



Guideline G18 INSURER-MGA RELATIONSHIPS

This Guideline has been approved by the Board of Directors of the Canadian Life and Health Insurance Association Inc. (CLHIA). Member Companies are expected to adopt this CLHIA Guideline having regard to the company's structure, products and business practices, including distribution channels. Member Companies are urged to incorporate this Guideline into the company's ongoing compliance program.

Adopted December 9, 2013, effective January 1, 2015

Guideline G18

INSURER-MGA RELATIONSHIPS

1. INTRODUCTION

Over the past several decades, distribution structures within the life and health insurance industry have undergone considerable diversification. Although it is relatively new in Canada, the Managing General Agency (MGA) channel has recently emerged as a major channel, accounting for over one-third of all new premiums.

In 2010, the Canadian Council of Insurance Regulators (CCIR) launched a series of consultations to gain a better understanding of the MGA channel. These consultations concluded that greater standardization and clarification of roles and responsibilities would be beneficial.

2. PURPOSE

Consistent with the CCIR recommendations, this Guideline is intended to bring greater clarity to the roles, responsibilities and accountabilities within insurer-MGA relationships.

3. SCOPE

This Guideline applies where a member company is contemplating or has entered into a contract with an MGA.

In the event of any conflict between the provisions of this Guideline and any applicable law, the law takes precedence over the Guideline to the extent of the conflict. This Guideline does not override any responsibility established by legislation. Member companies should also take into consideration any provincial guidelines dealing with insurer-MGA relationships.

4. DUE DILIGENCE

Before entering into a contract with an MGA, insurers should conduct sufficient due diligence to confirm that the MGA has the expertise and resources to fulfill the duties of the contract.

This due diligence generally assesses such matters as the MGA's:

- experience and competence;
- financial strength;
- business reputation;

- internal controls (especially those related to business placed through the MGA);
- business continuity;
- advisors (including compliance, training and business tracking);
- E&O insurance;
- business objectives; and
- regulatory compliance.

5. ROLES AND RESPONSIBILITIES

The contract between an insurer and an MGA should clearly set out, either expressly or by reference, the MGA's roles and responsibilities with respect to the nature and scope of functions it is expected to perform. The contract should also establish the right of the insurer to monitor the MGA's practices relative to its contractual obligations.

The contract should address MGA responsibilities such as the following:

- adherence by both the MGA and all its advisors to the insurer's code of conduct (or its own if it has been reviewed and approved by the insurer);
- advisor screening;
- on-going advisor monitoring;
- reporting concerns about the suitability of an advisor to the insurer;
- consumer complaint handling and tracking;
- adherence to all legislation and regulation (including insurance laws and laws relating to money laundering, privacy and safeguarding of information, telecommunications and anti-spam);
- adequacy of Errors & Omissions insurance (especially as this may vary from statutory minimums); and
- adequacy of planning and resources for business continuity.

6. TREATING CUSTOMERS FAIRLY

Insurers should clearly state their expectations that all practices encompassed in the insurer-MGA relationship should promote a culture of treating customers fairly.

Historically, the fair treatment of customers has been a central objective of insurance regulation and industry practices in Canada. Recently, a variety of circumstances both in Canada and abroad have served to focus attention on understanding and reinforcing this concept.

The concept includes promoting outcomes such as:

- providing customers with clear information before, during and after the point of sale;
- reducing the risk of sales which are not appropriate to customers' needs;

- providing sound financial advice; and
- dealing with customer complaints and disputes in a fair manner.

7. MONITORING

Insurers should have policies and procedures to effectively monitor the MGA and to confirm that it is fulfilling its duties under the contract.

Insurers should require that each MGA complete and submit the CLHIA Standardized MGA Compliance Review Survey or similar survey on an annual basis.

Insurers should verify the responses on the monitoring survey by conducting on-site practice reviews on a periodic basis, with the frequency of these reviews based on the insurer's assessment of the risk associated with the MGA arrangement. Where deficiencies are noted on the monitoring survey, appropriate follow-up should be undertaken promptly to ensure the MGA understands and is addressing the deficiency.

Insurers should periodically check for material changes to financial strength as initially assessed as part of the insurer's due diligence.

Insurers should periodically check for material changes to the MGA's business objectives or its business mix.

8. INSURER ACCOUNTABILITY

Consistent with CLHIA Guideline G8, *Screening Agents for Suitability and Reporting Unsuitable Agents* where an insurer relies on an MGA to perform specific functions, the insurer retains ultimate responsibility and, accordingly, should take reasonable steps to ensure that the MGA is performing those functions.

9. IMPLEMENTATION

This Guideline comes into effect on January 1, 2015.