

Disclosure of Information in the Strata Property Insurance Market

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DISTRIBUTION: Property & Casualty Insurance

INTRODUCTION

This Guideline outlines the BC Financial Services Authority's ("BCFSA") expectations regarding the timely disclosure of information to strata corporations by insurance companies operating in the strata property insurance ("strata insurance") market in British Columbia.¹ BCFSA regulates property and casualty insurance companies ("P&C insurers") authorized to conduct business in British Columbia. Insurance agents are regulated by the Insurance Council of British Columbia. Insurers are responsible for ensuring that agents acting on their behalf comply with duties under the law².

The Government of British Columbia ("Government") recently enacted legislation amending the *Financial Products Disclosure Regulation* ("FPDR"), which is intended to provide strata corporations with advanced notice and information about their following year's property insurance in order to make an informed choice and seek alternative coverage as required. The changes take effect on November 1, 2020.

BCFSA's goal is to ensure that insurers comply with their legislative obligations and otherwise treat strata property owners fairly. This means that insurers and insurance agents, in compliance with legislative obligations, commit to finding solutions to provide appropriate notice of the following year's proposed insurance policy terms³ (including deductible, limit, and premium) to strata corporations. BCFSA will use a principles-based approach to assess compliance with the new legislation, to afford

¹ BCFSA uses guidelines to establish principles that regulated entities are expected to implement or follow. Regulated entities must ultimately comply with the legal requirements established by legislation.

² Under section 168 of the *Financial Institutions Act*, an insurance agent is a person, other than an insurance company or an extraprovincial insurance corporation, who solicits, obtains or takes an application for insurance, or negotiates for or procures insurance, or signs or delivers a policy, or collects or receives a premium.

³ BCFSA expects insurance companies to practice "fair treatment of customers" as described in CCIR's [Guidance Conduct of Insurance Business and Fair Treatment of Customers](#).

insurers with flexibility to meet their legislative obligations and achieve the intent of the disclosure requirements.

REGULATORY REQUIREMENTS

Government has enacted changes to the FPDR regarding the disclosure of information in the strata property insurance business.⁴

The changes require insurance companies to either provide 45 days' notice to insurance agents or to provide 30 days' notice to strata corporations regarding changes to, or non-renewal of, a strata corporation's property insurance policy. The insurance agent is also required to disclose the commission and/or compensation insurance companies pay them, if they have completed a strata insurance policy or if they are providing a notice of changes in terms and conditions.

45 DAY NOTICE

In order to fulfill their disclosure obligations, the FPDR provides insurance companies with the option to notify the insurance agent of record a minimum of 45 days prior to the expiry of an existing strata insurance policy in instances where a strata corporation's strata property insurance will not be renewed at the same terms and conditions in order to fulfill their disclosure obligations.

BCFSA's Expectations for Insurers

- BCFSA expects **all insurers** participating on a strata insurance policy to notify the insurance agent of record of proposed changes to terms and conditions, or of their intent not to renew the policy, at least 45 days in advance of the policy's expiration date. Insurers should keep a record of the notice that they have provided to the insurance agent, including the date the notice was delivered.
- Insurers should take all reasonable measures to communicate material changes to insurance agents. Material changes are those that meaningfully affect policyholders and includes any increase to premiums or deductibles. BCFSA expects insurers to exercise judgement in determining materiality from the perspective of their customers.
- BCFSA expects insurers to provide insurance agents with as much information as possible, including estimated terms and conditions, by the 45-day deadline. BCFSA recognizes that finalized terms and conditions are not always available at the 45-day deadline. BCFSA expects insurers to do their due diligence to ensure that they provide meaningful information to the insurance agent by the 45-day deadline.
- BCFSA supports an approach where insurers provide the insurance agent with estimated terms and conditions as far in advance as possible. The estimated terms and conditions may be, with subjects and conditions. As the time gets closer to the renewal date, the insurer(s) should remove the subjects and conditions as appropriate.

⁴ These changes were introduced in the *Municipal Affairs and Housing Statutes Amendment Act (No. 2), 2020* (Bill 14) and were officially enacted on September 10, 2020.

- BCFSAs recognizes that participating insurers may require time to adjust the terms of their quote based on the quotes offered by the lead insurer at the 45-day deadline. Where the lead insurer's quote affects participating insurers or a material change in risk is disclosed to or discovered by an insurer, BCFSAs expects insurers to provide the insurance agent with a revised quote as soon as possible.

30 DAY NOTICE

If the insurer fails to (or chooses not to) notify the insurance agent 45 days in advance of the renewal deadline, the FPDR requires that insurer to provide the strata corporation with proposed terms or a notice of non-renewal a minimum of 30 days prior to the expiration of their existing insurance. Under section 63 of the Strata Property Act, the written notification to strata corporations must be sent 35 days in advance in order to meet the 30-day requirement.

BCFSAs's Expectations for Insurers

- BCFSAs expects that the strata corporation will receive adequate notice of changes or an intent to not renew its strata insurance.
- BCFSAs expects insurers that do not meet the 45-day deadline to coordinate any communication directly to the strata corporation with the insurance agent of record to ensure the strata corporation receives clear and consistent information before the 30 day deadline.

COMMISSION DISCLOSURE

Where there is a material change to the terms of the policy, commission, and/or compensation, the change must be disclosed at least 30 days in advance of the policy renewal date. If this is not known 30 days in advance, the insurance agent should provide an estimate of the commission and disclose the final commission amount once it is known. Under section 63 of the Strata Property Act, insurance agents must send written notification to strata corporations 35 days in advance in order to meet the 30-day requirement.

The FPDR requires insurers or the insurance agent to disclose the amount of commission and/or compensation received for completing a strata insurance policy in writing to the strata corporation at the point of sale. If the amount of commission is not known, the insurer or the insurance agent must disclose the estimated amount and how it is calculated.

BCFSAs's Expectations for Insurers

- BCFSAs expects insurers to notify the insurance agent of record of proposed changes to terms and conditions, including the amount of commission, at least 45 days in advance of the policy's expiration date.

BCFSAs's application of the FPDR and these guidelines is subject to an assessment of the facts in specific circumstances. BCFSAs may pursue enforcement action where insurers are found to be in breach of legislative obligations.

If you have questions or require further clarity, please contact insurance@bcfsa.ca.