

INSURANCE COUNCIL OF BRITISH COLUMBIA

Sub-Brokering

In recent years Council has investigated a number of complaints against general insurance agents (“brokers”) relating to the sub-brokering of insurance business. In some of the cases investigated policy owners were found to have been placed in positions where they were under insured or uninsured for thousands and even millions of dollars. In each of the cases investigated, there was a common factor. At least one of the two brokers involved in the sub-brokered transaction was not knowledgeable of the process, resulting in the insured being placed at risk.

In view of the serious concerns identified, Council decided to develop guidelines governing sub-brokered insurance transactions.

For the purpose of these guidelines, the following definitions are applied:

- Sub-brokering:** an arrangement where one broker, when unable to effect coverage for a client (insured), arranges to place the client’s coverage through another broker’s market.
- Producing broker:** the broker dealing directly with the insured.
- Contracting broker:** the broker dealing directly with the insurance company (insurer).

In a sub-brokered transaction, both the producing and the contracting broker **have responsibilities to both the client and the insurer**. As such, both brokers involved in a sub-brokered transaction share the responsibility to ensure that all aspects of the insurance transaction are conducted properly. In cases reviewed by Council, some aspect of the insurance transaction was missed or completed incorrectly. If both brokers in the transaction had monitored the entire transaction, the errors that placed the insured at risk would likely have been identified and corrected.

While Council believes both brokers share equal responsibility in a sub-brokered transaction, each broker has primary responsibilities for particular tasks in the transaction.

The producing broker should be primarily responsible for:

- Acquiring all risk information from the insured;
- Completing all application forms, fully and accurately;
- Providing all risk information to the contracting broker;

- Delivering all insurance documents from the transaction to the insured;
- Collecting premiums and forwarding them to the contracting broker;
- Returning unearned or return premiums to the insured; and,
- Signing a sub-brokering declaration containing the information shown on the attached Sub-broker Declaration Form, providing a copy to the insured and retaining a record copy for the file.

The contracting broker is responsible for:

- Providing all risk information to the insurer, after satisfying itself it is complete and accurate;
- Binding coverage with the insurer;
- Issuing covernotes and policy documents, or seeing that these are issued by the insurer and forwarded to the producing broker;
- Collecting premiums from the producing broker and forwarding them to the insurer; and,
- Preparing a sub-broker declaration containing the information shown in the attached Sub-Broker Declaration Form and forwarding a copy of it to the producing broker and the insurer.

Each broker must satisfy itself that the other broker is capable of fulfilling its obligations. And if the producing broker is unable to fulfill its responsibilities, the contracting broker is responsible for completing the transaction properly. For example, if the producing broker collects but does not forward the premium to the contracting broker or the insurer, the contracting broker has an obligation to ensure that the policy remains in force.

Both producing and contracting brokers must be licensed. Each broker in a sub-brokering transaction must satisfy itself that the other broker is properly licensed under the *Financial Institution Act*.

Sub-Brokering Declaration Form

Council believes that making written declaration to the insured and the insurer, when a sub-brokered transaction occurs, would provide increased public protection. The purpose of the declaration is to ensure that both the insured and the insurer are aware of all the parties involved in the transaction.

While either the producing or contracting broker could make the declaration, Council recommends that the contracting broker have the primary responsibility for completing the declaration and for providing copies to both the producing broker and the insurer.

Council recommends that the producing broker have primary responsibility for providing the insured with a copy of written declaration and the disclosure required under section 90 of the *Financial Institutions Act*.

A proposed draft of an acceptable written declaration is attached. It is an example only but does show many of the facts and details that Council recommends should be disclosed in sub-brokered transactions.

Council encourages you to provide us with your response to these proposed guidelines, including any modifications or additions.

Your views should be sent **in writing** to :

Gerald Matier
General Manager
The Insurance Council of British Columbia

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ICN 398-003

SUB-BROKERED DECLARATION FORM

Purpose: It is recognized that under certain conditions an insurance broker may be required to use the facilities of another insurance broker or insurance intermediary to place the required coverage. Therefore it is important that all parties to this transaction clearly understand the process involved in the placement of the insurance protection.

1. Date: _____
2. Insured: _____
Mailing Address: _____

3. Risk Location _____ As above, or _____
4. Class of Insurance Coverage _____ Property _____ Liability
Crime _____ Automobile _____ Marine _____ Professional
Other: Brief Description: _____

5.

Acknowledged	Producing Broker	Contracting Broker	Insurance Company/ Companies
Name/Individual			
Phone/Fax			
Approved by			
Date			

6. Additional Explanation (i.e. Subscription Policy)

7. Acknowledgement: I declare that I have acted in good faith on behalf of my client and that to the best of my knowledge all parties to this transaction are aware of the procedures, which have been followed in the placement of this insurance.

Date: _____ Date: _____

Signature of Contracting Broker

Signature of Producing Broker

Name of Contracting Broker

Name of Producing Broker

cc. Insured _____ Insurer _____