

## FAIR TREATMENT OF CUSTOMERS (2019)

This document replaces RIBO's [Fair Treatment of Customers Guideline \(2015\)](#)

### Background

In Canada, regulating the conduct of business in insurance is the exclusive authority of the provinces and territories. Each jurisdiction has its own regulatory approach for the conduct of business, based on its unique culture, traditions and legal regime.

By way of example, Council of The Registered Insurance Brokers of Ontario issued a Fair Treatment of Customers Guideline ("RIBO FTC Guideline") that summarized 'conduct of business' expectations for RIBO licensees. That Guideline, issued in 2015, provided examples of broker business activities and practices that promote the Fair Treatment of Customers. It was rooted in RIBO's Code of Conduct, found at Section 14 in Regulation 991 enacted under the *Registered Insurance Brokers Act*, as well as the supplementary Code of Conduct Handbook.

While that Guidance applied only to RIBO licensees, insurance regulators within each Canadian jurisdiction share a common set of 'conduct of business' expectations to ensure the fair treatment of customers. Accordingly, members of the Canadian Council of Insurance Regulators ("CCIR") and the Canadian Insurance Services Regulatory Organizations ("CISRO") (of which RIBO is a Member) developed and published a "[Fair Treatment of Customers Guidance](#)" ("FTC Guidance") that reflects their vision and expectations.

CCIR and CISRO issued this Guidance to support *Insurers as well as Intermediaries* (i.e. brokers and agents) to achieve fair treatment of customers within existing laws and regulations. As with both the RIBO Guideline and Code of Conduct, it also aims to strengthen public trust and consumer confidence, while minimizing reputational risks and unsustainable business models.

This Guidance is based on Insurance Core Principles of the International Association of Insurance Supervisors ("IAIS").<sup>1</sup>

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<sup>1</sup> International Association of Insurance Supervisors. *Insurance Core Principles, ICP 19*, updated November 2017. <https://www.iaisweb.org/page/supervisory-material/icp-on-line-tool>

## Scope of the FTC Guidance

- The FTC Guidance applies to insurers and intermediaries and is a shared responsibility between them.
- Insurers are responsible for fair treatment of customers throughout the life-cycle of the insurance product, as it is the insurer that is the ultimate risk carrier. Insurers should, upon first contact with customers, make a commitment to them and hold it throughout the life-cycle of the product, *regardless of the distribution channel used by the insurer.*
- The interactions of intermediaries with both customers and insurers give them a key role in ensuring fair treatment. Their conduct is critical in building and justifying public trust and confidence in the insurance sector.
- The insurer's ultimate responsibility does not absolve intermediaries of their own regulatory responsibilities.
- Industry participants, including RIBO licensees, must comply with their regulatory obligations. In addition, they should respect any Codes of Conduct of insurers and any other business entities through which they act.
- Insurers and intermediaries must maintain an appropriate level of professional knowledge and experience, integrity and competence.

## Impact on RIBO Licensees

As has been previously noted, the RIBO Code of Conduct and its corresponding Handbook already establish conduct of business requirements and expectations for RIBO licensees. Compliance with the Code of Conduct strongly supports and is consistent with the Fair Treatment of Customers Guidance referenced above. Conversely, any violation of the RIBO requirements may be considered an act of misconduct and lead to disciplinary proceedings.

What follows are examples of activities that should be carried out with a focus on treating customers fairly. For more complete guidance, please refer to the RIBO [Code of Conduct Handbook](#).

## **1. Know Your Client**

Brokers support the fair treatment of customers by *regularly reviewing and addressing clients' changing needs*.

While brokerages may rely on appropriately trained staff for renewal processing and updating client files, brokers must still understand and satisfy the on-going needs of their clients. *Reasonable and regular efforts must be made to communicate with clients and ensure that their information on file remains current and their coverages remain relevant and satisfactory.*

## **2. Educate Your Client**

By way of example, brokers should seek to engage their clients to help them better understand:

- optional auto benefits,
- property damage from water,
- product suitability,
- flowing from 'know your client' requirement, products that may be suitable for their needs,
- the awareness, reporting and prevention of fraud.

## **3. Implement Brokerage Policies and Procedures**

Fair treatment of customers also applies to office policies. Brokerages, like any other business, regularly identify and implement policies to make their business more efficient and profitable. However, *brokers must ensure that efficiencies do not come at the expense of providing customers with the standards of service that they are entitled to expect of a broker in Ontario.*

Brokerage policies adopted for the sake of efficiency should also require adherence to meaningful customer service standards. *In the event of a conflict between office policies and the customer, the customer should always prevail.*

## **4. Conflict and Commission Disclosure**

A client is entitled to full and overt transparency in the disclosure of relevant information. For example, a client is required to receive information of a conflict or potential conflict of interest at the time of quotation by the broker, while information regarding commission would be disclosed at the point of sale.

RIBO will consider that a broker has not complied with this requirement if disclosure is provided in a manner that is incomplete, misleading or unclear.

*Brokers must always report any potential conflicts with a customer to their Principal Broker.*

## **5. Outsourcing**

When relying upon third parties to provide service(s) to the brokerage, all reasonable efforts should be made to ensure the vendor protects customer personal information in a manner consistent with the practices of the brokerage and legal requirements.

## **6. Act With Competence**

*A broker must also be sensitive to any weakness in personal competence and realize the disservice that would be done to a client by attempting to act beyond their personal level of competence.* In such circumstances, the broker should either refer the client to an appropriate broker in their office or decline to act and advise the client to seek another broker with competence in the required area. An example would be that a broker with little or no commercial lines insurance experience should not attempt to provide or advise a client for coverage on a manufacturing risk.

## **7. Protection of Personal Information**

A broker cannot render meaningful service to clients unless they engage in full and unreserved communication with them. At the same time, clients must feel completely secure that, without any express stipulation or request, matters disclosed to their broker will be held in complete confidence, and that any such information will only be revealed to others without the client's consent if it is legally necessary, or in the course of negotiating with underwriters on behalf of the client.

Brokers must be aware that there is increasing risk to a client's confidential information as a result of potential cyberattacks on brokerage records. Brokers must have appropriate safeguards in place to mitigate this risk from both a technology and liability insurance perspective. This should include mobile devices and home offices, as applicable.