

General Insurance Council of Saskatchewan

All Classes other than Life Newsletter

Fall 2007

BEST PRACTICES IN MANAGING CONFLICTS OF INTEREST

In 2004, the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations (CISRO) established the Industry Practices Review Committee (IPRC) to examine the issue of conflict of interest and current practices within the industry for handling such matters.

The IPRC conducted a comprehensive review of a wide range of best practices. The IPRC is making three principle-based recommendations that focus on market place outcomes. These principles strengthen and harmonize requirements that are, to a large extent, already in place across Canada.

Following consultations with a wide group of stakeholders, CCIR/CISRO endorsed the three principles as recommended in "Managing Conflicts of Interest: A Consultation Paper on Enhancing and Harmonizing Best Practices, in the spring of 2006".

The three principles are as follows:

Priority of the client's interest

An intermediary must place the interests of policyholders and prospective purchasers of insurance ahead of his or her own interests.

Currently, many codes of conduct, insurance council bylaws, and industry association codes contain provisions that are consistent with the principle of the priority of the client's interest.

The objective of this recommendation is to promote harmonization between jurisdictions to avoid situations where agents and brokers may be subject to differing requirements in industry codes, bylaws or regulations.

Examples of expected conduct or practices are:

- A broker or agent must not knowingly prejudice the interests of a client or consumer for personal gain.
- A broker or agent must not take advantage of a client's or an insured's inexperience, ill health or lack of sophistication.
- A broker or agent must be both candid and honest when advising the client or consumer.
- A broker or agent must act with integrity, competence and the utmost good faith.

Disclosure of conflict or potential conflict of interest

Consumers must receive disclosure of any actual or potential conflict of interest that is associated with a transaction or recommendation.

Many jurisdictions currently have requirements related to disclosure. These disclosure requirements may be broader than actual or potential conflict of interest and include other information that is also important for making purchase decisions.

Disclosure should be brief and relevant to the purchase decision in order to be useful to the consumer. Disclosure formats should be flexible and tailored to different products and distribution channels.

The broker or agent has the responsibility to ensure that the consumer is informed of all relevant information before the consumer makes a decision regarding a purchase.

Information that can assist in managing potential conflicts of interest and that should be disclosed includes:

- Insurers represented and the name of any insurer(s) with which a significant volume of business is placed;
- Extent of the search by the broker or agent for a competitive price and suitable product within the markets available to that agent or broker;
- Methods of compensation (salary, commission or other arrangements such as contingent profit commission or bonus); and
- Other relationships that may create actual or potential conflicts of interest, including ownership, loans and other financial links and non-monetary benefits. The IPRC recognizes the importance of access to capital by brokerages or agencies, which can support efficient and competitive distribution channels. Agents, brokers and insurers should ensure that any such arrangements are not detrimental to the interests of the consumer such as restricting choices of insurers.

Product suitability

The recommended product must be suitable for the needs of the consumer.

Many industry association codes, insurance council bylaws and codes of ethics require a broker or agent to obtain information about the client's needs and recommend appropriate insurance coverage.

Recommending a product is an integral part of the broker or agent's advice to their clients. The IPRC expects that brokers and agents will explain to their clients and document the reasons for recommending a particular product. In situations where the product is offered without advice, the broker or agent should inform the client that no advice is being offered.

In order to understand the client's interests, the intermediary must obtain or confirm information about their needs and when making a recommendation, must reasonably ensure that any product or service offered is suitable to fulfill those needs.

Examples of expected outcomes are:

- A broker or agent should conduct fact finding appropriate to the circumstances and assessment of the client's insurance needs.
- Needs assessment should be flexible — the assessment should reflect factors including the underlying risk, the client's objective and complexity of the product being sold.
- An agent or broker's product recommendation should meet the client's needs.

All indications show that brokers are applying these principles in their day-to-day operations.

The Best Practices in Managing Conflicts of Interest can be obtained from the CCIR/CISRO website at www.ccir-ccra.org/CCIR/publications.

INDUSTRY NOTICES – ALL LICENCE CLASSES

General Insurance OmbudService

In situations where a dispute arises between an insurance company and a consumer, agents and adjusters are expected to refer the consumer to any appropriate organization which may help resolve the dispute. Council feels that licensees should be aware of the General Insurance Ombudservice.

The General Insurance OmbudService (GIO) assists in the resolution of conflicts between insurance customers and their insurance companies.

When disputes arise, GIO's neutral and professional mediators and experienced Consumer Service Officers help insurance companies and customers work toward a solution that is in the best interest of both parties in a fair, independent and impartial environment.

GIO works with only those companies offering home, automobile or business insurance.

GIO can be reached at 1.877.225.0446 or www.gio-scad.org.

Ian Stuart-Smith...

Canadian Underwriter, April 2007

In the United States, the U.S. Attorney for the Southern District of New York announced in May 2006 that it had charged Ian Stuart (a.k.a. "Ian Stuart-Smith," a.k.a. "John Harris," a.k.a. "John Harrington") in connection with a US \$7-million insurance fraud scheme.

None of the U.S. attorney general's fraud allegations against Ian Stuart had been incarcerated in Lindsay, Ontario, pending his March extradition. An Ontario Superior Court judge denied Stuart bail in a decision dated May 23, 2006.

Ian Stuart-Smith was extradited to New York on March 15, 2007 where he awaits trial.

Are the insurers you deal with licensed in Canada?

The Office of the Superintendent of Financial Institutions, Canada (OSFI) licenses insurers in Canada.

The council website provides a link to the OSFI website which provides a complete listing of licensed insurers in Canada.

An updated list of insurers who are licensed in Saskatchewan is available on the council web page.

BYLAWS AND SCHEDULES

Effective January 1, 2007, new General Insurance Council of Saskatchewan Bylaws and Schedules were implemented.

A current version of the bylaws and schedules can be obtained from the council office or by visiting the council website.

Misconduct

The misconduct section of the bylaw has been completely rewritten and licensees are urged to familiarize themselves with Bylaw 8 to ensure compliance.

Requirement for designated person

Effective January 1, 2007, All Classes other than Life agencies are required to designate one Level 3 licensee who is employed predominately by the agency to be responsible for the overall management and supervision of the agency and its office locations.

The designated person means the person identified to council by the agency in an application or report to council.

Failure to designate a person to be responsible for the overall management and supervision of the agency or its office locations may result in the suspension of the agency's licence.

Licence Levels

Effective January 1, 2007, the previous four level licence model became a three level licence model to be consistent with other licence models across Canada.

The new three level licence model is comprised of Level 1 as the entry level, Level 2 as the operational level and Level 3 as the management level.

The licence restrictions are outlined for each licence level below.

Licence Restrictions

The schedules consist of a number of licence restrictions which licensees should be aware of. They are:

Level 1 All Classes other than Life

A Level 1 licensee shall not:

- a) act in the transaction of commercial lines of insurance unless supervised by a Level 2 or Level 3 licensee; or
- b) manage an agency; or
- c) act as a supervisor.

Level 2 All Classes other than Life

A Level 2 licensee shall not:

- a) manage an agency.

Level 3 All Classes other than Life

A Level 3 licensee shall not:

- a) manage an agency unless he or she has at least two years experience as a licensed agent/salesperson within the past five years; or
- b) manage or supervise more than three office locations.

Errors and Omissions Insurance

An agency or a direct writer sponsored by an insurer shall maintain and provide annually proof of a valid policy of errors and omissions insurance that meets the following requirements:

- a) A minimum of \$500,000 coverage and a minimum aggregate limit of \$1M; and
- b) Be broad enough to cover all insurance products which the licensee is licensed to sell as defined by The Saskatchewan Insurance Act.

Failure by a licensee to immediately notify council in the event of cancellation or non-renewal of errors and omissions insurance is misconduct.

Where council determines a lapse in errors and omissions insurance has occurred the following guidelines will be followed:

1. Where a lapse in coverage is identified a licence suspension for a time specified by council may be imposed.
2. An audit of continuing education hours previously disclosed to council will be conducted.
3. Licensees may be required to attend a loss prevention course or seminar related to Errors & Omissions Insurance within a time specified by council.
4. Council will recommend that E & O coverage be purchased for an extended reporting period if a licensee leaves the insurance business.

Continuing Education Requirements

Commencing January 1, 2008, all licence renewals will require that credit hours are earned within the immediate twelve months prior to the annual reporting date.

This means if your annual reporting date is January 1, 2008; all credit hours must be earned between January 1, 2007 and January 1, 2008.

Definition of continuing education

Continuing education for an All Classes licensee must be directly related to general insurance products and services, or the management of a general insurance agency.

Courses, programs or meetings related to sales production, promotion or motivation training do not qualify for credit hours.

Credit will not be provided for any computer software training. The only exceptions are the SGI New Issuer Training Program and training related to home valuation software.

Defining course content

A specific program or course will qualify for continuing education credit based on whether it is a structured learning activity that contributes directly to the managerial or technical competence of a licensed individual.

Council expects that licensees will obtain the majority of their credit hours from technical training sources.

Examples of acceptable technical education

- Courses where general insurance knowledge is improved or technical expertise in a particular insurance product line is enhanced.
- Knowledge relevant to giving advice about any general insurance product and service.
- Courses directed toward imparting general insurance product knowledge and/or technical insurance expertise including risk management and loss prevention.

Examples of acceptable managerial education

- Courses where the objective is to increase the licensee's general business skills such as general management seminars and accounting.
- Generally, topics will be relevant to the operation of an insurance brokerage.

Examples of non-credit education

- Activities that do not take place in a structured learning environment. Day-to-day business or professional reading will not qualify.
- Activities related to, but not limited to, sales training, motivational training and self-improvement programs will not qualify.
- Credit will not be provided for activity primarily based on sales production, promotion or motivation.
- Training within an insurance brokerage or adjusting firm will not qualify.

PERMISSION TO WRITE ENTRANCE EXAMS PRIOR TO SIX MONTH WAITING PERIOD

Council receives requests from applicants asking to write the entrance exams (Fundamentals or Bylaw Exams) prior to the six month waiting period once they have had three unsuccessful attempts.

The bylaws state, "A person is allowed to attempt each examination identified in the bylaws a maximum of three times in any six month period. Examination attempts made in any jurisdiction during the same six month period shall be counted in the three attempts."

The bylaws therefore do not allow a deviation from the six month waiting period and all requests to write prior to the six month waiting period have been denied.

CANCELLATION OF POLICIES

Council has identified that a number of direct selling companies automatically cancel policies if they are not renewed by the expiry date, whereas other companies continue coverage after the expiry date even if the premiums have not been paid.

If a policy is moved from one insurer to the other, the new agent should inform the previous agent or insurer that coverage is no longer required.

If a renewal policy has been issued, the new agent should take reasonable steps to return that policy or a release for cancellation of that policy, signed by the insured, to the previous agent or company. Failure to do so has resulted in the insured having two policies in effect, and caused the insured to be billed for unnecessary premium charges.

This is not in the best interests of the consumer and may be deemed misconduct.

COMMUNICATION BY EMAIL

The General Insurance Council of Saskatchewan will begin sending newsletters and other licence notices by email rather than Canada Post. Licensees will be provided notice and directed to a link on the council website. Those licensees who do not have email addresses will continue to receive service by mail or fax.

If you have not identified an email address or not provided council with your current email address, please do so by emailing your updated email address to skcouncil@hotmail.com.

COUNCIL WEBSITE

The council website provides a licensee search function available to the industry and the public.

A licensee can confirm their licence status or determine if their licence has been renewed.

The bylaws, schedules, licence forms and other information are also available.

Visit www.skcouncil.sk.ca.

OTHER BULLETINS

Licensees may access the Life, Adjuster, Travel and Hail Bulletins from the main page of the council website.

Past bulletins may also be obtained from the website.

Publications are produced in Adobe.

ADMINISTRATION

Annual Reporting Forms

- Attach a current copy of your E & O certificate to the annual reporting form.
- When faxing, please ensure to fax both pages of the form and E & O certificate.

- List the continuing education hours on the form or a separate piece of paper. Include the course provider name, course name, course date and number of credit hours.

Copies of your accreditation forms are required if you are selected for an audit.

DISCIPLINARY SECTION - ALL LICENCE CLASSES

June 1, 2006 – August 31, 2007

A licensee who uses information in this bulletin to discredit another licensee or any other person will be guilty of misconduct.

Douglas K. Clarke Insurance Broker Limited, of Markham ON representing Aviva Insurance Company of Canada and **Douglas Damon Clarke**, received a letter of warning for their failure to notify council within thirty days of the commencement of the Registered Insurance Brokers of Ontario proceedings against them.

Ted Dolinski, of Regina SK representing Knight-Archer Insurance Ltd., entered into a Consensual Agreement and Undertaking with the General Insurance Council, whereby he accepted a letter of warning for his failure to report within thirty days the commencement of a civil action against him. The nature of the allegations set out in the civil law suit were such that he was obligated to notify council of the commencement of the civil action.

Special Risk Insurance Brokers Ltd., of White Rock, BC representing Lloyds Underwriters, entered into a Consensual Agreement and Undertaking with the General Insurance Council, whereby the following conditions were placed on their licence:

1. For a minimum period of five years from June 24, 2006, they must appoint an arm's length designated licensee approved by the General Insurance Council.
2. For a minimum period of five years from June 24, 2006, neither Special Risk Insurance Brokers Ltd. nor any of its employees may take an application for or place any insurance with an insurer that is not authorized to engage in the insurance business in Canada.
3. They must notify council immediately if the approved designate Level 3 licensee ceases to represent them and they must immediately submit for council's approval an acceptable arm's length replacement designate licensee.

Darwin Alexander Brown and Heartland Agencies Ltd., of Yorkton SK representing the Co-operators General Insurance Company, pleaded guilty to failing to act with integrity in their dealings with two clients when they accepted premium payments in the amount of \$14,645 from the clients over a two year period. The insurance for which the premiums were paid was never placed with an insurance company. The All Classes insurance licenses of Darwin Alexander Brown and Heartland Agencies Ltd. that were suspended at the time of the guilty plea, were cancelled for a minimum period of ten years.

Darwin Alexander Brown, of Yorkton SK representing the Co-operators Life Insurance Company, was refused an application for a Life and Accident & Sickness licence. The refusal of licence by the Licensing Committee of the Life Insurance Council of Saskatchewan was a result of his demonstrated unsuitability to hold a licence as evidenced by his guilty plea before the General Insurance Council of Saskatchewan.

Keith Gregory Tramer of Stoughton SK representing Tramer Agencies Ltd. on October 27, 2006 had conditions placed on his licence that required him to no later than August 20, 2007 complete the Law and Ethics Course offered by the Insurance Brokers Association of Saskatchewan. The conditions also specified that if he failed to do so his licence would be suspended until he did. He did not comply with the conditions and his licence was suspended on August 23, 2007 and is to remain suspended until he completes the course.

Failure to maintain Errors & Omissions Insurance

The following licensees were found to have failed to maintain valid Errors & Omissions Insurance and failed to notify the Life Insurance Council of Saskatchewan of the non-renewal of their Errors & Omissions Insurance.

Licensees, as a condition of licence, are required to maintain Errors & Omissions Insurance and where a licensee has not renewed their Errors & Omissions Insurance, they must immediately notify council of that fact.

1. **Jake Dyck**, of Saskatoon SK representing the Industrial-Alliance Pacific Life Insurance Company received a thirty day suspension and in addition was required to attend a loss prevention course or seminar related to Errors & Omissions Insurance.
2. **Stanley Harvey Neuman**, of St. Albert AB representing The Equitable Life Insurance Company of Canada received a thirty day suspension.

CONTACT SECTION

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General Insurance Council of Saskatchewan
310 - 2631 – 28th Avenue
Regina SK S4S 6X3

Council Members

The names of the council members may be obtained from the web site at the following addresses:

www.skcouncil.sk.ca/general_council.htm

EXAM AND STUDY MATERIAL SECTION

Council licence examinations are administered through the Insurance Brokers Association of Saskatchewan.

Ingrid Stroeder, Examination Coordinator

Exam scheduling (306) 525-5900
www.ibas.sk.ca

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