Insurance Council
BRITISH COLUMBIA

Q&A | Restrictions and Limitations for Level 1 General Insurance Salespersons

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Level 1 general insurance salesperson licensees ("level 1 salesperson") have restrictions and limitations to their licence which limit their authority and scope of practice. Some level 1 salespersons restrictions and limitations are established by the British Columbia *Financial Institutions Act* ("*Act*") while others are set out in Insurance Council Rules. It is important for level 1 salespersons, their supervisors, nominees and agencies to understand these restrictions and limitations, along with understanding the distinction between a general insurance level 1 salesperson and a general insurance agent.

Insurance agencies and nominees are expected to ensure that their level 1 salespersons do not engage in insurance activities outside of their licence authority and should be able to demonstrate that the agency has procedures in place to ensure level 1 salespersons have sufficient supervision and oversight to monitor their activities and comply with requirements. The *Guidelines for Supervision of General Insurance Level 1 Salespersons* clarify the Insurance Council's expectations for agencies, nominees and agents who supervise level 1 salespersons.

This Q&A provides an overview of the restrictions and limitations of level 1 salespersons and addresses common questions pertaining to level 1 salespersons restrictions and limitations.

BACKGROUND

Definitions

By definition, under section 168 of the *Financial Institutions Act*, a salesperson is:

> "...an individual who is employed by an insurance agent or by an insurer to solicit, obtain or take an application for general insurance, or to negotiate for or procure general insurance, or to collect or receive a premium for general insurance."

By definition, a general 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."

There are two key differences in these definitions. First, a level 1 salesperson is defined as an employee, while a general insurance agent is not. Second, a general insurance agent can sign or deliver an insurance policy, whereas a level 1 salesperson cannot engage in either of these activities except when conducting Insurance Corporation of British Columbia (ICBC) insurance transactions.

Council Rules

In addition to the *Financial Institutions Act* definitions referred to above, Council Rule 6(1) applies four specific restrictions to level 1 general insurance salespersons:

1. The licensee must not sign contracts on behalf of an insurer;
2. The licensee must not carry on general insurance business in any place other than on the premises of the insurance agency the licensee is authorized to represent, except where the licensee has completed the Council Rules Course;
3. The licensee must only conduct insurance business under the supervision of a general insurance agent;
4. The licensee's compensation must consist of a salary, whereby a minimum of 60% of the annual income is based on an hourly, daily, monthly, or other regular rate.

Previously, Insurance Council Rules included a location restriction which prohibited level 1 salespersons from carrying out insurance business in any place other than on the premises of the insurance agency, with certain exceptions; however, following a temporary suspension of these restrictions in response to COVID-19, the Rule was amended permanently. Effective September 20, 2021, level 1 salespersons who have the required qualifications are permitted to conduct insurance business from outside the agency within the limitations and procedures set for them by the agency nominee. Notice ICN 22-003 and the *Guidelines for Supervision of General Insurance Level 1 Salespersons* clarify the Insurance Council's expectations for those who provide oversight to level 1 salespersons working offsite or remotely, following the removal of the location restriction from Insurance Council Rule 6(1)(b) in 2021.

Restricted Activities

A level 1 salesperson must not engage in insurance activities outside of their licence authority. Insurance agencies and nominees are expected to ensure that their level 1 salespersons are not engaging in activities outside of their authority and they should be able to demonstrate that the agency has procedures in place to ensure sufficient supervision and oversight to monitor their activities and ensure compliance with the requirements.

A level 1 salesperson cannot engage in the following activities at any time:

- be responsible, either directly or indirectly, for the supervision of insurance business of other licensees, including level 1 salespersons;
- adjust or settle claims under a contract of insurance;
- advertise or promote their services as an insurance licensee in print, electronically, or in any form of social media;
- hold out as a producer, or anything other than as a level 1 salesperson or employee of an insurance agency;
- provide a member of the public with a phone number, email address or other means of contact that is not the contact information of the insurance agency that the level 1 salesperson is authorized to represent except as approved by the agency nominee;
- make a placement with an unauthorized insurer.

With the exception of Insurance Corporation of BC (ICBC) insurance transactions, level 1 salespersons cannot sign or deliver a policy, binder, certificate of insurance, interim receipt for insurance, or any document that is intended to represent evidence of a contract of insurance.

GENERAL QUESTIONS

Q: How do I know if someone is licensed as a level 1 salesperson?

A: The Insurance Council of BC's online licensee directory includes publicly accessible licence information for all insurance salespersons, agents, agencies, adjusters, and firms currently licensed in British Columbia. The directory allows you to search for individuals and corporate entities, and includes information about licence status, class, and agencies/firms they are authorized to represent.

Q: My home province is not British Columbia, do the level 1 salespersons restrictions and limitations apply to me?

A: The restrictions and conditions apply to all level 1 salesperson licensees conducting insurance business under their Insurance Council of British Columbia licence, regardless of where they reside or if they are conducting their activities outside of BC.

Q: Can level 1 salespersons offer and service insurance products other than Insurance Corporation of BC (ICBC), such as home insurance or commercial insurance?

A: Level 1 salespersons are not restricted in the insurance products they may work with, providing that such business is conducted under the supervision of a level 2 agent or level 3 agent.

Q: How does the agency and nominee determine what supervision a level 1 salesperson requires?

A: As each agency's business model and level 1 salesperson's competency varies, agencies, nominees and their delegates should assess a level 1 salesperson's competency, including their knowledge, training, experience and skillset, when making decisions about the level 1 salesperson's duties and responsibilities and when determining the appropriate and required oversight. To support nominees in meeting their supervisory responsibilities, Insurance Council's *Guidelines for Supervision of General Insurance Level 1 Salespersons* provides guidance and clarifies expectations for agencies, nominees and agents who supervise level 1 salespersons.

Q: Are level 1 salespersons permitted to work at a place other than on the premises of the insurance agency?

A: With the amendment of Rule 6(1)(b), level 1 salesperson's activities may be undertaken outside of the agency premises. Nominees and/or their delegates should be mindful of where level 1 salespersons carry out insurance activities to ensure appropriate supervision and oversight as well as ensuring remote workspaces meet the Insurance Council's and the *Personal Information Protection Act* ("*PIPA*")'s privacy and client confidentiality requirements.

Q: Is a level 1 salesperson prohibited from taking payments for insurance transactions if they are working remotely or away from the agency premises?

A: Level 1 salespersons who have the required qualifications are permitted to conduct insurance business from outside the agency within the limitations and procedures set for them by the agency nominee.

Q: I am a level 1 salesperson, if I encounter a potential client in a casual or non-agency situation, can I provide them with insurance advice or discuss insurance products with them?

A: Casual conversations in a non-agency setting do not benefit from the oversight or supervision that would normally occur within the agency environment because the agency is not there to assist or protect the level 1 salesperson or the client. Such interactions will also need to be documented, including ensuring that the required disclosures, assessments, and advice given are suitable, are documented and monitored by a licensed agent. The level 1 salesperson should encourage the client to contact them at the agency and ensure they do not misrepresent their competency or that they are an agent when in fact they are licensed as a level 1 salesperson.

Q: Can a level 1 salesperson promote or advertise their insurance services?

A: Level 1 salespersons are restricted from advertising or promoting their services as an insurance licensee in print, electronically, or in any form of social media. A level 1 salesperson is not permitted to provide a member of the public with a phone number, email address or other means of contact that is not the contact information of the insurance agency that the level 1 salesperson is authorized to represent except as approved by the agency nominee.

Q: Can a level 1 salesperson sign an application for insurance?

A: Other than for Insurance Corporation of BC (ICBC) transactions, a level 1 salesperson cannot sign an application, certificate of insurance, insurance policy, etc., if it forms part of a contract of insurance. The *Insurance Act* defines contract to mean: "a contract of insurance and includes a policy, certificate, interim receipt, renewal receipt or writing evidencing the contract, whether sealed or not, and a binding oral agreement." Although the *Financial Institutions Act* allows for the level 1 salesperson to take the application and start the process, it is the licensed insurance agent who must oversee it and finalize it, including signing and delivering the policy to the client. Where such activities are done digitally, such as when signing of an application or the policy is not required, then it is expected that the level 2 or level 3 agent is the licensee who is accountable for the transaction and clients should be informed of same.

Q: If a level 1 salesperson is not themselves signing an insurance contract document, but is using the electronic or printed signature of an agent or nominee is this prohibited?

A: In those cases where a level 1 salesperson is not themselves signing a document but is relying on or using an electronic/printed/stamped signature of an agent, such as a level 2 agent, level 3 agent or nominee, to validate the insurance contract or the existence of an insurance contract, we caution that Insurance Council does not believe this practice meets the spirit and intent of the licence restriction which prohibits a level 1 salesperson from signing contracts of insurance; however, we accept that the use of such electronic/printed/stamped signature may not, by strict interpretation, be a breach of the restrictions. Note that if other licensees allow level 1 salespersons to use their signature for the purpose of evidencing a contract of insurance, they must keep in mind the licence restriction that requires the level 1 salesperson to only conduct insurance business under supervision of a general insurance agent. It would not be appropriate for a level 1 salesperson to affix a signature to a document to validate an insurance contract or the existence of one unless the activity occurred with the required supervision. Responsibility for establishing proper procedures and sufficient supervision rests with the agency and its nominee, however the party whose signature is being used may also be held accountable.

Q: As a level 1 salesperson licensee, am I permitted to act as a producer with my own book of business?

A: Level 1 salespersons are not permitted to hold out or act as producers. A level 1 salesperson is, by definition, an employee of an insurance agency and therefore should not treat a consumer as being their own client. Further, it is the general insurance agency, and not an individual licensee representing the agency, that is the agent of record on a client's general insurance policy.

Additionally, a level 1 salesperson's compensation must consist of a salary, whereby a minimum of 60% of the annual income is based on an hourly, daily, monthly, or other regular rate.

Q: As a level 1 salesperson, am I permitted to supervise or oversee other licensees?

A: Level 1 salespersons are prohibited from supervising insurance activities and supervising other licensees, including managing or overseeing insurance activities and insurance business.

Q: As a level 1 salesperson, can I hold a management position in an insurance agency office?

A: Level 1 salespersons are prohibited from supervising insurance activities and supervising other licensees, including managing and overseeing insurance activities and insurance business. If the

position does not involve supervision of or overseeing of other licensees or insurance business, in that the position is focused on non-insurance or other general management, then such non-insurance management and activities may not be prohibited. However, since general office managerial duties within an insurance office are generally intertwined with the agency's insurance business, the level 1 salesperson and the agency would need to be careful to ensure that such supervision and/or management duties do not inadvertently become 'tainted' with the supervising of insurance activities directly or indirectly.

Q: Are level 1 salespersons restricted in the position title they may use?

A: The Insurance Council does not specify what position titles a licensee may not use; however, in determining an appropriate position title, the agency must consider that level 1 salespersons are employees of the agency, that they may only conduct insurance business under supervision and further that all licensees must hold themselves out in the manner in which they are licensed. Licensees must honestly represent themselves, their services and products so as not to mislead or deceive the public. Additionally, a level 1 salesperson's position must not include duties or responsibilities which are outside of their licence authority.

Q: Can level 1 salespersons hold claims adjusting positions or act as claims adjusters?

A: Level 1 salespersons are prohibited from adjusting or settling claims under a contract of insurance. Section 180 of the *Financial Institutions Act* prohibits a person from acting as an insurance adjuster unless the person is licensed as an insurance adjuster with the Insurance Council or is able to rely on a licensing exemption. The Insurance Licensing Exemptions Regulation provides an exemption for general insurance agents when making an adjustment or settlement of a claim under a contract of insurance, however this exemption is specific to an agent and does not apply to level 1 salespersons.

Q: Can level 1 salespersons make placements with unauthorized insurers?

A: Level 1 salespersons are prohibited from placing insurance with unauthorized insurers. Section 76(1)(c) of the *Financial institutions Act* which allows for insurance agent licensees to negotiate or procure contracts of insurance between a resident of British Columbia and an unauthorized insurer, subject to the requirements or conditions of the *Act* and its regulations, is specific to a licensed insurance agent and does not apply to level 1 salespersons.