



GUIDING PRINCIPLES HANDBOOK

Operating Agent

Designated Representative



OPERATING AGENT (DESIGNATED REPRESENTATIVE) INSURANCE COUNCIL OF MANITOBA

As individual licence holders conduct insurance activities under the authority and contracts of the agency, the agency is responsible for the activities of all licensees and employees.

The operating agent is responsible for the management of the agency which includes all of the insurance activities of the agency.

The ICM holds the designated representative who holds the Operating Agent Level 3 licence accountable for the actions of the agency, and for insurance activities under their supervision and management.

These would include:

- Reasonable screening procedures for new applicants
- Unlicensed activity
- Breach of licence conditions (by any licensee)
- Misstatement on corporate applications
- Ensuring adequate levels of supervision
- Termination of agents

Operating agents must establish prudent procedures and practices governing the operation of the agency.

These would include:

- Agency Management System
- Placement, maintenance and renewal of insurance coverage
- Sub-brokering of insurance

To fulfill your obligations you must be familiar with the Insurance Act, Regulations, Licensing Rules and the General Insurance Agent Code of Conduct.

The following eight (8) Principles have been identified to provide guidance and establish professional standards for the management of an insurance agency.

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1 To ensure that all licensed insurance agents who are employees or partners comply with the Act, Regulations and Licensing Rules

Guiding Principles

- The obligation of the Operating Agent is to support and supervise compliance efforts by all licensed persons associated with the agency, including owners, partners and shareholders.
- 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 Operating Agent is responsible for making certain that current office policies and procedures are in place and that all licensed staff are aware of them. These policies should be consistent with the requirements set out in the Act, Regulations and Licensing Rules.
- The Operating Agent should take all reasonable steps to ensure compliance with brokerage policies and procedures.

Considerations

- Do current office policies and procedures include supervision of all individuals associated with the firm at all locations?
- Do all agency staff know who has been appointed Operating Agent?
- Are periodic reviews being done to ensure the policies and procedures remain relevant?
- Do staff (licensed and unlicensed) 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 file ownership, account management and acceptable file maintenance (including where copies of client files may be kept, security, confidentiality and privacy issues)?
- Are training sessions on brokerage software and systems provided to licensed staff?
- Has the agency detailed a position on secondary occupations for staff? Is there an approval process in place, including notification and acceptance by ICM?



2 To ensure that all licensed insurance agents who are employees or partners are provided with and use all information respecting insurance necessary for them to properly conduct insurance business.

Guiding Principles

- The Operating Agent must remain current on:
 - Regulatory requirements
 - Industry trends
 - Insurer requirements
 - Market requirements
- The Operating Agent should share this information, as appropriate, with all licensed persons and if necessary, unlicensed persons, within their agency,
- The Operating Agent should pay particular attention to information that could impact the business of the agency and ensure this information is highlighted to all concerned.



Considerations

Operating Agents should make the following information available to all staff:

- Current documentation and forms
- Bulletins and other industry publications
- Resource library including an office intranet and/or internet

Training

Consider addressing the training needs of agents through accredited continuing education courses including :

- **In-house training**
 - Regular internal training
 - Insurer/market training
- **External training**
 - Provide information about accredited continuing education courses/seminars
 - Is time given/allowed to attend/participate in continuing education courses?
 - Are staff allowed to utilize agency computers for accredited on-line learning?
 - Consider creating education opportunities by combining resources with other agencies to bring in a facilitator/speaker

3 To ensure that all licensed insurance agents who are employees or partners know and act in accordance with the General Insurance Agent Code of Conduct

Guiding Principles

- The General Insurance Agent Code of Conduct is designed to bolster and enhance the public protection regime set out in the Act, Regulations, and Licensing Rules .
- It is also designed to enhance the professionalism of licensed persons engaged in the property and casualty industry.
- The Code of Conduct provides useful information on how to best avoid situations that may lead to an act of misconduct.
- The Code of Conduct is available on the Insurance Council of Manitoba website. Licensed persons should be required to review the document, and encouraged to refresh as necessary to keep current.
- The Operating Agent must report to ICM serious breaches of the Code of Conduct and other relevant regulatory requirements as soon as reasonable under the circumstances.
- Procedures should be in place to ensure that complaint queries from ICM are responded to within a reasonable time frame and before required deadlines. The Operating Agent should follow up with the individual broker to ensure queries have been responded to.

Considerations

- Are all licensed agents aware of how to access the Code of Conduct?
- Does the agency monitor revisions or clarifications of the Code of Conduct through the ICM Bulletin articles and the ICM website?
- Is the Code of Conduct included in internal training initiatives?
- Consider a regular confirmation from licensed persons that they have reviewed the Code and acted in accordance with it.
- Are there procedures in place to ensure compliance with the Code of Conduct – especially but not limited to protecting client’s confidential information, disclosure protocols and managing actual or potential conflicts of interest?
- Does the agency’s procedures include guidelines for staff on reporting compliance issues to the Operating Agent?

4 To ensure that all books, records and accounts are maintained in accordance with the Act, Regulations and General Insurance Agent Code of Conduct

Guiding Principles

- Good financial process and control will enable an Operating Agent to have an accurate and current snapshot of the agency's financial and trust position.
- Books and records must be maintained on a current basis.

Considerations

- Operating agents should ensure that individuals responsible for maintaining accounts and books have working knowledge of accounting fundamentals and, in particular, how it relates to a property and casualty agency.
- Operating Agents considering external support for maintaining books and records should engage professionals familiar with property and casualty agencies.
- Agencies using a brokerage management system are encouraged to learn and utilize the full potential of the software for its management reporting abilities.
- Books and records, including customer records, should be maintained for six (6) years plus current fiscal year.
- Consider extending the maintenance of commercial line records to a minimum of ten (10) years to manage liability exposure
- Ensure qualified staff are assigned to carry out these responsibilities.
- The agency should have a business recovery and disaster plan in place which includes a backup of all books, records and accounts.

5 To ensure that errors and omissions insurance is maintained in accordance with the Regulations

Guiding Principles

- The agency Errors and Omissions Insurance must be maintained in accordance with Regulation 387/89.
- Operating agents must be prepared to provide a copy of their errors and omissions insurance coverage upon request of the Insurance Council of Manitoba.
- All lapses, cancellations, or changes to errors and omissions coverage must be immediately reported to the Insurance Council of Manitoba.
- Errors and omissions coverage must include all business or trade names under which the agency operates.



6 To ensure that all required licence applications are made and prescribed fees and assessments are paid in accordance with the Regulations

Guiding Principles

- All applications for licensing are to be made with the approval of the Operating Agent who will be responsible for the accuracy therein.
- This includes initial applications and renewal applications.
- Reasonable screening procedures should be implemented to ensure the suitability of new employees.
- Operating Agents must ensure that all renewal applications are submitted in sufficient time to allow renewal of licenses prior to the end of the licensing year, and that required fees and assessments have been paid.
- The Operating Agent should have some mechanism to ensure that ICM is notified of any changes within 15 days.
- These changes include but are not limited to:
 - Change of address
 - Change in employment
 - Change in name of individual or operating name of the agency
- A mechanism should be in place to immediately notify ICM of the termination/resignation of employees, with details of the reason for termination.
- Disciplinary assessments (fines or costs) assessed to the agency must be paid within the timeline provided by ICM.
- All queries from the ICM must be responded to within the time frames established by ICM in each query.

7 To ensure that no employee, director or partner who is not a licensed insurance agent acts as an insurance agent or broker

Guiding Principles

All employees acting in the capacity of an insurance “agent” must be licensed with ICM and maintain this licence in accordance with the Insurance Act, Regulations and Licensing Rules.

Considerations

- Any unlicensed person acting as agent may be exposing clients, insurers, the E&O policy and the agency itself to increased risks.
- “Agent” as defined in the Insurance Act is “..a person who, for compensation solicits insurance on behalf of any insurer or transmits for a person other than himself, an application for or a policy of insurance to or from such insurer or offers or acts or assumes to act in the negotiation of such insurance or in negotiating the continuance or renewal of other than life insurance contracts”.
- Any unlicensed person acting as an agent, or holding out as an agent while unlicensed, is in violation of the Act.
- Operating Agents will be held accountable for unlicensed activity within the agency.

8 To ensure that procedures are established and followed such that the requirements of Guiding Principles 1-7 are met

Guiding Principles

- The Operating Agent should aim to establish and maintain a supervisory environment that fosters the business objectives and professionalism of the agency and promotes the regulatory process.
- Accordingly, the agency through the Operating Agent should place a high priority on and take all reasonable steps to ensure compliance.
- Where deficiencies in procedures are noted by any ICM staff during any review or investigation, a plan to address these deficiencies must be prepared, submitted to ICM and implemented as identified in the plan within the established time frame.
- These plans should be reflected in the agency's policies and procedures.

Considerations

- Are appropriate levels of supervisory staff present in the agency?
- Is there a current policies and procedures manual for the agency?
- Is all relevant information/material available and known to all licensed staff (e.g. central resource area, intranet)?
- Are appropriate levels of supervisory staff present in the agency?
- Does the agency monitor for compliance with agency policies and procedures?
- Is staff required to report instances of non-compliance to the Operating Agent?
- Are there procedures in place to ensure that compliance queries are responded to within a reasonable time frame? Does the Operating Agent follow up with the individual agent to ensure queries have been responded to?
- An agency which has had significant deficiencies identified may be subject to increased reporting requirements, audits, spot checks or other sanctions.





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