



**INSURANCE BROKERS
ASSOCIATION OF SASKATCHEWAN**

Derek Lothian
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Monday, June 17, 2019

Hon. Don Morgan
Minister of Justice & Attorney General
Government of Saskatchewan
Legislative Building
2405 Legislative Dr., Room 355
Regina SK S4S 0B3

Re: The Role & Responsibilities of the General Insurance Council of Saskatchewan

Minister:

On behalf of the Insurance Brokers Association of Saskatchewan (IBAS) and our 206 independent brokerage members operating in 249 different communities across the province, I am writing today to express our concerns around the appropriate role and function of the General Insurance Council of Saskatchewan (GICS) — specifically, in advance of *The Insurance Act* taking effect on January 1, 2020.

In preparation for the new legislation, IBAS has endeavored to work closely with GICS, as well as the Financial and Consumer Affairs Authority (FCAA), to understand the changes and prepare our members to maintain compliance. While these mutual efforts to-date have been both appreciated and productive, there remains a substantive disconnect on some key issues that, if not resolved, have the potential to create unnecessary new red tape and operational uncertainty for small businesses.

The first issue revolves around the consistency, transparency, and manner in which GICS is interpreting rules and regulations. Over the past several months, IBAS and its members have brought forward several instances where brokerages have received contradictory information from GICS staff pertaining to how GICS would interpret and enforce various bylaws and provisions. There have been other situations where the guidance provided has seemed to be incongruent to the spirit and intent of the regulation or legislation altogether.

Today, many of these challenges are often regarded as a 'frustration' opposed to a major burden. The new Act, however, will grant GICS significantly expanded punitive powers, with the ability to levy fines of up to \$25,000 per individual and \$50,000 per brokerage. These penalties could be financially destructive and can no longer be subject to 'grey area' or discrepancy.

As a result, IBAS is recommending the following:

1. GICS publish and proactively disseminate interpretations (including written interpretations when requested by a licensee or entity that falls under the purview of the Act) and notice of adjudications as a preventative measure against potential future non-compliance;
2. GICS establish clear guidelines for financial penalties — in what situations, and in what amounts, they are to be applied; and
3. Ensure that legislation and regulation is being interpreted equally through the dual lenses of consumer protection and *reasonable* oversight.

The second issue pertains to new audit authorities that GICS will inherit with the new Act. Through our discussions with council, GICS has stated its intent to conduct these audits to a standard of brokerage best practices. While this is a noble goal, it is our strong position that it is not the role of the regulator to determine what is or is not a *best practice*. Instead, it is the regulator's role to evaluate processes and activities to the standard of *legislative and regulatory compliance*.

That said, there *can* be a place for regulators in the *promotion* of best practices; but it must be done only at arm's length, through independent, industry-led entities. The Workers' Compensation Board, for example, funds safety best practices training and certification through organizations like the Safety Association of Saskatchewan Manufacturers and Saskatchewan Construction Safety Association. IBAS is well-positioned to — and is willing to explore — helping take the lead on a similar initiative within the property and casualty insurance industry.

IBAS is therefore also recommending that:

4. The Province reaffirms it is the appropriate role of GICS to enforce regulatory compliance — *not* best practices (which will vary from brokerage to brokerage);
5. Should GICS choose to promote best practices, GICS funds and/or works through independent, sector-led organizations (such as IBAS) for program delivery; and
6. GICS set forth clear and reasonable parameters for when and how audits will be conducted.

As an association built entirely on the premise of service *to* and protection *of* the consumer, IBAS fully embraces the need for industry oversight. Insurance is a complex product, and

consumers *must* have the confidence the licensed advice they are receiving is of the highest quality.

At the same time, as with any industry, it is imperative brokerages — the overwhelming majority of which are small businesses — have confidence the rules they are subject to will be applied consistently, fairly, and under the spirit of their original intent.

Thank you in advance for your attention to this matter. I look forward to discussing it with you at your convenience. In the meantime, should you have any questions or concerns, please don't hesitate to reach me at (306) 380-3765 or derek.lothian@ibas.ca.

Thank you once again for your continued support of Saskatchewan insurance brokers.

Regards,

A handwritten signature in black ink, appearing to read 'Derek Lothian', written in a cursive style.

Derek Lothian
Chief Executive Officer
Insurance Brokers Association of Saskatchewan

cc: Dave Pettigrew, President & CEO, Harvard Western Insurance (*IBAS Chair*)
Jayne Gorrill, Partner, Hoffmann Kool Insurance (*IBAS Vice Chair*)
Peter Bennett, Owner, Saskatoon Insurance Agencies (*IBAS Secretary-Treasurer*)
Roger Sobotkiewicz, Chair, Financial and Consumer Affairs Authority