

Insurance and Real Estate Division

G1/2019 Records to be Kept in Saskatchewan or approved location

Guideline No.: G1/2019

Title: Records to be Kept in Saskatchewan or approved location

Date: May 2019

Introduction

This Guideline is issued pursuant to s. 10-3 of *The Insurance Act* (the “Act”) for the purposes of s. 2-39 of the Act – Effective upon proclamation of the Act. The information contained in the guidelines posted on this website is accurate on the date the information is published, but is subject to change and may be replaced by more recent guidelines.

This Guideline was developed to provide clarification on the requirements for extra-provincial, federal or foreign licensed insurers to obtain approval to keep the records listed in ss. 2-39(1) in a location other than in the province of Saskatchewan.

The Act, under ss. 2-39(1), states that every licensed insurer must keep certain records in Saskatchewan or in another location that is approved by the Superintendent. It does not, however, provide any guidance regarding the factors that the Superintendent will consider in determining whether to approve a location that is not in Saskatchewan. This Guideline will attempt to clarify the factors that the Superintendent will review and consider in assessing the proposed location.

Requirements for Approval of Extra-Provincial Location

The Superintendent will balance a number of factors in making a determination as to whether an extra-provincial location is suitable and whether the licensed insurer has addressed any concerns that may arise including security, privacy, and access. The Superintendent’s expectation is that the records shall be stored in a fashion subject to, at a minimum, the same security and protection standards mandated by the applicable legislation as required if the records were stored in Saskatchewan. Additionally, the licensed insurer will be expected to deliver the books and records to the Superintendent or to grant the Superintendent or delegated representative access to the books and records for the purpose of examination or audit. This shall be carried out within the period required by the Superintendent and at the licensed insurer’s cost, in compliance with s. 2-40 of the Act. For greater certainty, all requirements under the Act shall continue to apply to the licensed insurer and to its records.

The Superintendent may review the record storage requirements for the jurisdiction in which the records will be located. In addition to the legal requirements, the Superintendent will take into consideration the political, economic and social conditions of the extra-provincial jurisdiction as well as the occurrence of any events that may present additional risk factors. Note that the licensed insurer retains ultimate accountability for assessing risk factors in the extra-provincial jurisdiction and ensuring that they are effectively addressed in a timely manner.

The licensed insurer will be expected to advise the Superintendent of the steps that it has taken or will take to ensure that all relevant concerns are addressed. At a minimum, the licensed insurer shall:

1. be able and prepared to deliver the books and records to the Superintendent or to grant the Superintendent or delegated representative access to the books and records for the purpose of examination or audit within the period required by the Superintendent, in compliance with s. 2-40 of the Act;
2. have appropriate risk management policies and procedures in place that address preservation of records and protection against unauthorized use and disclosure and that are regularly reviewed for sufficiency;
3. maintain satisfactory facilities and have robust security measures in place to ensure that the records are secure; and
4. have privacy and confidentiality policies in place that, at a minimum, are commensurate with the *Personal Information Protection and Electronic Documents Act* (PIPEDA) and our provincial standards set out in the Act and the Regulations.

Security measures should contemplate both physical measures as well as cybersecurity and digital records management. Due to the potential impact of political, economic and social conditions, events or laws of other jurisdictions on the storage of or access to the records, the Superintendent may refuse or revoke approval where it appears that the licensed insurer may not be able to meet the regulatory requirements or where the Superintendent's ability to fulfill his or her responsibilities under the Act may be affected.

An application form has been developed to facilitate requests for approval to keep records outside of Saskatchewan. This form is attached as Appendix A.

Ongoing Obligations

The licensed insurer will have an ongoing obligation to remain apprised of all applicable legislation as well as any significant change in political, economic and social conditions and events that may impact its record storage requirements. Licensed insurers will be expected to amend risk management policies and procedures where required to address the political, economic and social conditions of the jurisdiction where the records are located. In the event of any potential for non-compliance with either the legislation of its home jurisdiction or that of the Province of Saskatchewan, the licensed insurer shall notify the Superintendent without delay from the time of discovering the potential for non-compliance. The

licensed insurer will also be responsible for notifying the Superintendent of any change in location of its books and records or any change in circumstances that may affect the storage of its books and records.

The Superintendent may review and reconsider whether the licensed insurer is able to mitigate any risks of or instances of non-compliance. The Superintendent may request additional information if required and may revoke approval if an insufficiently mitigated risk of or instance of non-compliance is identified or if the approved location is no longer viewed to be appropriate for any other reason.

Obtaining Approval

If you have any questions regarding this Guideline, please contact the FCAA's Insurance and Real Estate Division at:

Email: fcaa@gov.sk.ca

Telephone: (306)787-6700

Mail: Suite 601 – 1919 Saskatchewan Drive, Regina SK, S4P 4H2

Appendix A

Request for Approval to Keep Records Outside Saskatchewan

Name of Insurer: _____

Primary Regulator: _____

Proposed Jurisdiction and Location where books and records are to be kept:

List all applicable legislation governing privacy, access, and record storage requirements, in the jurisdiction where the records are kept:

Description of risk management policies and procedures:

(Attach additional sheets if more space is needed.)

1. Compliance Status

Select from the following options to attest to your company's current compliance status, as of the Effective Date set out below, with *The Insurance Act* (Saskatchewan) and Regulations and with any applicable legislation in respect of records requirements in the jurisdiction where the records are kept.

- No identified risks of or instances of non-compliance.
- Risks of and/or instances of non-compliance identified.

Describe (*i.e. details of risks/instances of non-compliance and steps taken - or to be taken - to mitigate, if any*):

(Attach additional sheets if more space is needed.)

2. As a senior officer for the Insurer, having responsibility for the regulatory compliance of the Insurer's records requirements, I hereby declare that the information I have provided in respect of the Insurer's compliance status to be true and accurate.
3. I further acknowledge that, pursuant to the Superintendent's request or direction, the Insurer shall deliver the books and records to the Superintendent or grant the Superintendent or delegated representative access to the books and records for the purpose of examination or audit within the period required by the Superintendent and at the Insurer's cost, in compliance with s. 2-40 of *The Insurance Act* (Saskatchewan) and Regulations.
4. I acknowledge that any false statement made herein could result in regulatory action undertaken by the Superintendent against the Insurer.

I, hereby, submit this application for the Superintendent's approval to keep the Insurer's records in the above-named Jurisdiction and Location and confirm that I have the authority to bind the Insurer, _____.

Signature: _____

Name (Printed): _____

Title: _____

Effective Date: _____

Approved by: _____
Deputy Superintendent of Insurance

Date: _____