

Key Points Respecting the 2017/2018 Levy

- Increased claims result in increased levies.
- Contrary to the projections of our actuary, both the claims' frequency (higher number) and severity (higher dollar value) increased this year, reversing an earlier trend and resulting in an increased levy.
- Historically, levies have been subsidized by the interest received from the insurance program's investments.
 - Because of high investment income last year, the Board approved a subsidy of \$350 per insured lawyer for 2016/2017. Despite the increased claims and decreased investment income, the Board approved a subsidy again this year, but in a lower amount (\$284 per lawyer) than the very large one last year.
 - The decline in investment interest this year is largely attributable to lower bond returns; due to the nature of the insurance program and the regulations that apply to ALIEX, a significant portion of our investments are in fixed income, cash and cash equivalents.
 - Because the insurance program has been able to subsidize the Levy, insured lawyers may not have always felt the full burden of the incurred losses resulting from claims.
- The larger subsidy applied to reduce the levy last year makes this year's levy increase look disproportionately high: the compounded average annual growth rate of the levy between the 2015/2016 levy year (the year following the creation of ALIEX) and the 2017/2018 levy year is only 2.27 per cent.
- The Law Society, ALIA/ALIEX and each insured lawyer have a role in reducing future levies.
 - Our actuary projects that levies will continue to increase and the subsidy may have to be reduced or eliminated unless the number and size of claims is reduced.
 - ALIA continues to work on loss prevention and awareness.
 - The Board will consider recommendations for future program funding and surplus adequacy, including options for encouraging and rewarding claims-free practice.
 - Our actuary advises that missed limitation and Drop-Dead claims now account for roughly 40 per cent of professional liability losses and that those losses can be prevented through better practice management by insured lawyers.
- Our claims funding model ensures that money saved on claims will result in lower levies in future years.

The Levy-Setting Process

The Board follows a process to annually set the levy for mandatory insurance coverage in Alberta.

- It receives and reviews information and recommendations, including trend reports, claims and operating expenses, information on the amount of accumulated surplus (funds required to be maintained to pay outstanding claims), reinsurance (which reduces the risk to the program) and actuarial projections.
- It determines the cost of insuring the risk and operating the insurance program. This is driven primarily by the cost of claims made against insured lawyers.
- It considers whether it should build or reduce the program's surplus.
- If the Board determines that some of the surplus can be used as a subsidy (i.e., to lower the amount of the levy), it applies the subsidy and lawyers pay that reduced levy.

Calculation of the 2017/2018 Levy

This year, we experienced higher incurred losses to the insurance program; there were more claims against insured lawyers and those claims were for higher amounts.

The higher incurred losses and other factors resulted in a higher program cost. Based on the information presented to it, the Board determined the unsubsidized cost to be \$4,834 per insured lawyer.

In prior years, the funds invested by the insurance program have provided larger interest returns that the Board has used to subsidize the levy. The expert money managers that ALIA uses to invest the program's accumulated surplus on behalf of its members must invest within certain constraints. Due to the nature of the insurance program and the regulations that apply to ALIEX (including the requirements of the Superintendent of Insurance), a significant portion of the insurance program's investments are in fixed income, cash and cash equivalents, reducing the ability of the program to achieve returns that might otherwise be available. This year, the decline in investment interest was largely attributable to lower bond returns, a class of investments that ALIEX is required to hold.

Despite the increased claims frequency and severity, the Board determined that it would be able to again subsidize the levy, but in a lesser amount than last year. This year's subsidy is \$284 per member.

Historical Comparison

Because of the increased number and dollar value of claims against insured Alberta lawyers and the diminished returns on investments, this year's levy is higher than last year's, even with the subsidy. The levy for 2017/2018 represents an increase of \$575 (14.47 per cent) from last year. Part of the high percentage increase in this comparison was attributable to the very large subsidy provided by ALIA last year (\$350 per insured lawyer) making last year's levy artificially low. The compounded average annual growth rate of the levy between the 2015/2016 levy year, the year following the creation of ALIEX (\$4,350) and the 2017/2018 levy year (\$4,550) is only 2.27 per cent.

Reduce Levies by Reducing Claims

ALIA's insurance program is run on a non-profit basis, with a direct correlation between the amount the program pays out to defend insured lawyers and compensate claimants, and the amount of the levy. Accordingly, future levies can be reduced by reducing the claims made against the insurance program.

There were 752 Part A claims opened in 2016, a 7.4 per cent increase over the actuary's projection of 700 claims upon which the 2016/2017 levy was based. Much of this is attributed to an upward trend in the number of missed deadline claims and "Drop-Dead" (Rule 4.33) claims. Missed limitation and Drop-Dead claims now account for roughly 40 per cent of Part A losses. This largely-avoidable negligence is very expensive, and the costs are borne by all insured Alberta lawyers.

Because limitation and deadline claims are avoidable, there is a tremendous opportunity for insured lawyers to lower the levy by lowering the claim costs over the coming years. We continue to stress the importance of loss prevention.

Our actuary predicts that ALIA will incur approximately \$25.5 million in claims in the upcoming year. These claims are historically found in all areas of law from residential real estate to corporate transactions. A review of the cause of claims shows us that many claims can be easily avoided through better practice management.

ALIA is Helping Lawyers Avoid or Reduce Claims

ALIA, directly or indirectly by providing funding to the Law Society, helps lawyers to avoid or reduce claims (and levies) by:

- Providing ALIAAlerts to warn lawyers about current fraud schemes being perpetrated on lawyers.
- Offering information and support to lawyers setting up new practices.
- Auditing new law firms to ensure responsible practices are put in place from start up.
- Offering targeted education on fraud prevention and detection for lawyers with trust accounts.

- Enhancing our electronic trust transaction review capabilities and ongoing risk assessments to identify and address unacceptable practices.
- Providing information, including ALIAdvisory educational articles, to aid in loss prevention, such as information on avoiding having actions struck for delay.
- Supporting other legal educational providers and confidential counseling providers to help Alberta lawyers.

Looking forward, the Board will be considering recommendations to reduce the levy, including enhancing ALIA's loss prevention activities and options for future program funding.

Payment of the Levy

Payment of the levy is due by **June 30, 2017**. Payments can be made in a single payment or by two instalments. Invoices will be made available online through our Lawyer Portal mid-May. If you have questions or comments, contact [ALIA](#).