



REGISTERED INSURANCE BROKERS OF ONTARIO

# TAC Spot Check Final Report

2023

---

Sharon Seenath, Director  
Compliance, Conduct & Investigations

June 2023

[www.ribo.com](http://www.ribo.com)

# TAC SPOT CHECK FINAL REPORT-2023

## INTRODUCTION

Registered insurance brokers are subject to the Registered Insurance Brokers Act (RIB Act), Regulations and By-laws. Where applicable, they are also subject to the Insurance Act, and regulations as administered by the Financial Services Regulatory Authority of Ontario (FSRA). Certain rules made by FSRA under the authority of the Insurance Act also apply.

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

## BACKGROUND & PURPOSE

The Take-All Comers (TAC) Rule was first established in 2009 by the Financial Services Commission of Ontario (FSCO), in its bulletin on “Automobile Insurance Quoting and Underwriting Practices”.

FSRA was launched on June 8, 2019, to replace the Financial Services Commission of Ontario (FSCO) and the Deposit Insurance Corporation of Ontario (DICO). FSRA subsequently conducted consultations throughout 2020 on the TAC Rule, culminating in the release of its [Guidance on the TAC Rule](#).

[The TAC Rule](#) was designed to clarify the provisions of the Insurance Act and Unfair or Deceptive Acts or Practices (UDAP) Rule which together form the TAC Rule. Guidance on the TAC Rule, last updated on April 7, 2022, applies to Ontario licensed insurers, agents and brokers who write, sell, or deal with automobile insurance in Ontario.

According to the TAC Rule, all parties involved in the provision of automobile insurance have a legal obligation to:

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

FSRA’s new UDAP Rule became effective on April 1, 2022. Two new provisions on automobile insurance relating to the TAC Rule were introduced. Consequently, non-compliance with the TAC Rule is considered a violation of UDAP. Any UDAP violation committed by a RIBO licensee is therefore considered an act of misconduct under the RIB Act.

# BACKGROUND & PURPOSE CONTINUED

Section 9(1)(i) of the UDAP Rule states the following:

- s. 9(1) Unfair treatment by an agent, broker, or insurer to a consumer 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.

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.

Sections 237 (1) and 238(1) of the Insurance Act are essential to the understanding of the TAC Rule:

- 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.

As a result of the release of the Guidance to the TAC Rule and the new UDAP Rule, in or about August 2022, RIBO engaged in the following outreach activities to improve broker awareness about these rules and encourage reports of non-compliance:

- 1) TAC focused audits: Conducted 39 spot checks; and
- 2) Provided licensees with updates about the TAC Rule and its purpose at a Town Hall Meeting

Most recently, through the use of its examination powers under the Registered Insurance Brokers Act, RIBO also incorporated and implemented a TAC focused audit module into its new risk-based spot check program.

# BACKGROUND & PURPOSE CONTINUED

## PURPOSE & METHODOLOGY

The purpose of this report is to provide:

- A final report on the outcome of the TAC focused spot checks; and
- Guidance on compliance with the TAC Rule

RIBO conducted 39 TAC Spot Checks from August 2022 to April 2023. RIBO sent each brokerage selected an email with a TAC questionnaire attached to it. Brokerages were asked to complete the questionnaire and provide the supporting documents requested. In many cases, RIBO requested follow-up information and/or documents.

## AUTHORITY AND OBJECTIVE

Regulation 991, section 17 (3) gives RIBO the authority to examine the books and records of a brokerage for compliance with the Registered Insurance Brokers Act and regulations. RIBO also has the authority to, in the appropriate cases, work with brokerages to resolve minor, low risk issues, including providing compliance support and education. RIBO can also escalate serious, high-risk issues to the Investigations Department for further regulatory action. Such further regulatory action can include suspensions or revocation of licenses. However, RIBO did not escalate any of these TAC spot checks. RIBO exercised its section 17 authority to conduct its TAC-focused spot check. RIBO collected and examined information and documentation received from licensees for compliance.

# OBSERVATIONS

## OVERVIEW

1. The results suggest that brokers in the spot check sample generally ensure that consumers can access automobile insurance in a timely manner. The review of consumer new business quotations and applications did not reveal any instances of clients being refused access to automobile insurance.
2. In approximately 85% of files reviewed, brokers provided consumers with the lowest rate available.
3. In cases where consumers were not provided the lowest rate available, approximately 20% included a documented explanation as to why the lowest rate was not provided to the consumer.
4. In cases where there was no documented explanation/information for the lowest rate not being provided to the consumer, brokers provided RIBO a logical explanation as to why it was not provided. In these instances, RIBO reminded brokers of their obligations to properly document files. RIBO explained that when the lowest available rate is not provided to a consumer, the documentation must also show that the quote recommended by the broker was given after completing a proper needs analysis, and the best available rate suited to the consumer was provided. It should also include reasons why the lowest available rate was not offered.
5. RIBO found that all but one brokerage in this group of spot checks had written policies and procedures about TAC. RIBO reminded brokers that it is essential for them to review these policies and procedures with staff on an on-going basis.
6. RIBO did not find or receive any evidence to suggest that brokers selected for the spot checks were not in compliance with the TAC Rule. According to RIBO's records, as of the date of this report, RIBO has not received any complaints about alleged non-compliance with the TAC Rule.
7. New Business
  - a) In more than 85% of the New Business files reviewed, brokers provided RIBO with a summary of all their auto quotations from their quoting software. These summaries included quotations from all the available insurers contracted to the brokerage. Summaries are essential because they verify that quotes provided to consumers were the lowest rate available in each case. Without keeping a quotation summary, brokers cannot definitively confirm that they provided the consumer with a quote that was the lowest rate available.
  - b) In instances where brokers were unable to provide a documented quotation summary from quoting software, they provided summaries which either, did not include all available contracted markets, or were in different formats than used in the software (such as email, notes in broker management files, etc.).

Although it is not conclusive that in these cases consumers were not provided with the lowest available rate, the absence of such confirmation raises concerns as to whether the broker complied with the TAC Rule. In these cases, RIBO reminded brokers that they must provide consumers shopping for insurance with the lowest rate and that they must document that consumers were offered the lowest rate at all times.

# OBSERVATIONS CONTINUED

- c) RIBO did not find cases of brokers not providing automobile insurance quotations to eligible consumers. RIBO also did not find evidence to suggest that consumers were denied auto insurance quotations on the basis of residence location, lack of insurance experience or accident benefits and/or loss history. RIBO has noted that consumers residence location, lack of insurance experience, accident benefits and/or loss history, were not barriers to obtaining insurance.
  - d) RIBO did not find anything to suggest that insurers refused to provide automobile insurance when a quotation was provided to a consumer. In a few instances, RIBO found that brokers did have to contact insurers to ensure quotes would be honored.
  - e) Brokers informed RIBO that prior to the recent focus on TAC, there were instances where insurers did not quote auto insurance when brokers were using aggregators to request quotes. Based on our conversations with brokers, it appears, however, that this is less frequent.
  - f) RIBO found that a needs analysis was generally conducted with consumers when placing coverage for new business. RIBO expects brokers to have detailed notes and documentation within their Broker Management Systems (BMS) of their advice, recommendations, and reasons for presenting one insurer's quote over another.
8. RIBO observed that telematic quotes were generally the lowest rated quotes available, yet these quotes were not selected by consumers. According to brokers, consumers were provided quotes with the telematics option where available, as well as an explanation of telematics and its benefits. There was a lack of documentation to validate this information.
9. Disclosure Requirements
- a. RIBO continued to observe a lack of consistency across the industry in how commission structures and conflicts or potential conflicts of interest are disclosed. The TAC spot checks suggest that disclosure is provided in a variety of ways including:
    - (i) by email
    - (ii) verbally by phone and/or in person
    - (iii) by letters; or
    - (iv) on the brokerage websites
  - b. RIBO also found that disclosure of conflicts or potential conflicts of interest at the new business stage continued to be deficient. Disclosure of commissions and conflicts or potential conflicts of interest to consumers is essential for the consumer to make a fully informed decision. Also, for the disclosure to be effective, the delivery of the disclosure must be done prior to the consumer purchasing the insurance product so the consumer can make an informed and knowledgeable decision.

# OBSERVATIONS CONTINUED

## 10. Renewals

- a) RIBO observed that brokers complied with the TAC Rule when offering eligible consumers a renewal rate. RIBO did not find any instances where brokers or insurers withdrew or did not offer a renewal quotation for eligible consumers.
  - b) In cases where a policy was re-marketed on renewal, brokers obtained quotes from all their available contracted markets. When renewal policies were not remarketed, the files reviewed by RIBO did not show that brokers were actively surveying the market and obtaining quotes to ensure the renewal premium remained competitive.
  - c) Brokers had some processes and procedures to handle renewals. Brokers sent renewal letters to their clients in approximately 70% of renewal files RIBO reviewed.
  - d) Brokers communicated at least once a year with their clients in greater than 80% of the renewal files reviewed by RIBO.
  - e) Some brokers had procedures for cases where an increase in premium is past a certain monetary threshold . In these situations, the 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.
11. As a result of the TAC Spot Checks, based on broker feedback, it appears brokers have become more diligent in ensuring compliance with the TAC Rule. This includes brokers who have not yet been selected for a TAC Spot Check.

# RECOMMENDATIONS AND NEXT STEPS

Based on the results of the TAC audits, professional obligations required by the Registered Insurance Brokers Act, Code of Conduct, applicable by-laws, regulations and other legislation, brokers should do the following:

## 1. Create, develop, and implement TAC processes and guidelines

These processes must:

- a) Require licensees to document customer quotes, and include details, where applicable, of situations where the consumer did not select the lowest rate.
- b) Ensure notes include the licensee's rationale for recommending the quote that is not the lowest one available.
- c) Ensure that within each client file, there is written confirmation in their BMS that the licensee not only generated a summary of quotations that includes the lowest rate available, but that the summary of quotations were also discussed and reviewed with the consumer.

## 2. Monitor licensee compliance with the TAC rule and internal TAC Rule processes and guidelines.

Such measures should include:

- a) Providing staff with the necessary training to ensure that they understand the purpose of these processes and procedures and the importance of complying with them.
- b) Implementing effective monitoring measures, such as audits and effective supervision.

As part of the 2022-23 license renewal, licensees were asked whether they received TAC training. 71% of licensees indicated that they received training on this topic.

## 3. Fair Treatment of Customers: Review Customer Needs for Renewals

Brokers are expected to integrate targeted communications to customers in the renewal process. This provides them with an opportunity, with the customer's direction and consent, to confirm that the coverage is adequate and suitable. It also ensures that the insurance rate remains fair and reflects changing market conditions.

Although many brokers had existing processes and procedures for renewals, it appears that there may not always have been a thorough review of customer needs to determine if their risks changed. RIBO expects brokers to complete a thorough needs-based assessment and product suitability when placing coverage for a consumer.

RIBO observed a best practice amongst some brokers of contacting all their renewal clients with a general notice letter to ensure contact is made with all clients. While this is a good method of informing clients of new features and recommendations, RIBO recommends brokerages communicate with their clients with a more personal touch rather than a general approach.

Brokers are required to make meaningful efforts to contact their customers in advance of the policy renewal date to ensure information about customers and their insurance needs remain up to date. It is recommended that brokers implement a system for contacting customers prior to the renewal dates to review coverage and their customers' evolving needs.

# RECOMMENDATIONS AND NEXT STEPS CONTINUED

## **4. Annual Market Reviews: Brokers monitor markets regularly to better serve clients**

RIBO recommends that brokers monitor markets regularly to improve their ability to provide customers with information that allows them to make informed decisions. Specifically, brokers can assess whether certain insurers are increasing their premiums at a higher rate than others and in turn steer consumers towards insurers with lower premium rates. This knowledge can give brokers a competitive advantage when dealing with market rate fluctuations. An advisable step beyond a general market review would be to proactively survey the market to obtain quotes on renewal. This can help in ensuring the renewal premium for their customer is still competitive.

## **5. Disclosure: Disclose conflicts of interest so that customers can make informed decisions**

Brokers have a duty to be transparent in all their dealings with customers. Customers are entitled to receive disclosure on conflicts or potential conflicts of interest and disclosure on commissions. Disclosure should be appropriately timed to provide consumers with the information they need in order to make an informed decision.

It is incumbent on brokers to act in the best interests of their customers at all times. The onus is on the broker to clearly provide commission and conflicts or potential conflicts of interest disclosure to their customers. Customers should not be expected to seek and find this disclosure on their own.

# RECOMMENDATIONS AND NEXT STEPS CONTINUED

## FINAL COMMENTS

Brokers are required to provide proper disclosure, conduct a robust needs and product suitability analysis for each client with particular concern to the availability of lower rates. It is important for brokers to remember that a needs and product suitability analysis is also demonstrated in the BMS.

RIBO expects brokers to have procedures for proactively conducting a needs analysis throughout the life cycle of the insurance policy. Communication with clients should not end after the sale of the insurance policy. Regular communication with clients can provide brokers with up-to-date information, to ensure that their clients are properly insured, which may in the long term reduce errors & omissions claims. While this report is centered on the topic of auto insurance, RIBO's expectations for broker conduct apply across all product lines.

It is important for brokers to remember that seeking ways to refuse to quote on or insure undesirable (or unattractive) auto-insurance business to protect your Contingent Profit Commission, is a violation of the TAC Rules as well as the Code of Conduct, Fair Treatment of Customers, and other applicable legislation, by laws and regulations.

## NEXT STEPS

- RIBO will continue to monitor overall brokerage compliance and make appropriate recommendations to brokers. As an example, RIBO has incorporated a module on TAC Compliance in its risk-based Spot Check program to continue to monitor compliance in this area.
- Brokers with deficiencies identified through this TAC-focused spot check initiative are expected to address those deficiencies immediately. Those brokerages, depending on the circumstances, may be subject to additional audits.





REGISTERED INSURANCE BROKERS OF ONTARIO

401 Bay Street  
Suite 1200, P.O. Box 45  
Toronto, ON M5H 2Y4

**Toll Free:** 1-800-265-3097

**Tel:** (416) 365-1900

**Fax:** (416) 365-7664

**Business Hours:**

8:30am to 4:30pm

[www.ribo.com](http://www.ribo.com)