

Ministry of Finance
Freedom of Information and
Privacy Office
Room 665, 95 Grosvenor Street
Toronto ON M7A 1Z1
Tel (416) 325-8370
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Ministère des Finances
Bureau de l'accès à l'information et la
protection de la vie privée
95, rue Grosvenor, Salle 665
Toronto ON M7A 1Z1
Tél (416) 325-8370
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May 15, 2014

Brendan Wycks
Executive Director
Canadian Association of Financial Institutions in Insurance
255 – 55 St. Clair Ave.
Toronto ON M4V 2Y7

Dear Mr. Wycks:

Re: G-17-0071-02 - (CAFII) -Third Party Notice

The Ministry of Finance has received an access request under the *Freedom of Information and Protection of Privacy Act* (the *Act*) to disclose the following records:

1. From July 1, 2012 up to the current date, all electronic and written correspondence memoranda, opinions, reports, agreements, contracts, discussion papers, communications, minutes, agenda, resolutions or records relating to all meetings between Canadian Association of Financial Institutions (CAFII) and FSCO including the dates of such meetings and the names of persons in attendance.
2. From July , 2012 up to the current date, all electronic and written correspondence memoranda, opinions, reports, agreements, contracts, discussion papers, communications, minutes, agenda, resolutions or records relating to:
 - the licensing call-centre based life insurance agents; and/or
 - the regulation of online sales of life insurance
3. All electronic and written correspondence between any representative of CAFII and any representative of FSCO from July 1, 2012 to the current date.

The enclosed records were located as responsive to the request. Disclosure of the records may affect your interests as a third party. Under section 28 of the *Act*, an affected third party must be given an opportunity to make representations concerning disclosure of records. The records may contain information that qualifies for an exemption from disclosure under section 17 (Third Party Information) of the *Act*.

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Your views regarding disclosure of the records would be appreciated. Please indicate, in writing, whether or not you would consider all or parts of the records to qualify for an exemption from disclosure. All representations should be forwarded, in writing, by **June 4, 2014** to my attention at:

Ministry of Finance
Freedom of Information & Privacy Office
Suite 665 – 95 Grosvenor Street
Toronto, ON M7A 1Z

If no representations are received, the ministry will be required to make a decision on the records based on our understanding of the documents.

You will be notified, in writing, of my decision by **June 13, 2014** regarding the release of these records. If you disagree with the decision, you will have 30 days to appeal to the Information and Privacy Commissioner of Ontario.

A copy of sections 17 and 28 of the Act are enclosed for your information and can be found at:

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90f31_e.htm

We have also included a bulletin "The Third Party and Ontario's Freedom of Information and Protection of Privacy Acts" for your reference.

Should you have any questions or require further details please do not hesitate to contact Nadia Williams, Assistant FOI Coordinator at (416) 325-8370.

Sincerely,



Alma Beard
FOI Coordinator

Enclosures: Records

Section 17 - Third Party Information

Section 28 – Notice to Affected Party

"The Third Party and Ontario's Freedom of Information and
Protection of Privacy Acts"

Freedom of Information and Protection of Privacy Act

R.S.O. 1990, CHAPTER F.31

Third party information

17. (1) A head shall refuse to disclose a record that reveals a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence implicitly or explicitly, where the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in similar information no longer being supplied to the institution where it is in the public interest that similar information continue to be so supplied;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency; or
- (d) reveal information supplied to or the report of a conciliation officer, mediator, labour relations officer or other person appointed to resolve a labour relations dispute. R.S.O. 1990, c. F.31, s. 17 (1); 2002, c. 18, Sched. K, s. 6.

Tax information

(2) A head shall refuse to disclose a record that reveals information that was obtained on a tax return or gathered for the purpose of determining tax liability or collecting a tax. R.S.O. 1990, c. F.31, s. 17 (2).

Consent to disclosure

(3) A head may disclose a record described in subsection (1) or (2) if the person to whom the information relates consents to the disclosure. R.S.O. 1990, c. F.31, s. 17 (3).

Notice to affected person

28. (1) Before a head grants a request for access to a record,

- (a) that the head has reason to believe might contain information referred to in subsection 17 (1) that affects the interest of a person other than the person requesting information; or

- (b) that is personal information that the head has reason to believe might constitute an unjustified invasion of personal privacy for the purposes of clause 21 (1) (f),

the head shall give written notice in accordance with subsection (2) to the person to whom the information relates. R.S.O. 1990, c. F.31, s. 28 (1).

Contents of notice

(2) The notice shall contain,

- (a) a statement that the head intends to release a record or part thereof that may affect the interests of the person;
- (b) a description of the contents of the record or part thereof that relate to the person; and
- (c) a statement that the person may, within twenty days after the notice is given, make representations to the head as to why the record or part thereof should not be disclosed. R.S.O. 1990, c. F.31, s. 28 (2).

Description

(2.1) If the request covers more than one record, the description mentioned in clause (2) (b) may consist of a summary of the categories of the records requested if it provides sufficient detail to identify them. 1996, c. 1, Sched. K, s. 5.

Time for notice

(3) The notice referred to in subsection (1) shall be given within thirty days after the request for access is received or, where there has been an extension of a time limit under subsection 27 (1), within that extended time limit. R.S.O. 1990, c. F.31, s. 28 (3).

Notice of delay

(4) Where a head gives notice to a person under subsection (1), the head shall also give the person who made the request written notice of delay, setting out,

- (a) that the record or part thereof may affect the interests of another party;
- (b) that the other party is being given an opportunity to make representations concerning disclosure; and
- (c) that the head will within thirty days decide whether or not to disclose the record. R.S.O. 1990, c. F.31, s. 28 (4).

Representation re disclosure

(5) Where a notice is given under subsection (1), the person to whom the information relates may, within twenty days after the notice is given, make representations to the head as to why the record or the part thereof should not be disclosed. R.S.O. 1990, c. F.31, s. 28 (5).

Representation in writing

(6) Representations under subsection (5) shall be made in writing unless the head permits them to be made orally. R.S.O. 1990, c. F.31, s. 28 (6).

Decision re disclosure

(7) The head shall, within thirty days after the notice under subsection (1) is given, but not before the earlier of,

(a) the day the response to the notice from the person to whom the information relates is received; or

(b) twenty-one days after the notice is given,

decide whether or not to disclose the record or the part thereof and give written notice of the decision to the person to whom the information relates and the person who made the request. R.S.O. 1990, c. F.31, s. 28 (7).

Notice of head's decision to disclose

(8) Where a head decides to disclose a record or part thereof under subsection (7), the head shall state in the notice that,

(a) the person to whom the information relates may appeal the decision to the Commissioner within thirty days after the notice is given; and

(b) the person who made the request will be given access to the record or to a part thereof, unless an appeal of the decision is commenced within thirty days after the notice is given. R.S.O. 1990, c. F.31, s. 28 (8).

Access to be given unless affected person appeals

(9) Where, under subsection (7), the head decides to disclose the record or a part thereof, the head shall give the person who made the request access to the record or part thereof within thirty days after notice is given under subsection (7), unless the person to whom the information relates asks the Commissioner to review the decision. R.S.O. 1990, c. F.31, s. 28 (9).

Personal information about deceased

(10) In the case of a request by the spouse or a close relative of a deceased individual for disclosure of personal information about the deceased individual, the person making the request shall give the head all information that the person has regarding whether the deceased individual has a personal representative and how to contact the personal representative. 2006, c. 19, Sched. N, s. 1 (3).

Deemed references

(11) If, under subsection (10), the head is informed that the deceased individual has a personal representative and is given sufficient information as to how to contact the personal representative, and if the head has reason to believe that disclosure of personal information about the deceased individual might constitute an unjustified invasion of personal privacy unless, in the circumstances,

the disclosure is desirable for compassionate reasons, subsections (1) to (9) apply with the following modifications:

1. The expression “the person to whom the information relates” in subsections (1), (5), (7), (8) and (9) shall be deemed to be the expression “the personal representative”.
2. The expression “the person” in clauses (2) (a) and (b) shall be deemed to be the expression “the deceased individual” and the expression “the person” in clause (2) (c) shall be deemed to be the expression “the personal representative”. 2006, c. 19, Sched. N, s. 1 (3).



The Third Party

and Ontario's Freedom of Information and Protection of Privacy Acts

Ontario's Freedom of Information and Protection of Privacy Act and Municipal Freedom of Information and Protection of Privacy Act give people the right to access most government-held information.

Sometimes individuals or businesses want access to government-held information that may contain trade secrets or scientific, technical, commercial, financial or labour relations information. If someone wants access to government-held information about your business or organization, your organization is a third party to that request and this publication will be of interest to you.

The following are answers to questions most frequently asked about third party information - of a scientific, technical, commercial, financial or labour relations nature.

What kinds of third party information does the government have?

Government organizations collect information as part of their role in providing services to the public. You give information about your business or organization when you fill out an application form for programs or services, such as registering a new business, applying for a grant or participating in a government-run program. You also provide information to the government when you bid on a government tender.

Why would someone want access to my third party information?

There could be many reasons why someone might want access to your third party information. Here are a couple of examples:

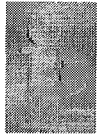
- (a) A competitor provided a quotation on a government contract awarded to your company. The competitor would like details of the winning bid; or
- (b) An environmental group wants access to records on industrial waste to lobby the government for change. The study contains technical information about your company operations.

How would someone go about trying to access my information?

First they would have to make an access request under one of the Acts. The government organization that receives the request will determine, according to the criteria listed below, whether your information can be released. However, before releasing the information, the government organization must first send you a *third party notice*.

What is a third party notice?

A third party notice is a letter sent by a government organization to inform you of its intention to release information that may affect the interests of your business or organization. The notice must contain a description of the information to be released, as well as inform you of your right to respond within 20 days. At the same time, the requester will be notified by the government organization that he or she will have to wait 20 days while you are given an opportunity to respond.



How do I respond to a third party notice?

When you receive a third party notice, you have two options:

1. You may consent, in writing, to the release of some or all of the information; or
2. If you feel the exemption (listed below) applies to your information, this is your opportunity to provide your reasons to the government organization. Your response is usually required in writing, unless the government organization allows you to state your reasons orally.

How do I provide reasons?

Should you decide to respond, you must provide detailed evidence to support your claim to the exemption.

To be exempt from disclosure, the third party information must meet *all three* of the following criteria (as specified in section 17 of the provincial *Act* and in section 10 of the municipal *Act*):

1. The information must be a trade secret or scientific, technical, commercial, financial or labour relations information; *and*
2. The information must have been supplied to the government organization in confidence, either implicitly or explicitly; *and*
3. *One or more* of the following harms will occur if the information is released.

The release of the information will:

- prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons or organization;
- result in similar information no longer being supplied to the government organization where it is in the public interest that similar information continue to be supplied;
- result in undue loss or gain to any person, group, committee or financial institution or agency; or
- reveal information supplied to, or the report of, a conciliation officer, mediator, labour relations officer or other person appointed to resolve a labour relations dispute.

What happens next?

After your 20-day response period is over, the government organization has a further 10 days to make a decision. You and the requester will be notified, in writing, of the government organization's decision.

May I appeal a government organization's decision to allow access to my information?

Yes. Within 30 days of receiving a decision from the government organization, you have the right to appeal to the office of the Information and Privacy Commissioner. The office will investigate the matter for you.

Should you choose to file an appeal, please provide the Commissioner's office with a copy of the government organization's decision letter and any response you have made.



What happens if I don't appeal?

If no appeal is filed, access to the information will be provided to the requester after 30 days.

I have more questions. Who can answer them?

If you have any questions about third party information or about the freedom of information and protection of privacy Acts, contact the freedom of information and privacy Co-ordinator at the appropriate government organization *or* contact a Case Review Analyst at the Office of the Information and Privacy Commissioner/ Ontario at 1-800-387-0073 (in the Toronto area, dial 326-3333).

