of filing GST returns.

### *Contractors*

The 2019 draft budget includes contract funding for initiatives described in the Business Plan document including;

- Assistance with Strategic Planning and Enterprise Risk Management;
- Contract resources for Lean Six Sigma and Root Cause projects;
- Stakeholder engagement survey;
- Contract resources to develop an ALIA /ALIEX website;
- Regular external review of claim files; and
- Governance enhancements.

### *Investment fees*

Our investment manager (Mawer) charges investment management fees quarterly calculated on a tiered percentage schedule based on the market value of ALIA's investment portfolio. The 2019 budget is based on estimates of the market value of the ALIA portfolio in 2019.

### *Bank and credit card charges*

In addition to bank service charges, this budget includes fees charged by our credit card service provider (Moneris) for levies collected from insured lawyers through our on-line payment system. The budget is based on our estimate of the percent of insured lawyers who will pay the annual levy on-line.

### *Professional fees*

This budget includes audit, actuarial, insurance consultant and legal fees. The 2019 budget is down by \$157,000 from 2018 as the 2018 budget included the estimated cost of outside tax counsel to represent ALIA in tax court regarding the GST dispute with CRA.

### *Risk management*

In addition to the loss prevention services provided by the Law Society charged to ALIA through the management fee, the ALIA budget incorporates funding for loss prevention initiatives planned in 2019. The 2019 budget and 2018 forecast are down from the 2018 budget as several



planned 2018 loss prevention initiatives have utilized internal staff resources. The budget for 2019 consists of costs related to ALIA alerts to the profession and changes to our information systems stemming from a revised levy surcharge structure.

*Administration*

This budget item includes estimated costs for staff recruiting, travel, training, and professional dues. The budget for 2019 is up by \$78,200 from 2018 due primarily to anticipated recruiting costs to fill vacant and new positions.

*CLIA wind up*

Consulting fees to develop the plan to separate ALIA from CLIA with the goal of repatriating ALIA's surplus in CLIA.

## ALIEX 2019 BUDGET

	<u>2019 Budget</u>	<u>2018 Forecast</u>	<u>2018 Budget</u>	<u>Variance 2019 Budget to 2018 Budget</u>	<u>Variance 2018 Forecast to 2018 Budget</u>
<b>Revenue</b>					
Premium - Professional liability	\$ 4,471,000	\$ 4,271,000	\$ 4,884,000	\$ (413,000)	\$ (613,000)
Premium - Trust safety	531,000	531,000	631,000	(100,000)	(100,000)
Premium ceded - Professional liability	(232,500)	(210,000)	(186,000)	(46,500)	(24,000)
Premium ceded - Trust safety	<u>(90,000)</u>	<u>(90,000)</u>	<u>(90,700)</u>	<u>700</u>	<u>700</u>
Net premium	4,679,500	4,502,000	5,238,300	(558,800)	(736,300)
Investment income	<u>709,000</u>	<u>570,000</u>	<u>374,000</u>	<u>335,000</u>	<u>196,000</u>
	<u>5,388,500</u>	<u>5,072,000</u>	<u>5,612,300</u>	<u>(223,800)</u>	<u>(540,300)</u>
<b>Expenses</b>					
Provision for claims and related costs - Professional liability	4,000,000	4,000,000	2,500,000	1,500,000	1,500,000
Provision for claims and related costs - Trust safety	200,000	200,000	200,000	-	-
Management fee	472,600	472,600	472,600	-	-
Premium taxes	200,400	192,000	219,000	(18,600)	(27,000)
Professional fees	214,000	202,000	303,000	(89,000)	(101,000)
Contractors	14,500	25,000	34,000	(19,500)	(9,000)
Board expenses	147,200	130,000	133,000	14,200	(3,000)
Investment fees	60,000	56,000	40,000	20,000	16,000
Administration	<u>23,000</u>	<u>22,000</u>	<u>15,500</u>	<u>7,500</u>	<u>6,500</u>
	<u>5,331,700</u>	<u>5,299,600</u>	<u>3,917,100</u>	<u>1,414,600</u>	<u>1,382,500</u>
<b>Surplus (Deficit)</b>	<u>\$ 56,800</u>	<u>\$ (227,600)</u>	<u>\$ 1,695,200</u>	<u>\$ (1,638,400)</u>	<u>\$ (1,922,800)</u>

**Revenue:***Premium – Part A and Part B*

ALIEX charges ALIA a levy for the insurance coverage the reciprocal provides in excess of ALIA's deductible of \$500,000 for both parts. The actual premium is determined annually by the Advisory Board when the levy is set. An analysis of this revenue budget is provided in Appendix 2.

*Premium ceded – Part A and Part B*

Please see the related explanation for this budget item in ALIA above.

*Investment income*

Please see the related explanation for this budget item in ALIA above.

**Expenses:***Provision for claims and related costs – Part A and Part B*

The actual provision for claims and related costs is determined annually at year end based on the actuarial report. As the ALIEX program matures, we've seen considerable growth in the Part A claims liability over the past two years. This is typical of a new program as more developing claims are entering the ALIEX Part A coverage layer since ALIEX's July 1, 2014 inception. Consequently, the 2019 budget and 2018 forecast for the Part A claims provision has increased by \$1.5 million from the 2018 budget.

*Management fee*

ALIA charges ALIEX a management fee to recover costs related to the claims management, governance, financial, and other administrative support provided by ALIA to ALIEX. Please see the related explanation for this budget item in ALIA above and refer to Appendix 4 for the details of the management fee calculation.

*Premium taxes*

The Alberta Government charges insurance reciprocals an annual tax of 4% on premiums collected from ALIA for a given policy year.

*Professional fees*

This budget item includes audit, actuarial and legal fees. The budget for 2019 is down by \$89,000 due primarily to reduced legal fees now that we have our General Counsel in place.

*Contractors*

The 2019 contractor budget has decreased by \$19,500 from 2018 and is more in line with the 2018 forecast.

### *Board expenses*

Board expenses includes funding for board honorariums, the annual premium for Directors and Officers insurance and board meal and travel expenses. The 2019 budget has increased by \$14,200 mostly due to increased funding for Board training.

### *Investment fees*

Our investment manager (Mawer) charges investment management fees quarterly calculated on a tiered percentage schedule based on the market value of ALIEX's investment portfolio. The 2019 budget is based on estimates of the market value of the ALIEX portfolio in 2019.

### *Administration*

Administration costs consist primarily of investment custodian fees, bank service charges and general administrative expenses.

## ACCUMULATED SURPLUS ANALYSIS

The following table provides a projection of the combined accumulated surplus of the indemnity program based on the 2019 draft budget and financial forecast to the end of 2018.

	<u>ALIA</u>	<u>ALIEX</u>	<u>Combined</u>
<b>Actual accumulated surplus at December 31, 2017</b>	\$ 24,303,287	\$ 8,885,107	\$ 33,188,394
ALIA surplus in CLIA at December 31, 2017	<u>10,017,458</u>	<u>-</u>	<u>\$ 10,017,458</u>
<b>Total accumulated surplus at December 31, 2017</b>	34,320,745	8,885,107	43,205,852
Forecast net income for the year ending Decmeber 31, 2018	5,214,000	(227,600)	4,986,400
Capital contribution from ALIA to ALIEX for the year ending December 31, 2018	<u>(3,500,000)</u>	<u>3,500,000</u>	<u>-</u>
<b>Forecast accumulated surplus at December 31, 2018</b>	36,034,745	12,157,507	48,192,252
Budgeted net income for the year ending December 31, 2019	<u>818,500</u>	<u>56,800</u>	<u>875,300</u>
<b>Projected accumulated surplus at December 31, 2019</b>	<u>\$ 36,853,245</u>	<u>\$ 12,214,307</u>	<u>\$ 49,067,552</u>

## APPENDIX 1 - ALIA 2018 PREMIUM REVENUE ANALYSIS

Insurance policy year - July 1 to June 30 (12 months)	Budget Fiscal 2019 - Jan 1, 2019 to Dec 31, 2019			Budget Fiscal 2018 - Jan 1, 2018 to Dec 31, 2018			Difference
	Jan 1, 2019 to Jun 30, 2019 (6 months)	Jul 1, 2019 to Dec 31, 2019 (6 months)	Jan 1, 2019 to Dec 31, 2019 (12 months)	Jan 1, 2018 to Jun 30, 2018 (6 months)	Jul 1, 2018 to Dec 31, 2018 (6 months)	Jan 1, 2018 to Dec 31, 2018 (12 months)	2019 to 2018 (12 months)
<b>PART A:</b>							
Part A Premium	\$ 3,772	\$ 4,072		\$ 4,038	\$ 4,180		
Number of insured lawyers	6,750	6,850		6,750	6,750		
Sub-total Part A premium revenue	\$ 12,730,500	\$ 13,947,000	\$ 26,677,500	\$ 13,628,500	\$ 14,107,500	\$ 27,736,000	\$ (1,058,500)
Surcharge revenue	265,000	285,000	550,000	290,000	300,000	590,000	(40,000)
Administration fees			148,000			146,000	2,000
<b>Total premium revenue (Part A)</b>	<b>\$ 12,995,500</b>	<b>\$ 14,232,000</b>	<b>\$ 27,375,500</b>	<b>\$ 13,918,500</b>	<b>\$ 14,407,500</b>	<b>\$ 28,472,000</b>	<b>\$ (1,096,500)</b>
<b>PART B:</b>							
Part B Premium	\$ 458	\$ 458		\$ 512	\$ 530		
Number of insured lawyers	6,750	6,850		6,750	6,750		
<b>Total premium revenue (Part B)</b>	<b>\$ 1,546,000</b>	<b>\$ 1,569,000</b>	<b>\$ 3,115,000</b>	<b>\$ 1,728,000</b>	<b>\$ 1,789,000</b>	<b>\$ 3,517,000</b>	<b>\$ (402,000)</b>

## APPENDIX 2 - ALIEX 2018 PREMIUM REVENUE ANALYSIS

Insurance policy year - July 1 to June 30 (12 months)	Budget 2019 - Jan 1, 2019 to Dec 31, 2019			Forecast 2018 - Jan 1, 2018 to Dec 31, 2018			Budget 2018 - Jan 1, 2018 to Dec 31, 2018		
	Jan 1, 2019 to Jun 30, 2019* (6 months)	Jul 1, 2019 to Dec 31, 2019 (6 months)	Jan 1, 2019 to Dec 31, 2019 (12 months)	Jan 1, 2018 to Jun 30, 2018 (6 months)	Jul 1, 2018 to Dec 31, 2018* (6 months)	Jan 1, 2018 to Dec 31, 2018 (12 months)	Jan 1, 2018 to Jun 30, 2018 (6 months)	Jul 1, 2018 to Dec 31, 2018 (6 months)	Jan 1, 2018 to Dec 31, 2018 (12 months)
PART A:	1,871,000	2,600,000	4,471,000	2,400,000	1,871,000	4,271,000	2,400,000	2,484,000	4,884,000
PART B:	221,000	310,000	531,000	310,000	221,000	531,000	310,000	321,000	631,000
<b>Total ALIEX Premium</b>			<b>\$ 5,002,000</b>			<b>\$ 4,802,000</b>			<b>\$ 5,515,000</b>

\* The Advisory Board approved \$3,742,000 million for the Part A premium from July 1, 2018 to June 30, 2019. Therefore, \$1,871,000 is from July 1, 2018 to December 31, 2018 and \$1,871,000 from January 1, 2019 to June 30, 2019. The Advisory Board approved \$442,000 for the Part B premium from July 1, 2018 to June 30, 2019. Therefore, \$221,000 is from July 1, 2018 to December 31, 2018 and \$221,000 from January 1, 2019 to June 30, 2019.

### APPENDIX 3 – MANAGEMENT FEE – Law Society to ALIA

<u>LSA General Fund expenses</u>	<u>ALIA Management fee</u>	<u>Allocation method</u>
Premises rent and amortization	\$ 238,000	Allocated based on the amount of space occupied by ALIA relative to total leased space
ASSIST funding	293,000	50% of Assist funding based on the historical premise that the Assist counselling services help prevent conduct issues (Law Society) and Professional Liability and Trust Safety Claims (ALIA)
Loss prevention services	680,000	An allocation of salaries from the Early Intervention, Practice Advisor and Practice Management teams of the Law Society that perform our core proactive regulatory activities design to prevent claims
Accounting, Membership and Governance support services	875,000	An allocation of salaries based on estimations of relative time devoted to ALIA by these service areas
Business technology and information management services	688,000	An allocation of department costs based on the number of ALIA employees relative to the total employee population
Human Resources and Customer & Office Services	<u>238,000</u>	An allocation of department costs based on the number of ALIA employees relative to the total employee population
Annual management fee	<u>\$ 3,012,000</u>	



#### **APPENDIX 4 – MANAGEMENT FEE – ALIA to ALIEX**

120,700	Law Society's allocation of governance charged to ALIA
61,200	75% of Compliance Coordinator position
50,400	50% of Data Analytics position
109,200	50% Corporate Counsel position
131,000	30% of Chief Operating Office & EA to COO
<hr/>	
<u>472,600</u>	