

General Insurance Council of Saskatchewan

Designated Representative Handbook

Property and Casualty Insurance Agencies



January 1, 2020

Table of Contents

Forward	Page 3
Principles	
Principle 1 – All Licensees must adhere to the Fair Treatment of Customers Guiding Principles	Page 4
Principle 2 – Only persons licensed as an insurance agent can act as an insurance agent or broker	Page 5
Principle 3 – Licence applications, annual reporting and transfer of recommendation forms are filed, and prescribed fees and fines are paid in accordance with the Regulations	Page 6
Principle 4 – Licensees comply with the Insurance Legislation and any other legislation governing their business practices	Page 7
Principle 5 – Licensees are provided with, and use, all information respecting insurance that is necessary to properly conduct insurance business	Page 9
Principle 6 – All agency books, records and accounts are maintained in accordance with the Insurance Legislation	Page 10
Principle 7 – Errors and omissions insurance is maintained by the agency in accordance with the Regulations	Page 11
Principle 8 – Appropriate procedures are established by the agency and followed such that the requirements of Principles 1-7 are met	Page 12
Appendix A – Changes to the DR	Page 14
Appendix B – Operating Principles for the DR	Page 15

Forward

With the proclamation of the new Insurance Act the Designated Representative (“DR”) takes on more defined responsibilities as it relates to the insurance activities of the Agency.

The purpose of this Designated Representative Handbook (“Handbook”) is to summarize those responsibilities and provide guidance to the DR in what is expected of them. Appendix B (attached) of the General Insurance Council Bylaws (“the Bylaws”) outlines the eight (8) Operating Principles for the DR. This Handbook expands on those Principles in establishing professional standards for the management of a Property and Casualty Insurance Agency.

To fulfill your obligations, the DR must be familiar with *The Insurance Act* (“Act”), *The Insurance Regulations* (“Regulations”), and the Bylaws. For the sake of simplicity, in this Handbook these documents are referred to collectively as the “Insurance Legislation”.

The DR should also be familiar with the General Insurance Council (“GICS”) Agent Code of Conduct.

Section 5-6(4) of the Regulations outlines the specific responsibilities of the DR. The DR shall do all the following:

- (a) assume responsibility for the management and supervision of the business;
- (b) establish appropriate standards relating to the supervision of other licensees employed by the business or engaged as independent contractors of the business, taking into account:
 - (i) the levels of qualification, education and experience of the licensees;
 - (ii) the nature of the insurance business being conducted; and
 - (iii) the requirements of the Act and these Regulations; and
- (c) establish appropriate standards relating to the delegation of his or her duties.

The GICS holds the DR accountable for the actions of the agency, for insurance activities under their supervision and management, and for Fair Treatment of Customers.

This Handbook outlines those obligations. Considering the type of insurance products and services offered and the nature, size and complexity of the agency, this Handbook also gives the DR latitude to determine the processes and controls required to meet those obligations.

Delegation of Designated Representative Duties

The DR may delegate their duties to other persons associated with the agency. While the duties may be delegated the ultimate responsibility for the duties outlined in this Handbook remain with the DR.

The DR must establish appropriate standards relating to their delegation.

Principle 1 – All Licensees must adhere to the Fair Treatment of Customers Guiding Principles

The DR must ensure that the agency adheres to the following principles from the Fair Treatment of Customers Guidance document.

Customer outcomes and expectations

- Governance and Business Culture
- Conflicts of Interest
- Outsourcing
- Design of Insurance Product
- Distribution Strategies
- Disclosure to Customer
- Protection of Personal Information
- Product Promotion
- Advice
- Disclosure to Policyholder
- Claims Handling and Settlement
- Complaints Handling and Dispute Resolution

In Canada, the conduct of business in insurance is the exclusive authority of the provinces and territories. However, regulators within each jurisdiction share a common set of expectations pertaining to the conduct of business to ensure the fair treatment of customers.

In the Fall of 2018, the Canadian Council of Insurance Regulators (“CCIR”) and the Canadian Insurance Services Regulatory Organizations (“CISRO”) jointly published a document entitled “**Guidance: Conduct of Insurance Business and Fair Treatment of Customers**” (“guidance document”). This guidance is based on Insurance Core Principles of the International Association of Insurance Supervisors.

CCIR and CISRO provided this guidance to support insurers and licensees in achieving the fair treatment of customers while complying with existing laws and regulations. It also aims at strengthening public trust and consumer confidence and minimizing reputational risks.

The Insurance Councils of Saskatchewan (“Council”) have fully endorsed the principles outlined in the guidance document. The Fair Treatment of Customers guidance is included in this Handbook as an overarching principle for the DR to follow. The DR is to ensure that all licensees within their agency also follow the guidance. Schedule B of the GICS Bylaws outlines the Operation Principles for the DR.

The guidance at section 6 speaks to **Customer outcomes and expectations** for both insurance companies and insurance agencies/brokerages. These customer outcomes and expectations form the Principles identified above.

The majority of **Customer outcomes and expectations** are relevant to your business. Areas such as Outsourcing, Design of Insurance Product and Claims Handling and Settlement may have little, if any relevance to your business.

The full CCIR/CISRO guidance document can be accessed at:
<https://www.skcouncil.sk.ca/> -- Fair Treatment of Customers Guideline

Principle 2 – Only persons licensed as an insurance agent may act as an insurance agent or broker

Guidelines

A DR is responsible to ensure that all persons associated with the agency that act in the capacity of an insurance agent are licensed with the GICS and that these persons maintain this licence in accordance with the Insurance Legislation.

The definition of insurance agent in the Act as it relates to a Property and Casualty Agency is:

“Insurance Agent” (“agent”) as defined in the Act means any person who for any compensation and through any medium does one or more of the following:

- ***acts or aids in any manner in soliciting, negotiating, effecting or procuring the making of any contract of insurance or reinsurance or the continuance or renewal of a contract of insurance or reinsurance on behalf of an insurer, potential insured or insured, whether or not the person has agreements with insurers allowing the person to bind coverage and countersign insurance documents on behalf of insurers;***
- ***holds himself, herself or itself out as an insurance agent, broker or consultant;***
- ***provides advice to a person with respect to a specific insurance policy, plan or program;***
- ***evaluates or manages insurance risks on behalf of an insured;***
- ***transmits for another person an application for or a policy of insurance to or from an insurer;***
- ***retains as compensation any portion of a premium received by the person; or,***
- ***enrols individuals in prescribed contracts of insurance.***

The following are not considered within the definition of an insurance agent:

- a lawyer, accountant or actuary entitled to practise his or her profession in Saskatchewan with respect to activities that are undertaken in the course of, and are a part of, the practice of his or her profession;
- a licensed insurance adjuster acting within the authority of his or her licence; or
- an employee of a licensed insurance agent, adjuster or business when the employee is acting for or on behalf of his or her employer and is engaged solely in the performance of clerical or administrative duties for his or her employer;

Considerations

A DR should consider:

- any unlicensed person acting as an agent may be exposing clients, insurers, and the agency itself to increased risks.
- any unlicensed person may also be invalidating all or part of the agency's errors and omissions insurance (“E&O”) coverage.
- any person acting as an agent, or holding out as an agent while unlicensed, is in violation of the Insurance Legislation.
- any compensation paid to non-licensees in connection with the sale of an insurance policy may contravene the Act. See the definition of Insurance Agent above and review the GICS Agent Code of Conduct for further information.

Principle 3 – Licence applications, annual reporting forms and transfer of recommendation forms are filed, and prescribed fees and fines are paid in accordance with the Regulations

Guidelines

A DR is responsible to ensure that all applications for licensing (individual and agency) are accurate and fully completed. This includes initial applications, transfer of recommendation forms and agency annual reporting forms.

- The DR must establish reasonable screening procedures for new applicants which include:
 - certifying in writing that the applicant or insurance agent:
 - is of good character;
 - has met the licensing requirements as set out by GICS; and
 - is knowledgeable about the class of insurance for which the applicant or insurance agent is applying.
- The DR must ensure that all licensees associated with the agency submit to GICS their annual reporting forms in enough time to allow for the continuation of the licence prior to the expiry of the annual reporting period. All required fees and, if applicable, any outstanding fines must also accompany the annual reporting form.
- A DR must ensure that all disciplinary assessments (fines or costs) assessed to the agency are paid within the timeline provided by the GICS.
- All queries from the GICS must be responded to within the time frames established by the GICS in each query.

Considerations

A DR should consider:

- individuals new to the insurance industry may not be considered fully knowledgeable about the class of insurance for which they are applying.
- it is important to take into account what duties and responsibilities the new licensee will be required to perform.
 - Are these duties in line with the knowledge and experience they have within the industry?
 - Are individuals appropriately supervised in accordance with the level of knowledge, skills and abilities they have?

Principle 4 – Licensees must comply with the Insurance Legislation and all other legislation governing their business activities

Guidelines

- The obligation of the DR is the management and supervision of the agency and all associated persons regardless of whether they are a licensee. The DR must work to support compliance efforts by all persons associated with the agency. This obligation also extends to all locations where licensed persons conduct insurance business, including but not limited to full branches, sales offices, service offices and home offices.
- The DR, as part of their management and supervision of the agency is to ensure all persons associated with the agency are aware of the regulatory requirements regarding the business of insurance.
- If a licensee's employment or contract with the agency is terminated the DR must immediately notify GICS that the recommendation is cancelled and the reasons for the cancellation (i.e., the how and why of cancellation).
- The DR must make certain that current office policies and procedures are in place and that all persons associated with the agency are aware of them and follow them. These policies must be consistent with the requirements set out in the Insurance Legislation.

Considerations

A DR should consider:

- do current office policies and procedures include supervision of all persons associated with the agency at all locations?
- do the office policies and procedures include a copy of the Code of Conduct and the GICS Bylaws?
- do persons associated with the agency understand the licensing and conduct standards outlined within the GICS Bylaws?
- do all persons associated with the agency know who the agency's DR is?
- are periodic reviews conducted to ensure agency policies and procedures remain relevant and are complied with?
- do all persons associated with the agency understand the proper handling of monies including receipt procedures and controls?
- does the agency have abeyance and diary controls in place? Are they being monitored?
- has the agency addressed account management and acceptable file maintenance? This includes where copies of client files may be kept, security, confidentiality and privacy issues.
- are training sessions on brokerage software and systems provided to all persons associated with the agency?
- has the agency detailed a position on secondary occupations for staff? Is there an approval process in place, including notification and acceptance by the GICS?
- do the policies and procedures include information relevant to other legislation that governs the business of the agency (i.e., privacy, anti-spam legislation, SGI Auto Fund)?

Principle 5 – Licensees must be provided with, and use, all information respecting insurance that is necessary to properly conduct insurance business

Guidelines

- The DR must remain current on:
 - industry trends;
 - insurer requirements; and
 - market requirements.
- The DR must share this information, as appropriate, with any person associated with the agency.
- The DR must pay particular attention to information that could impact the business of the agency and ensure this information is highlighted to all concerned.
- The DR must make the following information available to all staff:
 - current documentation and forms; and
 - bulletins and other industry publications.

Considerations

A DR should consider developing training programs specific to the agency's and every licensee's areas of practice or specialization.

Principle 6 – All agency books, records and accounts must be maintained in accordance with the Insurance Legislation

Guidelines

Books and records must be maintained on a current basis. This includes financial records as well as records of all client interaction with the agency. A DR must ensure that:

- persons associated with the agency are diligent in recording client contact with respect to insurance transactions, whether that contact was in person, over the telephone, over any form of digital medium or through hard copy documents; and
- qualified individuals are assigned to carry out all responsibilities.

Considerations

A DR should consider:

- utilizing the full potential of the agency's brokerage management system is encouraged so the full potential of the software can enhance its management reporting abilities.
- reviewing the GICS Agent Code of Conduct which speaks in detail to file retention. File retention is the time period for which inactive and cancelled files should be kept.
 - the Act allows prosecution or disciplinary action for up to three (3) years from the date the facts of a misconduct situation came to the knowledge of the Regulator.
 - under *The Limitations Act*, most actions must be commenced within two (2) years from when the claimant knew or ought to have known about the occurrence, the causes of the occurrence, and who might be held responsible.
 - *The Limitations Act* provides an ultimate limitation of 15 years from the date of the act or omission.
 - for minors, persons incompetent to manage their affairs, and in the case of domestic assault or sexual assault, the limitation period does not apply, so effectively a lawsuit may begin decades after an occurrence.
- having a written plan in place to recover client records, accounts receivable, or any other information with respect to a current or former client. This may include a regular scheduling of computer backups of all books, records and accounts. All agency client records, digital and paper, should be stored to ensure safety from theft, water and fire damage.
- digitizing paper files to alleviate storage issues; and
- off site storage of digital/computer files and paper files.

Principle 7 – Errors and omissions insurance (E&O) must be maintained in accordance with the Regulations

Guidelines

- The agency's E&O must be maintained in accordance with section 5-10 of the Regulations.

5-10(1)(b) every business that applies for or holds an insurance agent's licence for one or more classes of property and casualty insurance other than crop hail insurance shall maintain and provide annually:

(i) proof of a valid policy of errors and omissions insurance that:

(A) provides a minimum of \$1,000,000 coverage with respect to any one occurrence and a minimum aggregate limit of \$2,000,000 with respect to all occurrences within a year;

(B) covers the insurance activities of the licensee; and

(C) is underwritten by an insurance company licensed to do business in Canada; and

(ii) a bond in the amount of \$20,000;

- The DR must provide a copy of the agency's E&O coverage to the GICS each year upon renewal of the E&O coverage.
- The DR must immediately notify the GICS of all lapses, cancellations, or changes to E&O coverage.
- The DR must ensure that the E&O coverage includes all business or trade names under which the agency operates.

Principle 8 – Appropriate procedures must be established and followed such that the requirements of Principles 1-7 are met

Guidelines

- The DR must be familiar with the Insurance Legislation as well as the GICS Agent Code of Conduct.
- The DR must aim to establish and maintain a supervisory environment that fosters the business objectives and professionalism of the agency, promotes the regulatory process and the Fair Treatment of Customers Guiding Principles.
- The DR must establish appropriate standards relating to the delegation of their duties.
- The agency through the DR must place a high priority on and take all reasonable steps to ensure compliance with the Insurance Legislation and other governing legislation.
- The DR must have policies and procedures in place to ensure that the GICS is notified of the following:
 - **immediate notification of:**
 - the failure to maintain the prescribed financial security requirements (E&O or the bond), pursuant to sections 5-10 and 5-23 of the Regulations;
 - any change in the name of the business;
 - any corporate change, such as:
 - ✓ amalgamation of the business;
 - ✓ sale of the business;
 - ✓ dissolution of the business; or
 - ✓ for a partnership, any change in the membership of the partnership or of the general partners of a limited partnership;
 - any withdrawal of a licence recommendation;
 - any change in DR;
 - any change in address or contact information; and
 - any proceeding in bankruptcy, including a consumer proposal.
 - **notification within 30 days of:**
 - the commencement of any criminal or quasi-criminal proceedings anywhere in the world against the agency or the agency's directors or officers;
 - the commencement of any professional, occupational or regulatory body proceedings anywhere in the world against the agency or the agency's directors or officers, including, but not limited to:
 - ✓ actions by any organization in which the agency's DR, officers or directors hold a designation;
 - ✓ any written notification regarding a suspension or cancellation of an agency contract from an insurer or MGA; or
 - ✓ actions by any regulatory body in which the agency, DR, officers or directors hold a registration or a licence; and
 - ✓ the commencement of any other type of legal action, respecting the business of insurance, or any other financial service, against the agency, DR, officers or directors, including but not limited to class action lawsuits or civil actions.

- Where deficiencies in procedures are noted by the GICS staff during any audit/ review or investigation, a plan to address these deficiencies must be prepared, submitted to the GICS and implemented as identified in the plan.

Considerations

A DR should consider:

- are appropriate levels of supervisory staff present in the agency and any other offices including branch and home offices?
- is there a current policies and procedures manual for the agency and any other offices including branch and home offices?
- is all relevant information/material available and known to all licensees associated with the agency (e.g. central resource area, intranet)?
- does the agency monitor agency personnel for compliance with agency policies, procedures and Insurance Legislation?
- are staff required to report to the DR instances of non-compliance with Insurance Legislation and agency policies and procedures?
- are there procedures in place to ensure that the GICS compliance queries are responded to within a reasonable time frame? Does the DR follow up with the individual agent to ensure queries have been responded to?

Appendix A – Changes to DR

The agency management and the DR need to be aware of the requirements to make a change to the DR.

Resignation of the DR

A DR who resigns as DR or leaves the agency shall give notice of resignation to the agency and at the same time the DR also files that notice with the GICS.

An agency whose DR resigns as DR or leaves the agency must within 14 days after the resignation, submit to the GICS a written designation of an individual who meets the requirements of the Act and the Regulations. A DR Transfer of Recommendation Form will be required. This form is available on the Insurance Councils website – www.skcouncil.sk.ca

Revocation of the DR

If the agency revokes the DR's designation or terminates the DR's employment the agency shall immediately notify GICS in writing of that fact and shall provide GICS with specific reasons for the revocation.

The agency must also submit to the GICS a written designation of an individual who meets the requirements of the Act and the Regulations. This is done using the DR Transfer of Recommendation Form. This form is available on the Insurance Councils website – www.skcouncil.sk.ca

Death of the DR

If the DR dies, the agency shall immediately notify GICS.

An agency shall within 14 days after death of the DR, submit to the GICS a written designation of an individual who meets the requirements of the Act and the Regulations. This is done using the DR Transfer of Recommendation Form. This form is available on the Insurance Councils website – www.skcouncil.sk.ca.

An agency that does not have a new DR designated within the time frames specified is subject to the suspension of the agency's licence until a DR is designated.

Appendix B – Operating Principles for the Designated Representative

Council has established the following principles to outline the standard of conduct a Designated Representative is expected to meet. To fulfill his or her obligations, the Designated Representative must be familiar with *The Insurance Act*, *The Insurance Regulations*, and these Bylaws. In this Schedule, these documents are referred to collectively as the “Insurance Legislation”.

The Designated Representative must ensure that:

- The Agency or Firm and all of its licensees adhere to the CCIR/CISRO Fair Treatment of Customers Guidance Document, dated September 2018.

The Canadian Council of Insurance Regulators (“CCIR”) and the Canadian Insurance Services Regulatory Organizations (“CISRO”) have jointly published a document entitled “**Guidance: Conduct of Insurance Business and Fair Treatment of Customers**”. This guidance is based on Insurance Core Principles of the International Association of Insurance Supervisors. It was created to support insurers and licensees in achieving fair treatment of customers while complying with existing laws and regulations. It also aims at strengthening public trust and consumer confidence and minimizing reputational risks.

The Insurance Councils of Saskatchewan have fully endorsed the principles outlined in the CCIR/CISRO guidance document. The Fair Treatment of Customers guidance is an overarching principle for the Designated Representative to follow, while ensuring that all licensees within their agency also follow the guidance. The full guidance document can be accessed at:

<https://www.skCouncil.sk.ca/> Fair Treatment of Customers Guideline

- Only licensed persons act as an insurance agent, broker or adjuster for the business;
- Licence applications, annual reporting and transfer of recommendation forms are filed, and prescribed fees and fines are paid in accordance with the Insurance Legislation;
- All licensees of the business comply with the Insurance Legislation and any other legislation governing their business practices;
- Licensees are provided with, and use, all information respecting insurance that is necessary to properly conduct insurance business;
- All books, records and accounts are maintained by the business in accordance with the Insurance Legislation;
- Errors and Omissions insurance is maintained by licensees of the business in accordance with the Insurance Legislation; and
- Appropriate procedures are established by the business and are followed such that the requirements of the above principles are met.