

ERRORS AND OMISSIONS INSURANCE REQUIREMENTS FOR INSURANCE AGENTS AND ADJUSTERS

Information for agents and adjusters who have a Certificate of Authority from the AIC

ERRORS AND OMISSIONS INSURANCE REQUIREMENTS

The legislation requires Insurance Agencies and Adjusting Firms carry E&O insurance. Policies for Insurance Agencies and Adjusting Firms must cover their Insurance Agents or Insurance Adjusters.

The E&O insurance policy requirements are dependent on whether a business has an unrestricted Certificate of Authority or a restricted Certificate of Authority.



Insurers and Insurance Agencies that issue Errors and Omissions (“E&O”) insurance should refer to the “Insurers and Agencies Who Issue Errors and Omissions Insurance to Insurance Agents and Adjusters” information guide.



Terminology & defined terms

The *Insurance Act* and the *Insurance Agents and Adjusters Regulation* will collectively be called the “legislation.” The legislation speaks to businesses that act as insurance agents and insurance adjusters.

Businesses acting as insurance agents will be called “Insurance Agencies.” Businesses that act as independent adjusters will be called “Adjusting Firms.” Insurance Agencies and Adjusting Firms can be sole proprietorships, partnerships, or corporations.

Persons who are employees or independent contractors who hold certificates of authority and work for an Insurance Agency or an Adjusting Firm will be referred to as “Insurance Agents and Insurance Adjusters.”

E&O INSURANCE POLICY REQUIREMENTS FOR AN UNRESTRICTED CERTIFICATE OF AUTHORITY



1) The financial guarantee is an insurance policy against errors and omissions.



2) The policy must be issued by an insurer licensed in the province of Alberta.



3) The policy must describe the period under which the claims may be made after the policy ends.



4) The policy must be issued in the name of the Insurance Agency or Adjusting Firm.



5) The policy must cover all the Agents and Adjusters of the Insurance Agency or Adjusting Firm.



6) The policy must provide coverage of at least \$500,000 per claim.



7) The maximum payout for all claims must be \$2,000,000 per policy year.



8) The policy must contain the terms, conditions, definitions, and exclusions approved by the Minister of Finance.

TERMS, CONDITIONS, DEFINITIONS, AND EXCLUSIONS APPROVED BY THE MINISTER OF FINANCE

- The Errors and Omissions Policy for holders of a certificate(s) of authority must provide for an automatic extended reporting period of 1 year, and the policy must allow for a claim to be made during the term of the policy, including the extended reporting period. Should the insured breach the policy's Terms and Conditions, the claim may be disallowed.
- Where the insured is not a resident of Alberta, the policy must cover the limits prescribed by the regulation regarding claims arising in Alberta.
- The Errors and Omissions Policy must provide coverage for loss resulting from fraudulent acts committed by an insured and will operate to protect the claimant to the total amount of the coverage prescribed by the regulation, always provided that this coverage shall not apply to any insured who participated in or ratified the fraudulent act.
- A claimant may report a claim directly to the provider of the Errors and Omissions insurance policy or through the insured. The claim must be settled in a manner provided for in the policy wording.

The Certification of Errors & Omissions Coverage Form prescribed by the Minister can be found at www.abcouncil.ab.ca/wp-content/uploads/EO-insurance-certificate.pdf.



E&O INSURANCE POLICY REQUIREMENTS FOR A **RESTRICTED** CERTIFICATE OF AUTHORITY



1) The financial guarantee is an insurance policy against errors and omissions.



2) The policy must be issued by an insurer licensed in the province of Alberta.



3) The policy must describe the period under which the claims may be made after the policy ends.



4) The policy must provide coverage of at least \$500,000 per claim.



5) The maximum payout for all claims is determined by multiplying \$500,000 by the total number of employees of the business who act or offer to act as insurance agents to a maximum of \$2,000,000.



6) The policy must contain the terms, conditions, definitions, and exclusions approved by the Minister of Finance.

COMMON CONCERNS

The AIC has identified various causes of non-compliance with E&O requirements. These are:

1) The policy does not reflect the Insurance Agency or Adjusting Firm's name.

- This is most common when the Insurance Agency or Adjusting Firm is a corporation, and the Designated Representative is the sole employee. In these situations, the E&O policy is often issued in the Designated Representative's name with a reference to the corporation.

2) The details on the certificate of insurance provided to the Insurance Agency or Adjusting Firm do not match the policy details.

- This occurs when the Insurance Agency or Adjusting Firm has been issued a certificate of insurance that outlines the policy's coverage but does not match the coverage detailed in the policy wording.
- Certificates of insurance are issued for information purposes only, and Insurance Agencies and Adjusting Firms should ensure that their E&O policy is reviewed thoroughly to confirm that the legislative requirements for E&O insurance are being met.



COMMON CONCERNS

- 3) The policy does not cover all Agents or Adjusters of the Insurance Agency or Adjusting Firm. This typically occurs under two circumstances:
- The first is when the Insurance Agency also carries out its activities in another regulated industry. Insurers or their agents attempt to comply with multiple E&O requirements through the same policy. Sometimes, this results in the Agents of the Insurance Agency not being covered.
 - The second situation happens when the insurer requires all employees and independent contractors to be individually named in the policy. When this is the case, new Agents and Adjusters are often not added to the policy. Designated Representatives who purchased these policies should ensure new Agents and Adjusters are added to the policy as soon as they join the Insurance Agency or Adjusting Firm.



Recommendation: The AIC suggests that E&O policies contain statements that indicate all employees and independent contractors of the Insurance Agency or Adjusting Firm are covered; this eliminates the possibility new Agents or Adjusters are not covered.

CHECKLISTS

The AIC recommends that Designated Representatives follow the below checklists to ensure E&O insurance policies are issued and remain in compliance with the legislation:

Part A. Initial Issuance Checklist

- Ensure that the E&O insurance policy is issued in the name of the Insurance Agency or Adjusting Firm. This name should be the same as it appears on the Certificate of Authority.
- Ensure that the E&O insurance policy is congruent with the Certificate of Authority. Insurance Agencies can have unrestricted or restricted Certificates of Authority.
- For Insurance Agencies with an unrestricted Certificate of Authority and Adjusting Firms, ensure the policy provides coverage to all Agents and Adjusters or the names of all Agents and Adjusters are listed on the policy.
- Ensure there are no conflicts if the Insurance Agency intends to use the E&O policy to comply with other legislative requirements. If conflicts exist between the E&O insurance requirements under legislation and those of another industry, the Insurance Agency may need separate policies.

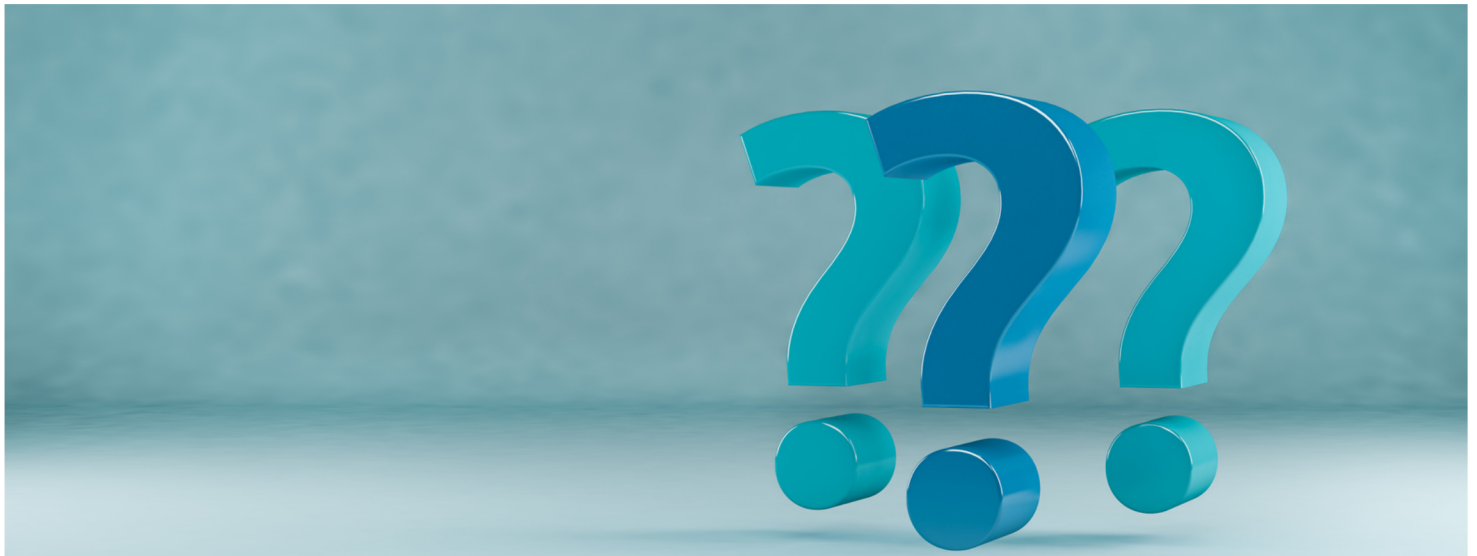
Part B. Renewal Checklist

- Ensure that you renew your policy on time. Do not wait until the last minute.
- If the E&O insurance policy requires the Agents and Adjusters to be individually listed, ensure that all the Agents and Adjusters are named in the policy.

FREQUENTLY ASKED QUESTIONS

Can an Insurance Agency or Adjusting Firm require that Agents and Adjusters carry additional personal E&O insurance coverage?

Yes. The legislation does not prevent an Agent or Adjuster from obtaining additional coverage even though the Insurance Agency or Adjusting Firm already provides them with E&O coverage.



Can an Insurance Agent or Insurance Adjuster obtain individual E&O coverage and add the Insurance Agency or Adjusting Firm corporation to their individual policy?

No. The legislation requires that the E&O coverage be provided to the Insurance Agency and Adjusting Firm and that the Insurance Agency and Adjusting Firm's policy will cover all Agents and Adjusters.

Does the AIC review and accept the E&O policy an Agent or Adjuster uploads to their licensing portal when applying for a certificate of authority or upon renewal?

No. In the province of Alberta, E&O coverage is self-declared and is not reviewed by the AIC except through our auditing process. The AIC conducts multiple audits throughout the year through random selection to ensure compliance.

Please email us at compliance@abcouncil.ab.ca if you have any additional questions about E&O insurance policy requirements.