



General Insurance Council of Saskatchewan

Property and Casualty Adjusting Firms

Designated Representative Handbook



June, 2020

Table of Contents

Forward	3
Principle 1 – All Licensees must adhere to the Fair Treatment of Customers Guiding Principles.....	4
Principle 2 – Only persons licensed as an insurance adjuster may act as an insurance adjuster.....	5
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	6
Principle 4 – Licensees must comply with the Insurance Legislation and all other legislation governing their business activities	7
Principle 5 – Licensees must be provided with, and use, all information respecting insurance that is necessary to properly conduct insurance business	8
Principle 6 – All adjusting firm books, records and accounts must be maintained in accordance with the Insurance Legislation	9
Principle 7 – Errors and omissions insurance (E&O) must be maintained in accordance with the Regulations.....	10
Principle 8 – Appropriate procedures must be established and followed such that the requirements of Principles 1-7 are met	11
Appendix A – Changes to DR.....	13
Appendix B – Operating Principles for the Designated Representative	14

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 Adjusting Firm.

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 Adjusting Firm.

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”) Adjuster Code of Conduct.

Section 5-17(2) 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 adjusting firm, for adjusting activities under their supervision and management, and for Fair Treatment of Customers.

This Handbook outlines those obligations. Considering nature, size and complexity of the adjusting firm, 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 adjusting firm. 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 adjusting firm 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
- Product Promotion
- Advice
- Disclosure to Policyholder
- Claims Handling and Settlement
- Complaints Handling and Dispute Resolution
- Protection of Personal Information

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 adjusting firm 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 adjusting firms. 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, Distribution Strategies and Promotion, 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 adjuster may act as an insurance adjuster

Guidelines

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

The definition of insurance adjuster in the Act is:

“adjuster” means, subject to subsection (4), a person who, for compensation, through any medium does one or more of the following:

(a) directly or indirectly solicits the right to negotiate or investigate the settlement of a loss or claim under a contract of insurance on behalf of an insured or insurer;

(b) negotiates or investigates the settlement of a loss or claim under a contract of insurance on behalf of an insured or insurer;

(c) holds himself or herself out as an adjuster with respect to the settlement of any loss or claim mentioned in clause (a) or (b);

(d) assists a person with making a claim under an insurance policy or a contract of insurance;

Considerations

A DR should consider:

- any unlicensed person acting as an adjuster may be exposing insureds, insurers, and the adjusting firm itself to increased risks.
- any unlicensed person may also be invalidating all or part of the adjusting firm’s errors and omissions insurance (“E&O”) coverage.
- any person acting as an adjuster, or holding out as an adjuster while unlicensed, is in violation of the Insurance Legislation.
- any compensation paid to non-licensees in connection with the adjustment of an insurance policy may contravene the Act. See the definition of Adjuster above and review the GICS Adjuster 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 or transfers of recommendation (individual adjuster and adjusting firm) are accurate and fully completed. This includes initial applications, transfer of recommendation forms and adjusting firm annual reporting forms.

- The DR must establish reasonable screening procedures for new applicants which include:
 - certifying in writing that the applicant or insurance adjuster:
 - 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 adjuster is applying.
- The DR must ensure that all licensees associated with the adjusting firm 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 adjusting firm 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 adjusting firm 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 adjusting firm. This obligation also extends to all locations where licensed persons conduct adjusting business, including but not limited to full branches, service offices and home offices.
- The DR, as part of their management and supervision of the adjusting firm is to ensure all persons associated with the adjusting firm are aware of the regulatory requirements regarding the business of insurance.
- If a licensee's employment or contract with the adjusting firm 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 adjusting firm 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 adjusting firm at all its locations?
- do the office policies and procedures include a copy of the Code of Conduct and the GICS Bylaws?
- do persons associated with the adjusting firm understand the licensing and conduct standards outlined within the GICS Bylaws?
- do all persons associated with the adjusting firm know who the adjusting firm's DR is?
- are periodic reviews conducted to ensure adjusting firm policies and procedures remain relevant and are complied with?
- does the adjusting firm have abeyance and diary controls in place? Are they being monitored?
- has the adjusting firm addressed file management and acceptable file maintenance? This includes where copies of client files may be kept, security, confidentiality and privacy issues.
- are training sessions on adjusting file management software and systems provided to all persons associated with the adjusting firm?
- has the adjusting firm 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 adjusting firm (i.e., privacy, anti-spam legislation)?

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
 - building/code requirements.
- The DR must share this information, as appropriate, with any person associated with the adjusting firm.
- The DR must pay particular attention to information that could impact the business of the adjusting firm 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 adjusting firm and every licensee's areas of specialization.

Principle 6 – All adjusting firm 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 insured and insurer interaction with the adjusting firm. A DR must ensure that:

- persons associated with the adjusting firm are diligent in recording insured and insurer contact with respect to the adjustment of an insurance loss, 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 all aspects of the adjusting firm's file management system is encouraged so the full potential of the software can enhance its management reporting abilities.
- reviewing the GICS Adjuster 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 file records, accounts receivable, or any other information with respect to claims files. This may include a regular scheduling of computer backups of all books, records and accounts. All adjusting firm 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 adjusting firm's E&O must be maintained in accordance with section 5-10 of the Regulations.
 - (e) every business that applies for or holds an adjuster's licence for one or more classes of property and casualty insurance other than crop hail insurance shall maintain and provide annually proof of a valid policy of errors and omissions insurance that:*
 - (i) 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;*
 - (ii) covers the insurance activities of the licensee; and*
 - (iii) is underwritten by an insurance company licensed to do business in Canada.*
- The DR must provide a copy of the adjusting firm'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 adjusting firm 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 Adjuster Code of Conduct.
- The DR must aim to establish and maintain a supervisory environment that fosters the business objectives and professionalism of the adjusting firm, 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 adjusting firm, 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 adjusting firm or the adjusting firm's directors or officers;
 - the commencement of any professional, occupational or regulatory body proceedings anywhere in the world against the adjusting firm or the adjusting firm's directors or officers, including, but not limited to:
 - ✓ actions by any organization in which the adjusting firm's DR, officers or directors hold a designation;
 - ✓ any written notification regarding a suspension or cancellation of an adjusting firm contract from an insurer or MGA; or
 - ✓ actions by any regulatory body in which the adjusting firm, 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 adjusting

firm, 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 adjusting firm and any other offices including branch and home offices?
- is there a current policies and procedures manual for the adjusting firm and any other offices including branch and home offices?
- is all relevant information/material available and known to all licensees associated with the adjusting firm (e.g. central resource area, intranet)?
- does the adjusting firm monitor adjusting firm personnel for compliance with adjusting firm policies, procedures and Insurance Legislation?
- are staff required to report to the DR instances of non-compliance with Insurance Legislation and adjusting firm 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 adjuster to ensure queries have been responded to?

Appendix A – Changes to DR

The adjusting firm 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 adjusting firm shall give notice of resignation to the adjusting firm and at the same time the DR also files that notice with the GICS.

An adjusting firm whose DR resigns as DR or leaves the adjusting firm 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.

Revocation of the DR

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

The adjusting firm must also submit to the GICS a written designation of an individual who meets the requirements of the Act and the Regulations.

Death of the DR

If the DR dies, the adjusting firm shall immediately notify GICS.

An adjusting firm 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.

An adjusting firm that does not have a new DR designated within the time frames specified is subject to the suspension of the adjusting firm'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 Adjusting firm 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 adjusting firm 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.