

Restricted Insurance Agents Errors and Omissions Lapses: Sanctions

The General Insurance Council of Saskatchewan ("Council") has oversight of Restricted Insurance Agents ("RIA"). Council has consistently communicated the importance of the mandatory requirement that RIA licensees hold a valid policy of errors and omissions insurance ("E&O"). However, on occasion Council staff deals with licensees who lapse their E&O policies.

Effective September 1, 2016, those RIA licensees that allow their mandatory E&O policies to lapse will be subject to a minimum base fine of \$2,000.

The Bylaws of Council are specific with respect to the requirement that a RIA must continuously maintain an in-force E&O policy.

Section 2

- (1) A person applying for licensing must:
 - (d) provide evidence satisfactory to council of having obtained errors and omissions insurance as set out in Schedule A.

Schedule A, Part V, Section (3) (1)

- (3) A restricted licensee shall maintain and provide annually proof of a valid policy of errors and omissions insurance that meets the following requirements:
 - (a) a minimum of \$1,000,000 coverage and a minimum aggregate limit of \$2,000,000;
 - (b) covers the insurance activities of the licensee; and
 - (c) is underwritten by an insurance company licensed to do business in Canada.
- (2) This Section does not apply to banks, credit unions, loan corporations or trust corporations within the meaning of The Trust and Loan Corporations Act, or to any member institution of the Canada Deposit Insurance Corporation.

Bylaw 2 (1) (4) (d)

- (4) A licence imposes on the licensee obligations including but not limited to the following:
 - (d) to immediately notify council of any cancellation or non renewal of the licensee's errors and omissions insurance;

The risks associated with not maintaining an E&O policy are significant. E&O policies are claims-made policies, and cover claims that are made during the policy term. The loss may have occurred in the past, but as long as it is reported during the current policy term, it can trigger coverage. In order to maintain coverage, the policy must stay in force. If the policy is not kept in force and there is a lapse, the licensee may find that they may not have coverage for losses which occurred during and/or prior to the lapse.

What if a licensee switches E&O carriers?

- As long as E&O is continuously maintained, (i.e. with no lapses), the current insurer should cover any claims that arise, even if the event triggering the claim happened when the RIA licensee was insured through a different carrier. If a licensee changes carriers the licensee must ensure that the new carrier includes continuous coverage within the new policy.
- If the E&O policy is allowed to lapse, no insurer is responsible for any claim that arose before and during the E&O lapse, leaving the RIA licensee uninsured for any such claim(s).
- Some E&O insurers will provide “past acts” coverage but this does not change the fact that the RIA licensee still has a lapse in coverage and is in violation of Council’s bylaws.

With respect to switching E&O carriers, a licensee should ensure that it is familiar with the coverage provided through their new carrier.

Questions regarding E&O sanctions should be directed to:

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