

Q&A | Changes to Strata Insurance Laws

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In September 2020, the provincial government approved new legislative changes regarding strata property insurance business. These changes introduce requirements related to referral fees, notification periods, and compensation disclosure. Following up on the Insurance Council's September 4 practice advisory "[BC Government Approves New Regulatory Requirements for Strata Insurance Business: What This Means for Licensees.](#)" this Q&A addresses common questions related to the requirements.

Q: Do the new strata insurance laws apply to commercial strata properties?

A: Yes. The new requirements apply to all strata insurance business regardless of the size of the strata, including commercial strata properties.

REFERRAL FEES

Q: I understand that I cannot pay a referral fee to a property manager or anyone else, but can I pay a contingent profit commission or guaranteed supplemental commissions and/or any other type of compensation?

A: No. Commission cannot be paid to unlicensed parties.

Q: I entered into an agreement to pay referral fees to a property manager before September 4, 2020. Can I pay the referral fee as agreed?

A: No, effective September 4, 2020, referral fees cannot be paid to property managers, or anyone else for strata insurance.

DISCLOSURE OF COMMISSION

Q: How should I disclose the commission?

A: Beginning November 1, 2020, the dollar amount of commission or compensation received for a strata insurance policy must be disclosed in writing to the client. The disclosure amount should be the total amount of commission paid for placing the client's policy, which is the amount paid to the agency, not to the agent.

If the amount of commission is not known, agents must disclose the estimated amount and how it is calculated. Where there is a material change to the terms of the policy, commission must be

disclosed at least 35 days in advance of the policy renewal date. If this is not known 35 days in advance, the agency should provide an estimate of the commission and disclose the final commission amount once it is known.

Q: Is there a template document for commission disclosure?

A: A template form has not been provided. Agencies can create their own disclosure format, but should ensure that it is obvious and easy for the client to understand the commission amount.

Q: If I only place a portion of the coverage by the disclosure deadline, do I have to estimate the total amount of commission?

A: Yes, you must estimate the total amount of commission to be paid to the agency and how the commission is calculated. Once the commission amount is finalized, you must disclose the final amount.

Q: If I provided the client with an estimated amount of commission, do I need to provide another disclosure later?

A: Yes.

Q: Do I need to disclose the amount paid to each agent? Or should I disclose the total amount of commission paid to the agency?

A: The disclosure amount should be the total amount of commission paid for placing the client's policy, which is the amount paid to the agency, not to the agent.

Q: Does an MGA have the same commission disclosure requirements as an agency?

A: Yes.

NOTIFICATION PERIOD

Q: When does the new notification period requirement come into effect?

A: November 1, 2020. This means that any policies that expire December 15, 2020, or later are subject to the new notification period requirements. Agents must still communicate with their clients as early as possible and at least 60 days in advance of the policy expiring, even if the insurer has not provided terms yet. Note, disclosure of commission is required for all strata insurance policies beginning November 1, 2020, regardless of the policy renewal date.

Q: The notification period is required where there is a “material change” in the strata insurance contract. What information is considered material?

A: The definition for what constitutes a material change is currently under review. Until otherwise stated, licensees should continue to adhere to the guidance provided in the Insurance Council’s Code of Conduct: what information is material and should be provided to a client depends on the circumstances of the transaction; you should disclose any information relevant to the client's insurance needs that a reasonable and prudent licensee would disclose in the same circumstance.

Q: The Insurance Council’s Code of Conduct requires that the agency provide 60 days notice, but the new legislation only requires 35. Does that mean I only have to provide 35 days notice?

A: Agents should initiate communication with clients regarding changes in terms or notification of non-renewal at least 60 days in advance of renewal. As the insurer’s requirement will be to provide this information to the agent 45 days in advance, agents should use the time to start the process of communicating with clients and insurers, even if they don’t have all the information. For example, agents could start communicating with the client 60 days prior to renewal to provide them with information regarding the current strata insurance market, request risk update information and communicate next steps for renewing their insurance policy. If the agent does not receive terms from the insurer(s) prior to 35 days from the renewal date, the agent should communicate what they do know and next steps so the client is informed throughout the process.

Q: Does an MGA have the same notification period requirements as an agency?

A: Ultimately, disclosure must be provided to the client no less than 30 days before the policy expires. If an MGA is disclosing revised terms or notice of non-renewal to the agency, they must do so at least 45 days in advance of the policy expiring. If the MGA is dealing directly with the client, they must provide their disclosure at least 35 days in advance.

Q: Do all participating insurers on a policy have to provide disclosure 45 days in advance to the agency? Does this apply only to the lead insurer?

A: All insurers have the same disclosure requirements.

Q: Is it sufficient to provide the notice to the property manager? Or must I provide disclosures directly to the strata council?

A: You must provide the disclosure to the strata council. If the strata council elects to delegate communication to the property manager they can do so.

Q: If the lead insurer or any subscriber decides not to participate and new insurers are added to the policy, what are my disclosure requirements then?

A: The agent should tell the client what they know, including information about the current strata insurance market and communicate next steps.

Should you have any further questions, please contact our Practice and Quality Assurance Team at practice@insurancecouncilofbc.com or 604-695-2008, toll-free 1-877-688-0321.