



REGISTERED INSURANCE BROKERS OF ONTARIO

TAC Spot Check Interim Report

2022

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11/21/2022

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TAC SPOT CHECK INTERIM REPORT

INTRODUCTION

RIBO, as part of its public protection mandate, has a duty to oversee the insurance broker sector to ensure that customers have access to affordable insurance and are being treated fairly. Brokers can demonstrate adherence to [Fair Treatment of Customers Principles](#) and the [RIBO Code of Conduct](#) by regularly reviewing their customer's insurance needs to ensure that the products and coverage they purchase remains adequate and suitable.

HISTORY AND BACKGROUND

The Take-All-Comers (TAC) Rule was first established in 2009 by the Financial Services Commission of Ontario (FSCO), via its bulletin on “Automobile Insurance Quoting and Underwriting Practices.” FSRA, which succeeded FSCO as the regulator for Ontario’s insurance industry as a whole, conducted consultations throughout 2020 on the rule, culminating in its release of its [Guidance on the TAC Rule](#), designed to clarify the provisions of the *Insurance Act* and UDAP Rule that together form the TAC Rule. This Guidance, last updated on April 7, 2022, applies to Ontario licensed insurers, agents and brokers writing, selling, or dealing with automobile insurance in Ontario. Under the TAC Rule, all parties have legal obligations to:

- provide customers the lowest rate available
- offer all eligible customers a quote or a renewal that is consistent with the insurers’ filed rates and underwriting rules
- accept all auto insurance business from customers that meets Insurers’ approved rules

FSRA’s new “Unfair and Deceptive Acts or Practices (UDAP) Rule” also became effective on April 1, 2022. Two new provisions were introduced that relate to auto insurance which relate to the TAC Rule for auto insurance, meaning that non-compliance with the TAC Rule is considered a violation of UDAP. Any UDAP violation committed by a RIBO licensee is automatically considered an act of misconduct under the *RIB Act*. In accordance with s.9(1)(i) of the UDAP Rule

- s.9(1) Unfair treatment by an agent, broker, or insurer to a customer with regard to any matter relating to quotations for automobile insurance, applications for automobile insurance, issuance of contracts of automobile insurance or renewals of existing contracts of automobile insurance, including but not limited to,
 - (i) variance of formal or informal processes and procedures which make it more difficult for certain persons to interact with an insurer, broker, or agent for the purpose of discouraging or delaying such persons from applying for, renewing or obtaining automobile insurance.

RIBO has the authority to examine all books and records for purposes of determining compliance with the *Registered Insurance Brokers Act* and regulations. RIBO exercised this authority to conduct its TAC-focused spot check.

HISTORY AND BACKGROUND CONTINUED

A similar requirement for brokers is also found in the *Insurance Act*:

- s.230 (1) A broker shall provide to an applicant for insurance the names of all the insurers with whom the broker has an agency contract relating to automobile insurance and all information obtained by the broker relating to quotations on automobile insurance for the applicant.

Additionally, s.237 (1) and s.238 (1) of the *Insurance Act* is important in the understanding of another part of the TAC:

- s.237 (1) If so required by the regulations and unless the insurer has complied therewith, an insurer shall not decline to issue or terminate or refuse to renew a contract in respect of such coverages and endorsements as may be set out in the regulations or decline to issue, terminate or refuse to renew any contract or refuse to provide or continue any coverage or endorsement on any ground set out in the regulations.
- s.238 (1) An insurer shall not decline to issue, terminate or refuse to renew a contract or refuse to provide or continue a coverage or endorsement, except on a ground filed with the Chief Executive Officer under this section.

Since the release of this Guidance and the new UDAP Rule, RIBO has conducted outreach with its licensees in the form of: 1) Enhancing brokers' awareness of the rule and encouraging reports of non-compliance; and 2) Conducting outreach through town halls and establishing an initial set of guidance for the sector. RIBO's latest actions, through the use of its examination powers under the *Registered Insurance Brokers Act*, has been to develop and deploy a TAC-focused audit module.

PURPOSE

This report presents RIBO's interim findings and recommendations in relation to its TAC focused audits which commenced in August 2022. These audits or spot-checks, as of the date of the publication are ongoing. These findings are based on completion of approximately 30% of RIBO's planned spot checks for 2022-23 and are subject to further change following the completion of TAC Spot Checks in 2023.

AUTHORITY AND OBJECTIVE

Under section 17 (3) of Regulation 991, RIBO has the authority to examine all books and records for purposes of determining compliance with the *Registered Insurance Brokers Act* and regulations. RIBO's examinations and spot check activities are performed under these auspices. Where findings suggest challenges with compliance, RIBO may take a variety of actions, including providing compliance supports, education, up to and including disciplinary actions, such as suspending or revoking a license.

RIBO exercised this authority to conduct its TAC-focused spot check, collecting and examining information and documentation from licensees to ensure compliance and determine compliance challenges with the TAC Rule, Fair Treatment of Customers, RIBO's regulations, and the UDAP Rule.

OBSERVATIONS

OVERVIEW

In examining the results of the TAC Spot Checks, RIBO observed that brokers are generally ensuring customers can access automobile insurance in a timely manner. In addition, RIBO has been informed by brokers that customers have been provided with the lowest rate available to them and has demonstrated this to RIBO with examples of quotations and notes from the brokers' files. Although this was observed, it has also come to the attention of RIBO that brokers have not consistently demonstrated to RIBO that customers have been provided with this documentation to validate that the quote recommended by the broker was the lowest rate available to them.

POLICIES AND PROCEDURES

In most examinations, brokerages had written policies and procedures with respect to TAC.

CUSTOMER COMPLAINTS

RIBO did not find evidence of customer complaints within brokerages with respect to brokers' compliance with the rule. During this period RIBO also did not receive any customer complaints concerning the rule on its anonymous online complaint intake form.

NEW BUSINESS

There have been no examples found to date where brokers avoided providing automobile insurance quotations based on customers' residence location, customer insurance experience, customers who experienced a prior accident benefits loss or customers not purchasing a property policy. The spot check findings did not find any instances where brokers refused to provide automobile insurance quotations.

Brokers must inform the consumer if a market has declined to provide a quote and report any instance when they are dissuaded or forced to abandon a request for a quote to RIBO and/or FSRA. Brokers indicated to RIBO that there are decreasing instances of insurers not providing quotes (ex. \$0 quotes) when brokers are using aggregators, such as Applied Systems, to quote auto business. Prior to the focus on TAC, brokers informed RIBO that there were many instances where insurers were not quoting auto business when brokers were using aggregators to request quotes.

RIBO has found that although brokers informed RIBO that a needs analysis was generally conducted with customers when placing coverage for new business, documentation of the needs analysis performed by brokers was lacking and, at times, absent. It is expected that brokers add detailed notes and documentation within their Broker Management Systems (BMS) when providing advice and recommendations, and particularly noting the reasons when one insurer's quote is chosen over another, when it is not the lowest rate quoted.

RIBO was informed that brokers generally offered the lowest rate to customers on new business, but evidence of this, in the form of documentation, was lacking, and at times, absent within the brokerage's BMS. It is expected that brokers not only provide customers with the lowest rate when shopping for insurance, but also have verifiable documentation that this was done.

Brokers have not consistently demonstrated to RIBO that customers have been provided with this documentation to validate that the quote recommended by the broker was the lowest rate available to them.

OBSERVATIONS

RIBO observed that telematic¹ quotes were generally the lowest quote available, yet these quotes were not selected by the customers. According to brokers, customers were provided quotes with the telematics option when available and were provided with an explanation of telematics and its benefits. Although RIBO was informed by brokers that this explanation was provided to customers, there generally was a lack of documentation to validate these types of conversations.

DISCLOSURE REQUIREMENTS

RIBO observed a lack of consistency across the industry in the methods used for disclosing commission structures and conflicts of interest. It has been observed that the broker industry is providing these types of disclosures in a variety of ways including verbal disclosure, written disclosure via a letter provided to customers, and posting disclosure information on their websites as a way of providing disclosure. Conflicts of interest disclosure at the new business stage also appear to be lacking and is a concern.

RENEWALS

RIBO observed that brokers did offer all eligible customers a renewal in compliance with TAC.

Brokers generally had processes and procedures to handle renewals. Many brokers send renewal letters to their customers. Some brokers have procedures where if an increase in premium is past a certain threshold² that renewal is examined more thoroughly and may be requoted. Other brokers send a renewal letter and utilize premium threshold procedures for further examination of renewals.

Brokers did not demonstrate to RIBO that their renewal processes and procedures included a further proactive approach. Re-quotes on renewals were generally not initiated by brokers unless the premium increased past a certain threshold.

¹ “Telematic technology customizes insurance to your pattern of driving. It works by monitoring your real-time driving behaviours to provide an objective picture of your driving habits” (from: [Telematics \(ibc.ca\)](http://Telematics(ibc.ca)))

² RIBO has noticed that some brokerages will flag renewals for review only if the renewal premium has increased over a brokerage established percentage.

INTERIM RECOMMENDATIONS AND NEXT STEPS

DOCUMENTATION AND FILE MAINTENANCE

It is important to not only develop, implement, and follow procedures which support compliance, but to verifiably demonstrate that compliance has been achieved.

Documentation of actions and tasks related to compliance with the rule was lacking. When quotes are presented to customers notes should be taken, particularly if the customer did not opt for the quote with the lowest rate. These notes should also detail the rationale for the broker's recommendation. Within each customer file, brokers should be able to show evidence that a summary of quotations was generated and shared with the customer. The summary presented should also include a quote from the lowest rate available. In the spirit of promoting treating customers fairly, it is imperative that brokers provide customers with clear and accurate information³, including sufficient information, to enable customers to make informed insurance purchase decisions.

FAIR TREATMENT OF CUSTOMERS

Targeted communications to customers at renewal provides an opportunity to confirm that the coverage is adequate and suitable, as well as ensuring the customer's insurance rate remains fair and reflective of changing market conditions.

Although brokers had processes and procedures to handle renewals, it appears a thorough review of customers' needs and performing an in-depth analysis to determine if the risks have changed with the customer may not have been done. A detailed needs-based assessment and product suitability review should be done by the broker when placing coverage for a customer. One best practice for brokerages that was observed included contacting all renewal customers with a general notice thereby ensuring contact is made with all customers. While the issuing of renewal letters with generic information is a good method of informing customers of new features and recommendations, RIBO recommends brokerages communicate with their customers in a more targeted way.

At a bare minimum, RIBO encourages brokers to contact their customers on policy renewal to conduct a proper and up-to-date needs analysis. Brokers are required to make meaningful efforts to contact their customers in advance of their policy renewal date to ensure information relating to that customer and their needs remain up-to-date. It is recommended that brokers implement a system whereby contact is made with customers prior to the renewal dates to review coverage and their customers' evolving needs.

This initial set of observations and recommendations can be implemented immediately by the industry as leading best practices.

³ Sufficient information includes a market summary as well as required information disclosures concerning commissions and conflict of interests when they arise.

INTERIM RECOMMENDATIONS AND NEXT STEPS

ANNUAL MARKET REVIEWS

Brokers can better serve their customers by: regularly monitoring the market to ensure they are up-to-date and aware of market fluctuations in renewal premiums; and by working to understand the impact of those increased premiums on customers.

By monitoring the market for these fluctuations, brokers are equipped with information that allows them to assess whether certain insurers are increasing their premiums at a higher rate than others, and in turn, steer customers towards insurers with lower premium rates. This knowledge can turn out to be a competitive advantage as brokers with this knowledge can better survive market rate fluctuations. An advisable step beyond a general market review would be to proactively survey the market for updated quotes on renewal to ensure the renewal premium for their customer is still competitive.

DISCLOSURE

Brokers have a duty to be transparent in all their dealings with customers and conflict of interest disclosure needs to consider the unique nature of each interaction. It is incumbent on brokers to always act in the best interests of their customers. The onus is on the broker to clearly provide commission and conflicts of interest disclosure to their customers. Customers should not be expected to seek and find this disclosure on their own.

NEXT STEPS

RIBO aims to conclude its TAC focused spot checks early in 2023 and issue a final report and recommendations in the Spring. This initial set of observations and recommendations can be implemented immediately by the industry as leading best practices. It is expected that supplementary Guidance will be issued by RIBO that would be focused not primarily on TAC and auto insurance alone but on ensuring brokers are treating customers fairly.



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