



## **INSURANCE COUNCIL OF MANITOBA**

### **RESTRICTED INSURANCE AGENTS' ("RIA") – SUMMARY OF OBLIGATIONS (the "Summary") (INCIDENTAL SELLER OF INSURANCE)**

#### **INTRODUCTION**

Sellers of certain insurance products have the ability to become licensed on a restricted basis. To qualify as a Restricted Insurance Agent ("RIA"), applicants must meet the definition of an Incidental Seller of Insurance in the *Act* and may only sell insurance that relates to and are incidental to other goods or services already offered to its customers. Definitions for insurance products applicable to the RIA licence are specified in section 23 Definitions, of *Regulation 389/87R*.

Section 380.1(1) Meaning of "Incidental Seller of Insurance", of *The Insurance Act* (the "*Act*") defines an incidental seller of insurance as:

... "a person that, in the course of selling or providing goods or services to the person's customers or clients, sells, negotiates or arranges insurance, or offers to sell, negotiate or arrange insurance, that relates to those goods or services."

The Summary is pursuant to the *Act* and *Regulation 389/87R* and the Insurance Council of Manitoba ("ICM") serves as the delegated authority for the Superintendent.

Summary Section	Commentary	Insurance Act	Regulation 389/87R
<p align="center"><b><u>SECTION 1 – UNLICENSED ACTIVITY PROHIBITED</u></b></p>	<p>No person shall act, or offer, or undertake to act, as an insurance agent in this province without having first obtained a licence under this Act. Carrying on the activities of an agent is prohibited if the RIA entity is not duly licensed.</p> <p>The Designated Official of the RIA entity is responsible for supervising insurance activities under the restricted licence and for receiving notices from the Insurance Council of Manitoba to renew the RIA licence on an annual basis so that the licence remains active while the RIA entity, or any Qualified Entity acting on it's behalf, is carrying on the activities of an agent.</p>	<p><i>Section 369(1) Not to act without licence</i></p>	<p><i>Section 26(2)(b) Applying for a restricted licence</i></p>
<p align="center"><b><u>SECTION 2 – LIABILITY INSURANCE REQUIREMENTS (ERRORS AND OMISSIONS)</u></b></p>	<p>Every insurance agent licence issued and every renewal of such a licence is conditional upon the existence of and continual maintenance by the agent of a liability insurance policy (Errors and Omissions coverage – “E&amp;O”).</p> <p>No licensed insurance agent shall carry on the activities of an insurance agent while not insured by Errors and Omissions coverage.</p> <p>A licensed insurance agent whose Errors and Omissions coverage lapses, or is cancelled by the agent or the insurer, shall notify the Insurance Council of Manitoba (as the delegated authority of the Superintendent) without delay.</p>	<p><i>Section 371(1.1) Liability insurance required</i></p> <p><i>Section 372.1(1) Failure to have liability insurance</i></p> <p><i>Section 372.1(2) Notice to superintendent</i></p>	

<p><b><u>SECTION 3 – EMPLOYEES OF OTHER ENTITIES</u></b></p>	<p>A restricted licence holder may only act or offer to act as an agent through the employees of another entity (a Qualified Entity), in respect of the class or type of insurance specified in the licence if:</p> <p>(a) the entity provides its employees' services to the restricted licence holder under a contract that provides adequate consumer protection and adequate control by the restricted licence holder so that the restricted licence holder is able to meet its obligations under the licence and to comply with <i>Regulation 389/87R</i>; and,</p> <p>(b) the restricted licence holder provides the Superintendent with the information about the entity and the contract that the Superintendent requires.</p>		<p><i>Sections 27(2)(a)&amp;(b) Employees of other entities</i></p>
<p><b><u>SECTION 4 – REPLACEMENT OF THE DESIGNATED OFFICIAL</u></b></p>	<p>If the RIA's Designated Official ceases to be eligible, or is unable to discharge their responsibilities, or the Designated Official under the RIA licence is otherwise to be terminated, the Designated Official must, without delay, inform the Insurance Council of Manitoba and designate a replacement Designated Official.</p> <p><b>(Note:</b> ICM's expectation is to receive notice specifying a replacement Designated Official <u>prior to the departure</u> of the current Designated Official from employment with the RIA licensee.</p>		<p><i>Sections 29(1) and 29(2) Replacement or incapacity of designated official</i></p>

	Continuity of a Designated Official must be in place at all material times when the RIA entity holds a licence.)		
<b><u>SECTION 5 – POLICIES AND PROCEDURES</u></b>	<p>A Restricted Insurance Agent must:</p> <p>(a) have reasonable and demonstrable policies and procedures to ensure that anyone who solicits, negotiates, or transacts insurance on behalf of the restricted licence holder is knowledgeable, competent, and suitable, taking into account the class or type of insurance; and,</p> <p>(b) ensure that anyone who solicits, negotiates, or transacts insurance on behalf of the restricted licence holder complies with the policies and procedures.</p>		<i>Section 30(1) Restricted licence holder’s responsibilities</i>
<b><u>SECTION 6 – DISCLOSURE AND DOCUMENTATION TO CONSUMERS</u></b>	<p>Misrepresentations to consumers as to the terms and benefits of the insurance being considered or in force are prohibited.</p> <p>Upon receiving an application for insurance in relation to the restricted licence holder’s goods or services, the Restricted Insurance Agent <u>must</u> ensure that the person applying is:</p> <p>(a) informed that the person is contracting with the insurer and not with the Restricted Insurance Agent,</p> <p>(b) provided with a summary of the terms, including limitations and restrictions, of the</p>		<i>Section 30(1) Restricted licence holder’s responsibilities</i>

	<p>insurance, and the circumstances under which the insurance commences or terminates and the procedures to follow in making a claim; and,</p> <p>(c) notified that, upon approval of the application, the insurance policy and documentation describing the insurance coverage will be sent to the person, or a certificate will be sent the person if the insurance applied for is group insurance.</p> <p><u>Within 20 business days</u> after a person's insurance coverage comes into force, the person applying must be provided with:</p> <p>(a) documentation evidencing the insurance coverage and stating the name of the insurer and how it may be contacted,</p> <p>(b) documentation stating the person applying is contracting with the insurer and not the Restricted Insurance Agent; and,</p> <p>(c) the insurance policy and documentation describing the insurance coverage or the certificate for group insurance.</p> <p>If the RIA entity or a Qualified Entity acting for it receives direct or indirect compensation, or a direct or indirect inducement or benefit, from the insurer for soliciting, negotiating or transacting the insurance, that fact is disclosed (prior to any</p>		
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	application) to any person considering obtaining the insurance.		
<p style="text-align: center;"><b><u>SECTION 7 – PROHIBITION OF TIED SELLING</u></b></p>	<p>A restricted licence holder must <u>not</u>:</p> <ul style="list-style-type: none"> <li>(a) make its provision of goods or services conditional upon the consumer's purchase of insurance <ul style="list-style-type: none"> <li>(i) through it or, if applicable, through a Qualified Entity acting for it, or</li> <li>(ii) from an insurer specified by it or, if applicable, specified by a Qualified Entity acting for it;</li> </ul> </li> <li>(b) permit a person to solicit, negotiate or transact insurance on its behalf unless the person has been suitably trained to be able to knowledgeably solicit, negotiate or transact the class or type of insurance involved, as may be applicable; or,</li> <li>(c) permit an employee of the restricted licence holder or a Qualified Entity to tell a consumer or potential consumer, of the restricted licence holder's goods or services, that <ul style="list-style-type: none"> <li>(i) the consumer is required to purchase insurance in relation to the goods or services through the restricted licence holder or</li> </ul> </li> </ul>		<p><i>Section 30(2) Restricted licence holder's responsibilities</i></p>

	<p>Qualified Entity or from an insurer specified by either of them, or</p> <p>(ii) should the consumer wish to purchase insurance in relation to the goods or services, the consumer may only purchase insurance through the restricted licence holder or Qualified Entity or from a specified insurer.</p>		
<p><b><u>SECTION 8 – SUPERVISION</u></b></p>	<p>The Designated Official is expected to supervise all insurance activities conducted under the RIA licence by any individual selling and/or servicing insurance products under the licence and/or any Qualified Entity acting on behalf of the licence holder.</p> <p>A restricted licence holder may only act or offer to act as an agent through the employees of another entity if</p> <p>(a) the entity provides its employees’ services to the restricted licence holder under a contract that provides adequate consumer protection and adequate control by the restricted licence holder so that the restricted licence holder is able to meet its obligations under the licence and to comply with this regulation; and</p> <p>(b) the restricted licence holder provides the Superintendent with the information about</p>		<p><i>Sections 27(1) and 27(2) Employees of other entities</i></p>

	the entity and the contract that the Superintendent requires.		
<b><u>SECTION 9 – HOLDING OUT</u></b>	<p>The Designated Official must ensure that the RIA licence holder, or a Qualified Entity acting on behalf of the RIA licence holder, <u>does not</u>:</p> <p>(a) if duly licensed:</p> <p>(i) hold themselves out to the public, through any means (e.g. advertisements, website), in any name other than what is stated in the licence,</p> <p>(ii) carry on insurance business in any other name than that stated in the licence; or,</p> <p>(b) if <u>not</u> duly licensed:</p> <p>(i) present themselves as a licensed agent.</p>	<i>Section 391 Holding Out</i>	
<b><u>SECTION 10 – MISREPRESENTATION AND DISCLOSURE</u></b>	<p><u>Dealing with Consumers</u> – As referred to in section 6 of this Summary of Obligations, misrepresentations to consumers as to the terms and benefits of the insurance being considered or in force are prohibited.</p> <p><u>Dealing with the Insurance Council of Manitoba</u> – An agent must respond promptly and honestly, with full disclosure, to Licensing and Compliance inquiries from the Insurance Council of Manitoba.</p>	<i>Sections 375(1)(a) Misrepresentation, fraud, deceit, or dishonesty; and, 375(1)(b) violation of any provision of The Insurance Act, or any Rule, or Regulation</i>	



	<p>As per the ICM's licensing applications, Designated Officials are responsible to notify the Insurance Council of Manitoba of any material change <u>within 15 days of such change</u>. ICM considers a material change to include any material fact which may influence Council to amend or review a licensee's licence(s).</p> <p>Disclosure of material changes (such as being under investigation or being the subject of a disciplinary decision <u>by any regulatory or licensing authority</u>) on licensing applications permits Council to assess whether the change suggests the public may be at risk and to conduct any necessary inquiries or investigation to aid in that assessment. The nature of the material change would be considered to determine if it is critical to the agent's trustworthiness, competence, or intention to carry on the business of insurance in good faith, and whether the applicant is suitable for licensing or if the agent remains suitable to be licensed.</p> <p>The Designated Official must inform the Insurance Council of Manitoba of the RIA entity being the subject of any form of disciplinary action, by any regulatory or licensing authority, that occurs in any jurisdiction, even if the Designated Official for Manitoba is not the Designated Official named in the other jurisdiction where the disciplinary action occurred as it is the RIA entity itself which holds the licence in Manitoba.</p>		
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	<p><u>Dealing with Insurers</u> – An agent must conduct themselves in an honest manner by furnishing insurers with full and accurate information; misleading an insurer by way of misrepresentations on insurance documents must not occur.</p>		
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**Terminology:**

**Restricted Insurance Agent** – the entity licensed with the Insurance Council of Manitoba. Also known as an Incidental Seller of Insurance.

**Designated Official** – as per section 28, Qualifications of designated official, of *Regulation 389/87R*, a person may not be the Designated Official under a restricted insurance agent licence unless

(a) the person

- (i) is a director, officer or employee of the restricted licence holder if it is a body corporate,
- (ii) is a member of the partnership if the restricted licence holder is a partnership, or
- (iii) in a case where the restricted licence is issued to an individual in connection with a business — carried on by the individual — that is not a body corporate or a partnership, is that individual; and

(b) the person has the qualifications, and

satisfies the educational, training and other standards, established under section 396.1 of the *Act*.

**Qualified Entity** – a third party acting on behalf of the RIA licensee.