

**RISK BASED MARKET CONDUCT QUESTIONNAIRE**

**RELATIONSHIPS TO BROKERS, AGENTS AND OTHER SALES INTERMEDIARIES**

Name of Company: \_\_\_\_\_

Name of Contact Person: \_\_\_\_\_

Telephone #: \_\_\_\_\_

Fax #: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Certification**

I have knowledge of the information provided in this self assessment questionnaire. The information provided fairly represents the policies followed by the company as at the date this questionnaire is being signed.

**Signature of Officer:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Name of Officer:** \_\_\_\_\_  
(PLEASE PRINT)

**Title:** \_\_\_\_\_

**If the response contains information that you consider to be confidential trade, commercial or financial information, you may wish to specify that the information is being provided in confidence.**

Remember to indicate wherever answers differ between personal and commercial lines and by jurisdiction. Please cross reference documents or comments in the comments section to the questionnaire.

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### BACKGROUND

The Canadian Council of Insurance Regulators (CCIR) has developed a risk-based market conduct assessment questionnaire to obtain information from insurers about their relationships with brokers, agents, and other sales intermediaries in Canada.

The information in this questionnaire is being requested by each regulator pursuant to the information gathering authority that exists in its respective jurisdiction. For greater specificity, the relevant legislative provisions are set out in an appendix on page 4. The questionnaire is to be completed and delivered **by November 15, 2004**.

To reduce the need for separate requests being made by each jurisdiction, with the exception of Autorité des marchés financiers (AMF) in Quebec, the other regulators have asked that FSCO obtain Canada-wide information from companies on their behalf and share it with them. The AMF is planning to send the questionnaire to Quebec-based companies and to federal companies that have their head offices in Quebec. The information in this questionnaire is being requested by each regulator pursuant to the information gathering authority under its laws.

The completion of the questionnaire is mandatory. The assessment questionnaire is designed to gather information about practices in effect at the date the questionnaire is completed and signed. It is not designed to gather information about former practices, except where transactions are still pending completion. Responses are required on a Canada wide basis. Where the answer to a question differs by jurisdiction, or differs between personal and commercial lines, the differences should be explained in the response.

The first phase of this review is to obtain a comprehensive understanding of the environment and controls around compensation to sales intermediaries and financial linkages between insurers and sales intermediaries and quotation practices. Once the responses have been received, the results will be studied and key areas identified for potential further review.

The regulators appreciate that the responses requested may contain confidential information relating to trade secrets as well as commercial, technical or financial information and the regulators will treat it as such, recognizing that confidentiality and access to information are governed by the relevant legislation in each jurisdiction. If your response contains information that you consider to be confidential trade, commercial or financial information, you may wish to highlight in the document that the information is explicitly being provided in confidence.

In the case of groups of related companies, where the answers are the same for all companies, one questionnaire can be completed provided the names of all companies to which the responses apply are disclosed.

Where sample documents are requested, please excise the name and any identifying information about the sales intermediary involved. Please cross reference documents or comments in the

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comments section to the questionnaire.

References to “company” means the company that has been requested to complete this assessment questionnaire.

References to “sales intermediary” means any person (corporation or individual) who is selling insurance policies of the company. It does not include individuals who are only processing the transactions.

References to “related parties” means if there is an aggregate ownership of 10% or more of voting shares or that one party has the ability to exercise directly or indirectly, control, joint control or significant influence over the other. Two or more parties are related when they are subject to common or joint control. Related parties also include management and immediate family members.

If you have questions concerning the completion of the questionnaire, you may contact either:

Anita Sastri, by telephone at (416) 590-7245, by fax at (416) 226-7870 or by e-mail at [asastri@fSCO.gov.on.ca](mailto:asastri@fSCO.gov.on.ca); or Laurie Orlik, telephone (416) 590-7243, by fax (416) 226-7870 or by e-mail [lorlik@fSCO.gov.on.ca](mailto:lorlik@fSCO.gov.on.ca).

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#### Appendix

#### AUTHORITY OF INSURANCE REGULATORS TO REQUEST INFORMATION

A comprehensive description of statutory powers is beyond the scope of this appendix. Listed below are some of the key information gathering powers.

Province	Legislation	Section
Canada	Insurance Companies Act, S.C. 1991, c. 47	s. 664
Ontario	Insurance Act, R.S.O. 1990, c. I.8	s. 31
Alberta	Insurance Act, R.S.A. 2000, c. I-3	s. 50, s. 755, s 758
British Columbia	Financial Institutions Act, R.S.B.C. 1996, c. 14	s. 213
Manitoba	The Insurance Act, C.C.S.M. 2004, c. I-40	s. 17
New Brunswick	Insurance Act, c. I-12	s. 15
Newfoundland & Labrador	Insurance Companies Act, R.S.N.L. 1990, c. I-10	s. 75
Northwest Territories	Insurance Act, R.S.N.W.T. 1988, c. I-4	s. 263
Nunavut Territory	Insurance Act, R.S.N.W.T. 1988, c. I-4	s. 263
Nova Scotia	Insurance Act, R.S.N.S. 1989, c. 231	s. 5
Prince Edward Island	Insurance Act, R.S.P.E.I. 1974, c. I-15	s. 15
Quebec	An act respecting insurance, R.S.Q., c. A-32	s. 10(3)
Saskatchewan	The Saskatchewan Insurance Act, S.S. 1978, c. S-26	s. 15
Yukon Territory	Insurance Act, R.S.Y. 2002, c. 119	s. 14

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#	Question	Yes	No	N/A	Comments
A	<b>LICENSING INFORMATION</b>				
1	<p>Please indicate in what jurisdiction(s) you are licensed to do business by checking the box beside the name of the applicable jurisdiction(s):</p> <ul style="list-style-type: none"><li><input type="checkbox"/> Alberta</li><li><input type="checkbox"/> British Columbia</li><li><input type="checkbox"/> Manitoba</li><li><input type="checkbox"/> New Brunswick</li><li><input type="checkbox"/> Newfoundland &amp; Labrador</li><li><input type="checkbox"/> Nova Scotia</li><li><input type="checkbox"/> Ontario</li><li><input type="checkbox"/> Prince Edward Island</li><li><input type="checkbox"/> Quebec</li><li><input type="checkbox"/> Saskatchewan</li><li><input type="checkbox"/> Northwest Territories</li><li><input type="checkbox"/> Nunavut</li><li><input type="checkbox"/> Yukon</li></ul>				

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#	Question	Yes	No	N/A	Comments
B.	<b>SALES FORCE INFORMATION</b>				
1	<p>Channels used - indicate by checking applicable boxes.</p> <p align="right">Approximate percentage of <u>Direct Written Premiums</u></p> <p><input type="checkbox"/> Direct business (e.g. internet, mail) _____</p> <p><input type="checkbox"/> Brokers _____</p> <p><input type="checkbox"/> Agents _____</p> <p><input type="checkbox"/> Salaried or commissioned employees _____</p> <p><input type="checkbox"/> MGA's _____</p>				
2	<p>If the company uses brokers:</p> <p>As an indication of concentration, state the percentage of the direct written premiums by province/ territory represented by the five largest brokers in each jurisdiction.</p> <p align="right">Approximate percentage of <u>Direct Written Premiums</u></p> <p><input type="checkbox"/> Alberta _____</p> <p><input type="checkbox"/> British Columbia _____</p> <p><input type="checkbox"/> Manitoba _____</p> <p><input type="checkbox"/> New Brunswick _____</p> <p><input type="checkbox"/> Newfoundland &amp; Labrador _____</p> <p><input type="checkbox"/> Nova Scotia _____</p> <p><input type="checkbox"/> Ontario _____</p> <p><input type="checkbox"/> Prince Edward Island _____</p> <p><input type="checkbox"/> Quebec _____</p> <p><input type="checkbox"/> Saskatchewan _____</p> <p><input type="checkbox"/> Northwest Territories _____</p> <p><input type="checkbox"/> Nunavut _____</p> <p><input type="checkbox"/> Yukon _____</p>				

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#	Question	Yes	No	N/A	Comments
<b>C</b>	<b>CONTRACTS</b>				
1	<p>Does the company use standard contracts for agents and brokers (sales intermediaries)?</p> <p>If yes, provide a sample contract and a description of any terms that may vary from the standard contract.</p> <p>If no, provide copies of the contracts with the company's three largest brokers.</p>				
2	<p>Does the company have conditions stipulating that the sales intermediaries must place a certain amount of their business with the company?</p> <p>If yes, please provide details.</p>				
3	<p>Does the commission rate vary based on the volume of business placed?</p> <p>If yes, please provide details.</p>				
4	<p>Is compensation for broker portfolio transfers directly calculated to compensate the broker for additional costs incurred by the broker? (i.e. is there a sales incentive to transfer the portfolio?)</p> <p>Please provide details on compensation arrangements for portfolio transfers.</p>				

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#	Question	Yes	No	N/A	Comments
5	<p>Does the company out-source any functions to sales intermediaries (e.g. underwriting, claims settlement)?</p> <p>If yes, provide details of how the sales intermediaries are compensated for those services.</p>				
6	<p>Has the company entered into any “market service contracts”? Market service contracts provide additional compensation for services provided by sales intermediaries that are not directly based on costs incurred (e.g. as a commission rate).</p> <p>If yes, provide details of such contracts.</p>				
<b>D</b>	<p><b>COMPENSATION</b></p> <p>This question includes all types of compensation paid to sales intermediaries, including direct payments to staff or brokers employed by the sales intermediary:</p> <p>Check as many as apply and attach applicable details of these arrangements</p> <p><u>Type of compensation</u></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Commissions</li> <li><input type="checkbox"/> Commission overrides</li> <li><input type="checkbox"/> Contingent commissions</li> <li><input type="checkbox"/> Bonuses</li> <li><input type="checkbox"/> Profit Sharing</li> <li><input type="checkbox"/> Market Service Agreements</li> <li><input type="checkbox"/> Co-op Advertising</li> <li><input type="checkbox"/> Expense Allowance</li> <li><input type="checkbox"/> Benefits in kind</li> <li><input type="checkbox"/> Sales Incentive Programs</li> <li><input type="checkbox"/> Any other not listed above</li> </ul>				

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#	Question	Yes	No	N/A	Comments
1	<p><b>COMMISSION</b></p> <p>Does the company have a standard commission scale?</p> <p>If yes, please provide details and a description of any variation from the standard scale.</p>				
2	<p>(a) Does the company pay contingent profit commissions (CPC) to sales intermediaries?</p> <p>(b) Does the company pay contingent commissions that are not based on the existence of a profit?</p> <p>If yes, provide details.</p> <p>(c) Do contracts result in varying rates because of the following triggers? Check as many as apply.</p> <p><input type="checkbox"/> volume</p> <p><input type="checkbox"/> profit</p> <p><input type="checkbox"/> growth</p> <p><input type="checkbox"/> retention</p> <p><input type="checkbox"/> other</p> <p>Please provide copies of agreements including formula and any terms which can vary.</p>				

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3	<p>Do any sales intermediaries require the company to provide insurance coverage (e.g. E&amp;O, liability, business coverage etc) in order to receive the sales intermediaries' business?</p> <p>If yes, please explain.</p>				
4	<p>Is the compensation amount, rate, or method of payment to sales intermediaries disclosed by your company to applicants for insurance?</p> <p>If yes, please provide details.</p>				
<b>E</b>	<b>OTHER FINANCIAL ARRANGEMENTS</b>				
1	<p>Does the company, officers or management of the company, or a related company, own common or preferred shares in any sales intermediary or a holding company of any sales intermediary?</p> <p>If yes, please explain.</p>				

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#	Question	Yes	No	N/A	Comments
2	<p>(a) Has the company provided loans to any sales intermediary or to any individual broker or agent working for or owning a sales intermediary?</p> <p>(b) If yes, are there any requirements that such sales intermediary or individual provide a specified business volume to the company?</p> <p>If yes, please explain including the purpose of such loans.</p>				
3	<p>Do any sales intermediaries (including officers, directors) have an investment in the insurance company or its affiliates? (Investments in shares or other securities of publicly traded companies or their holding companies do not need to be disclosed unless the company is aware of such holdings and they represent in aggregate more than 10%)</p> <p>If yes, please provide details.</p>				
4	<p>Are any directors or senior officers of a sales intermediary firm acting as directors or senior officers of the insurance company (including its affiliates), or vice versa?</p> <p>If yes, please provide details.</p>				

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5	<p>Do any financial arrangements with sales intermediaries put them in a position of economic dependence where the discontinuance of the arrangement would put the sales intermediaries out of business?</p> <p>If yes, please provide details.</p>				
6	<p>Are there any other financial arrangements not listed elsewhere, including transactions with the broker or staff of the brokerage rather than with the brokerage, or with a company related to your company? (This is intended to be an omnibus question for which a broad interpretation is expected.)</p> <p>If, please provide details.</p>				
<b>F</b>	<b>QUOTATIONS</b>				
1	<p>Please describe the company's quotation practices.</p>				
2	<p>Does the company have policies in place to ensure that no quotations are provided that are inconsistent with its underwriting standards (i.e. participating in bid-rigging)?</p> <p>This would include "go away" quotations or quoting on business that the company does not write or does not intend to write.</p> <p>If yes, please describe the control procedures.</p>				

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#	Question	Yes	No	N/A	Comments
<b>G</b> 1	<p><b>DEVELOPMENT OF POLICIES AND PROCEDURES</b></p> <p>(a) Do you have written policies and procedures in place governing compensation to sales intermediaries?</p> <p>(b) If yes, do the policies contain direction to the type of compensation the insurer will pay?</p>				
2	<p>Have the policies been approved?</p> <p>If yes, please check the applicable box indicating highest level of approval.</p> <p><input type="checkbox"/>Senior Management  <input type="checkbox"/>Committee  <input type="checkbox"/>Board of Directors  <input type="checkbox"/>Other (please indicate)</p>				
<b>H</b> 1	<p><b>CONTENT OF POLICIES</b></p> <p>Do the policies provide a control environment so that all relationships with sales intermediaries made by staff are known to the company and its senior management (i.e. there are no special deals with sales intermediaries of which senior management is not aware) ?</p>				
2	<p>Do the policies set out a monitoring process to ensure that the company is aware of all compensation and financial arrangements with sales intermediaries?</p>				

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3	<p>Does the company have a code of ethics or code of conduct that specifically addresses conflict of interest?</p> <p>If yes, please provide details.</p>				
<b>I</b>	<b>MONITORING AND MANAGEMENT REPORTING</b>				
1	<p>Is there monitoring to ensure adherence to the policies?</p> <p>If yes, by whom? Position _____</p>				
2	<p>Are reports prepared on the findings?</p> <p>If yes, for whom? Please indicate the highest level receiving such reports by checking the applicable box</p> <p><input type="checkbox"/>Senior Management <input type="checkbox"/>Committee <input type="checkbox"/>Board of directors <input type="checkbox"/>Other (please indicate)</p>				
<b>J</b>	<b>COMMENTS</b>				
1	<p>Are you planning any significant changes to the policies or practices relating to any aspect of the questions asked in this assessment questionnaire?</p> <p>If yes, please provide brief details.</p>				

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