

Proper Books and Records

Licensees must maintain proper records and accounting books relating to their insurance activities, and where funds belonging to or received from a client are received, in accordance with Generally Accepted Accounting Principles:

- Licensees who do not have the required skill to maintain proper accounting records should seek professional expertise.
- Licensees are also expected to meet any requirements outlined in their contracts with insurers.
- Licensees should maintain their records in sufficient detail to ensure customer protection.
- Records should also show that certain license conditions and the licensee's duty to the client have been met. Depending on the type of business being conducted, licensees should consider maintaining detailed records of:
 - Disclosures provided to a client
 - Client consents
 - Details regarding sub-brokering of business
 - Correspondence between the licensee and the client
 - Detailed notes on meetings or conversations with clients, insurers, or adjusters
 - Requirements of insurers
- How long should licensees keep books and records? This will vary depending on the nature and complexity of the transaction; for example, the duty to maintain records on a six-month ICBC policy for a "transient" client would be lower than that of long term clients for a property and casualty, or whole life insurance contract.
- Licensees may be subject to requirements under various legislation including the *Insurance Act*, tax legislation, and the *Companies Act*, and may wish to obtain professional legal or accounting advice before finalizing retention

Retention

ADVISOR/FIRM CLIENT FILE RECORD RETENTION	
(How long records need to be kept)	
Litigation	
<p>All products</p> <p>While not a legislative/regulatory requirement, consideration should be given to retention to cover the potential risk of future litigation.</p>	<p>Client records must be maintained throughout the lifetime of client's product relationship with your business.</p> <p>To cover the potential risk of future litigation, records should be retained for 16 years from the date of the last transaction.* For example: policy maturity, full surrender, transfer, lapse, death, termination of relationship with client.</p> <p>*Some provinces/territories limitation periods may vary:</p> <ul style="list-style-type: none"> • Manitoba – 30 years. • Northwest Territories, Nunavut, Prince Edward Island – 30 years for a person with a disability; otherwise 16 years. • Quebec – client records must be maintained for the latest of five years after the final closing of the client record or the last service was rendered to the client (by the firm) or the expiration without renewal or the replacement of the last product sold to the client.
Firm Regulation (Quebec)	
<p>All products</p>	<p>Client records must be maintained for the latest of five years after the final closing of the client record or the last service was rendered to the client (by the firm) or the expiration without renewal or the replacement of the last product sold to the client. <i>Pursuant Section 12 of the Regulation respecting firms, independent representatives and independent partnerships (the "Firms Regulation").</i></p>
Proceeds of Crime (Anti-Money Laundering) and Terrorist Financing Act requirement	
<p>Universal life insurance, non-registered investments (segregated funds), and annuities</p>	<p>Records must be maintained throughout the lifetime of client's product relationship with your business plus an additional five years from the date of the last transaction. For example: policy maturity, full surrender, transfer, lapse, death.</p>

Destruction

Paper materials containing any clients' or prospects' personal information are to be destroyed using cross-cut shredders. Electronic information must be deleted from all business technology (e.g., storage devices such as computers, audio tapes, scanners, copiers), before the technology is removed or destroyed.

Permanent deletion of electronic records should occur at the end of the retention period.

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Replacing Existing Life Insurance Policies

Agents replacing existing insurance policies must ensure the replacement is genuinely beneficial to the interests of the insured. Where replacement could be detrimental to the interests of an insured, an agent must make every reasonable effort to maintain the existing policy in force.

The Replacement Regulation is intended to ensure the client receives full disclosure of the details, including the advantages and disadvantages of both policies, to allow an informed decision on whether to replace existing insurance.

When does a replacement occur? When, because of the purchase of a life insurance policy, any existing life insurance contracts are:

- Rescinded, lapsed or surrendered.
- Changed to paid-up insurance, or continued as extended term insurance, or under automatic premium loan.
- Changed to reduce benefits or release over 50% of the cash values.
- Subjected to substantial borrowing.

When does the Replacement Regulation apply? When the policy to be replaced is:

- A life insurance contract.
- A temporary or “interim” life insurance contract.*
- A rider to a life insurance contract.

*A temporary or “interim” contract exists where a client has applied for insurance with and paid money to an insurer. Agents replacing such a contract must comply with the Replacement Regulation.

When does the Replacement Regulation *not* apply? When:

- The existing policy is an annuity.
- The new or existing policy is group insurance.
- The new policy is an exercise of a contractual privilege under an existing policy with the same insurer.

Remarks by Jeanne M. Flemming, Director, Financial Transactions and Reports Analysis Centre of Canada, to the Canadian Life and Health Insurance Association

Proceeds of Crime (Money Laundering) and Terrorist Financing Act: Why Compliance with the Law Matters

**Toronto
May 13, 2010**

Check against delivery

Introduction and Outline

Thank you for that introduction

I would like to thank Frank Swedlove for inviting me to speak today. Frank has been a long-time leader in Canada's efforts to combat money laundering and terrorist financing. As president of the Financial Action Task Force, he worked globally, upholding the standards to which each country strives in their anti-money laundering and anti-terrorist financing regimes. I think you are fortunate to have him as the president of your association.

FINTRAC is part of a larger global effort. Every country in the world, perhaps with a few notable exceptions, is engaged in finding ways to protect the legitimate financial system from those who would abuse it—finding ways to detect and deter and prevent money laundering and terrorist activity financing.

At the root of Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* are those concepts of detection and deterrence and prevention. That's why the law created reporting compliance obligations for reporting entities like yourselves and FINTRAC to ensure compliance with those obligations.

At FINTRAC, we find ourselves squarely between the businesses that provide financial transaction reports to us and the police and other investigators who benefit from the financial intelligence we produce. Being in the middle, we add value to the information that is provided; we move it further along and offer real insight to assist the investigation of serious crimes.

I want to provide you an update this morning that will give you some context to explain how this effort is working. I realize there have been a few questions about this initiative and perhaps a few myths floating around. That may be the consequence of being a financial intelligence agency that operates behind the scenes. At FINTRAC, we do guard our information very closely.

One myth I would like to dispel this morning involves criminal convictions. FINTRAC does not lay charges. FINTRAC does not prosecute. Trying to measure FINTRAC by convictions

would be similar to asking a roomful of lawyers and compliance officers what their sales numbers were last year.

FINTRAC is in the business of assisting investigations, not conducting them. We do that by getting relevant financial intelligence into the hands of those that investigate crime. We assist investigations every day, making use of the information that is reported to us. Taking all the financial transaction information that we have at our disposal and bringing analysis to bear in turn—analysis which identifies criminal proceeds and providing some useful financial intelligence to the investigations and prosecution.

I realize that many of you have a long tenure in this business. I would like to emphasize that when it comes to money laundering, it is simply the proceeds of crime re-entering the legitimate financial system. It is any attempt to transport, conceal or otherwise convert those proceeds of crime. I would encourage you to approach the problem of money laundering as one that related to all those crimes that can generate criminal proceeds, such as drug trafficking and fraud.

FINTRAC does spend a considerable amount of time and resources working on money laundering cases where fraud is the original predicate offence. And we make use of all the information that is reported to enable us to conduct our analysis and ultimately make our disclosure to assist the criminal investigation. We are only as good as the information we have and our ability to analyze it.

When it comes to deterrence and prevention, the work that FINTRAC does to ensure compliance with the law strives to keep illicit funds from entering the legitimate Canadian financial system. This involves ensuring that proper records are kept, that identification is obtained, that risks are being assessed and the other elements of a compliance regime are in place.

All the entities that make up Canada's financial system have a stake in ensuring that the level of deterrence is high. Life insurance companies have a stake in this too.

When it comes to detection, FINTRAC's intelligence assists investigations and it assists prosecutions. Financial intelligence sheds light on the transactions that can be related to criminal activity. It assists investigators in making decisions about where to seek evidence, who to include or exclude as part of the investigation, how the targets are connected and where the assets may be hidden.

I'd like to give you a reference point for how we search transactions that we suspect to be relevant to money laundering in our database of more than 100 million transaction reports. Let me say that searching this information is like looking for a needle in a haystack, in a field of haystacks. On their own, transactions linked to criminal activity may not stand out or be noticeably different from millions of innocent transactions. However, we have developed data mining tools and methodologies over the years that enable us to detect patterns of suspected money laundering and to start following the money trail.

The other thing that can guide us is information we receive from law enforcement and other agencies—as part of ongoing investigations that may have already identified targets. In these cases, we can start from what is known and shed light on the existing investigation. Roughly 80% of the time, information from investigative agencies is the starting point for our disclosure of financial intelligence. This ratio may change over time. For the moment,

the demand to assist ongoing investigations is high. High demand from prospective recipients does speak well of the product.

The financial intelligence that we produce can be complex and it can show the great efforts that criminals go through to hide the source of their funds. We have cases where the suspected criminals have used up to 16 or more financial institutions across the country to disperse and hide their assets. Being the recipient of financial transaction reports from across the country, and having access to information from other financial intelligence units from other countries, does give us an advantage when trying to piece together the money trail.

The Problem That We Face

Before becoming FINTRAC's director, I was not aware of the extent of the lucrative criminal enterprises that appear to be operating in this country. Seeing cases each day has had some affect on me. After two years in this job, I am occasionally asked what things preoccupy me, or more specifically, what are the questions that keep me up at night. For me it comes down to "are we doing enough to make this country a hostile place for those that launder money and finance terrorist activity?"

There are criminals in this country and they are getting up to some pretty bad things. They are fleecing and defrauding some of the most vulnerable members of our society, committing fraud, they are selling drugs, corrupting institutions. And, when it comes to mortgage fraud, they are stealing whole houses. We are not talking about petty crime here; some of these criminal activities appear to be large ongoing enterprises with a damaging impact on our society. The victims also include the institutions you represent.

I feel I have to make this point about the scale of criminal activity in this country because it concerns me. Perhaps that is a function of working at FINTRAC and of having a perspective on the many criminal investigations and the money that seems to be moving in these suspected criminal networks. It can be disheartening, at times.

This perspective has brought me to the view that Canadians can be naïve and perhaps overly optimistic in their view that crime and, in particular, organized crime are not Canadian problems. I want to assure you that they are and that they have an impact on Canada's communities large and small. Crime affects us all. Even those of us who are not victims of fraud or theft will feel the residual effects in a system that is compromised by the presence of a criminal element.

I want to call your attention to the larger Canadian financial system and the role that you have as operators within it—and as the stewards and occasionally gatekeepers of this system.

Those of you who work with insurance products must surely have your own perspectives on crime and perhaps a perspective on fraud and money laundering within your own industry. I want to make the connection between money laundering and fraud very plain because too often money laundering is viewed as an esoteric subject removed from the real crimes that produce real profits.

Financial intermediaries, such as brokers or agents, can actually do something to make it more difficult to operate a criminal enterprise in this country. You have that opportunity. It

is an opportunity to strengthen the integrity of Canada's financial system and to shut out the criminals that would abuse and exploit this system. At the same time, it may also help curb frauds committed against insurance companies in this country.

The connection that I want to make for you is that any fraud against an insurance company will generate criminal proceeds that must be laundered. Even if those proceeds are in the form of a cheque from an insurance company, it is still criminal proceeds. When that cheque is carried to a bank or credit union, depositing that cheque is money laundering. Transferring those criminal assets to another account, that is money laundering too.

So, why does it matter that businesses send us reports?

It is important because the police don't have our unique data base to follow the money trail. FINTRAC provides the leads and the information necessary to assist police in acquiring search warrants. FINTRAC's information can also reveal new targets for an investigation and previously unknown connections between individuals, bank accounts and companies. We also have an international perspective on transactions that is made possible by the reporting of electronic funds transfers and from the exchanges of information with financial intelligence units in other countries—both of which assist in following money into other jurisdictions and from those jurisdictions to Canada.

When your business sends in a suspicious transaction report it is important to keep in mind that several other institutions, in a variety of financial sectors, may have also provided reports about the same individual. As I mentioned earlier, we have cases in which 16 different financial entities have been used to obscure the trail of the money from its criminal origin to its final destination. Last year, 43% of our case disclosures involved reports from six or more reporting entities. So, as you can see, the cases can be complex and the transactions are seldom limited to a single institution. This highlights the benefit of collecting the data in one place and analyzing it with other contextual information like corporate registry information and other open-source data. It is particularly satisfying when we have the information at our disposal that allows us to connect these dots and then be able to show the money trail to police.

We also do the same for our international partners who are interested in transactions that occur in Canada that can have some significance to criminal investigations in other countries. Money moves easily around the world, FINTRAC plays a role in cooperating with financial intelligence units in other parts of the world, helping the global effort to curb the flow of illicit money and to detect criminals through their financial activity. As of today, we have entered into agreements to share information with the financial intelligence units of 69 other countries. This has opened a window on financial activity beyond our borders that also benefits Canadian investigations.

FINTRAC disclosed 556 cases to investigators last year, more than any previous year. These case disclosures, which involved more than 100 thousand transactions, were supplied to assist investigations of money laundering related to drug trafficking, fraud, smuggling of contraband, terrorist activity financing and a variety of criminal activities that can generate the proceeds of crime. We provided this intelligence to federal, provincial and municipal police forces. We also provided intelligence to CSIS, the Canada Border Services Agency, Canada Revenue Agency and to our international partners during the year.

Looking at all these cases as they are pulled together by FINTRAC's analysts, it is truly remarkable the lengths to which people will go to keep transactions out of their own name

or to have nominees carry them out on their behalf only to have the funds ultimately returned through series of transactions and bank drafts to businesses under their control or accounts held in their name, here or in other countries.

Often the money laundering technique is simply moving the funds into an account and withdrawing them quickly in the form of a bank draft or transmitting the whole amount to a foreign account shortly after the deposit. It can often make no business sense to run the transactions through a series of accounts en route to their end destination but this is also sometimes done.

We have received a suspicious transaction report submitted to us from the life insurance sector that highlights that information can come to your attention long after the initial transaction. When that information does come to light, you may look back at those earlier transactions in a different way. As an example of just such a case, a Canadian life insurance company had written a policy on a man who was subsequently determined to be a notorious criminal. This came to their attention after a very public attempt on the man's life had failed. The newspaper reports detailed his role in the local crime scene, including a history of charges and accusations that had been brought against him over the years.

The insurance company began to wonder why they held the policy, how it got written and if the premiums might have been paid with the proceeds of crime. To be fair, the payments may have seemed normal at the time. Payments were made by cheque. The decision to look back to the original transactions on this policy and report them as suspicious was a good one. The important thing is that once you arrive at a suspicion that proceeds of crime may have entered into the transaction, this should trigger the filing of a suspicious transaction report.

Proceeds of crime can enter the system in a variety of ways. When it comes to insurance transactions, it may simply be a cheque drawn on a bank account. It may be hard to spot. If you have other contextual information, you should add that to your examination of risk.

The Criminal Intelligence Service of Canada estimates that there are 750 organized crime groups in Canada, each engaging in a variety of criminal activities that generate large amounts of money. When it comes to dealing with these groups, we should strive to make their operations more difficult to run and easier to find.

As financial intermediaries in the larger Canadian financial system, your financial agencies and advisors are at the forefront of detecting and deterring the financial transactions that can facilitate the activities of these criminal networks. The transaction reports that you send are critical to this effort, and you are uniquely placed to make this contribution. That is why we have this law.

Diligence is needed to continually foster a culture within your financial agencies and advisors that meets the compliance objectives of the law. This includes effective training. Training is an ongoing activity in every business, and so it should be with your compliance programs.

You should also review your own compliance programs to assess any inherent risks of money laundering and terrorist financing within your business lines and your different products. Once you assess the risks, there is a need to implement controls to mitigate your exposure to such risks. This was the intention of the risk-based approach that was adopted two years ago. It is now a requirement of the law, but the diligence that is required to make

it work is an important element as well. As we know, these are not things that can be done once and set aside. They have to be part of the business and an ongoing effort.

There is also a need to identify and to report suspicious transactions. The obligation has been the law for nearly ten years and should not require a reminder. But after ten years, the level of reporting from the life insurance sector remains unusually low. I say that because there has been one exception. There is one company that is reporting more than the rest and the suspicious transaction reports appear to be appropriate. I would like to encourage a race to the top among the life insurance companies assembled here to be diligent in your review of risks within your own product lines and to ensure that you are meeting your reporting obligations.

Looking Forward

And to speak for a moment about the enforcement of the law, in late 2008 FINTRAC gained the power to issue administrative monetary penalties. Also known as AMPs, these fines have been used in the last year where we have identified violations of the law. They are a proportional penalty, one that takes into account not only the nature of the violation but the size of the entity or business that is being fined, their ability to pay and their compliance history.

Administrative monetary penalties serve as an adjunct to existing criminal penalties. This means both criminal and civil penalties will not be issued for the same instances of non-compliance. They are intended to encourage compliance not punish past non-compliance with the law.

These new penalties mark a change in FINTRAC's approach and perhaps in FINTRAC's tone. After ten years of outreach and efforts to raise awareness, there is a greater expectation that businesses should have effective compliance regimes in place and that the requirements of the law should be part of the normal course of business. FINTRAC will now issue penalties when the violation of the law merits such a response.

Looking further out into the future, Finance Minister Flaherty has indicated "the government will be relentless in its efforts to combat money laundering and terrorist financing and that it will do what must be done to protect the interests of Canadians and ensure a safe and strong market for investors here and around the world."

An expression of that commitment came in the 2010 federal budget. FINTRAC's operating budget was increased by eight million dollars to improve our compliance regime and to expand the definition of predicate offense for money laundering to include tax evasion thereby increasing FINTRAC's ability to make disclosures in this area.

With the proposed new funding, FINTRAC will be able to hire new staff and increase the number of compliance examinations that we can conduct. This increase will allow us greater ability to ensure compliance with the law in all sectors. For example, FINTRAC will be conducting enhanced compliance activities involving federally-regulated financial institutions (FRFIs) which will be independent of the OSFI reviews. Our intent is to increase the examination coverage of this sector with a focus on improving the data quality of the reports.

Finally, the 2010 Federal Budget also announced new measures to strengthen Canada's antimoney laundering and anti-terrorist financing regime. These are included in Bill C-9, the *Jobs and Economic Growth Act*, which proposes new authorities for the Minister of Finance to issue directives to advise the financial sector of foreign jurisdictions and entities that pose an illicit financing risk and to require appropriate countermeasures. Under the proposed new authorities, the Government could also limit or prohibit financial transactions with designated foreign jurisdictions or foreign entities which are found to be at high risk of facilitating money laundering and terrorist financing. This will help ensure that Canada does not unwittingly become the destination of choice for illicit funds looking for a home. For the moment, the legislation has been published and is now available through the Parliamentary Web site.

Thank you for taking the time to listen and thanks once again for inviting me to your conference.

Annual Self-Review Checklist – Suitable for all provinces

	Yes	No	N/A
Anti-Money Laundering			
1. Was staff training delivered for the calendar year?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Was Advisor training delivered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. If Advisor training is not offered, was a reminder notice sent out to Advisors about the need for training?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Was the required self-assessment performed within the last 24 months?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Is the next self-assessment scheduled?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Were the last self-assessment's results reported to management within the required 30 days?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Is there an action plan in place for any deficiencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Were AML policies and procedures, including escalation procedures, reviewed by the AML Officer and updated as needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Was the training material updated accordingly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. If you require Advisor certification of compliance with AML rules at licence renewal, is this being accomplished according to the procedures?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Was the risk assessment reviewed and verified as still appropriate or updated in light of the most recent regulatory changes and FINTRAC Guidance on RBA?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Were Advisors reminded to update beneficial ownership and other required information for high risk clients?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
Privacy			
1. Was staff training delivered for the year?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Was Advisor training delivered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Was the required self-assessment performed within the last 24 months?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Is the next self-assessment scheduled?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Were privacy policies and procedures, including breach and escalation procedures, reviewed by the Privacy Officer and updated as needed, particularly with regard to the impact of the Digital Privacy Act?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Was the training material updated accordingly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Was the Personal Information Inventory reviewed and updated accordingly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Do the consents used by insurers and Advisors seek "valid consent" under the DPA and are they adequate to cover the activities the MGA engages in?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Yes	No	N/A
Market Conduct			
1. Was staff training delivered for the year?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Was Advisor training delivered?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Were market conduct policies and procedures, including escalation procedures reviewed and updated as needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Was the Advisor material reviewed and updated at the same time?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Was training material updated accordingly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Was a self-assessment of the market conduct program completed within the last 24 months?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7. Is the next self-assessment scheduled?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Was the complaints log maintained properly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Was the errors and omissions coverage reviewed, with consideration given to any changes in the business over the year, including outsourcing?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Was the file maintained for responding to the CLHIA Standardized MGA Compliance Review Survey reviewed and updated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Are credit checks being performed at license renewal or some other time?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Are Advisor certifications of compliance being collected at license renewal or some other time?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Yes No N/A

Outsourcing

1. Have any changes to the business been identified that would require a change to any outsourced arrangements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Have any new outsourcing arrangements been entered into?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Have formal, documented outsourcing agreements been created and signed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Have any changes to policies and procedures been made that require a change to documentation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Have the Board and/or management reviewed all outsourcing arrangements, including:			
• List of all material outsourcing arrangements and changes over the year;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Whether outsourcing agreement needs amendment based on changes;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Risk philosophy, materiality assessment, risk management program;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• BCP;	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
• Reports on service provider and service standards.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Yes No N/A

Overall Compliance

1. Have records management policies and procedures been implemented and reviewed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Did the Compliance Officer deliver all required Board/management reports?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3. Have the findings within all reports been actioned?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. Has there been a regular flow of compliance information to Advisors, via such things as compliance reminders and informational bulletins?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



November, 2016

**Reference Document:
THE APPROACH: SERVING THE CLIENT THROUGH
NEEDS-BASED SALES PRACTICES**

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Reference Document
The Approach: Serving the Client Through Need-based Sales Practices

Introduction

Background

In Spring 2006, the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulators' Organization (CISRO) endorsed three principles for managing conflicts of interest that might arise in the sale of life and health insurance products. These are:

- the interests of the consumer must be placed ahead of those of the advisor;
- actual and potential conflicts of interest must be disclosed; and
- the recommended product must be suitable to the needs of the consumer.

At the same time, CCIR/CISRO agreed that the industry should take the lead in developing approaches to address these principles. To that end, Advocis, the Canadian Association of Independent Life Brokerage Agencies (CAILBA), the Canadian Life and Health Insurance Association (CLHIA) and Independent Financial Brokers (IFB) have worked together to describe the industry practices that relate to these principles.

Purpose

The Approach specifically addresses the third principle that the product recommended be suitable. The needs-based sales practices described in *The Approach*, however, are part of a broader package of industry practices intended to safeguard the interests of life and health insurance consumers. More generally, therefore, when coupled with meaningful and appropriate disclosure, these practices will help ensure that recommendations made by licensed life and/or accident and sickness insurance agents (advisors) address the client's circumstances, including their financial needs and objectives, and that the advice is not unduly influenced by other factors.

General Principle

The recommended product or service must be appropriate for the needs of the client as determined by a needs-based assessment done by the advisor and/or as identified by the client.

Principle and Supporting Elements

The recommended product or service must be appropriate for the needs of the consumer as determined by a needs-based assessment done by the advisor and/or as identified by the client.

SUPPORTING ELEMENTS	COMMENTARY
<p>Disclosure to Client The consumer should be provided with information about the range of products and services the advisor can sell.</p>	<ul style="list-style-type: none"> • understanding the companies the advisor represents and range of products he/she can sell helps the client in assessing if the advisor is likely to offer objective recommendations • how much information is provided may vary by transaction, e.g., when a client calls a call centre to place an order vs when an advisor representing a number of companies and products sits down with a potential client • broader disclosure provided by advisor disclosure protocol introduced in 2005, including how advisors are compensated, potential conflicts of interest, and consumer's right to additional information • for more information on advisor disclosure requirements, see Advisor Disclosure Reference Document
<p>Client Expectations The advisor and the client should have a common understanding about the services that the client expects the advisor will provide in the immediate transaction and ongoing relationship. The advisor should inform the client about any changes that may affect this relationship.</p>	<ul style="list-style-type: none"> • important to clarify upfront the client's expectations about the nature of the services the advisor can/will provide, e.g., does client want to purchase predetermined products or does client want professional advice and/or product recommendations? • any advisory fees should be disclosed • what level of ongoing service will be provided? • if there's been an express discussion of expectations and the nature of the client/advisor relationship, it is often useful to document this more fully • sometimes expectations will be implicit in the nature of the transaction, e.g., when a client places an order through a call centre

<p>Fact Finding Where product recommendations or professional advice are sought by the client, the advisor should obtain such information about the client as is reasonable in the circumstances.</p>	<ul style="list-style-type: none"> • the type and amount of information gathered, the means of gathering this information and the level of documentation will vary and depend on a number of factors including: <ul style="list-style-type: none"> a) nature of the services to be provided; b) complexity of client's circumstances and/or objectives; and c) willingness of client to make accurate and full disclosure. • it's a good idea to note requests for information that was not supplied by the client -- the advisor may wish to inform the client about the impact that working with limited information has on the services provided (if any) • where appropriate, information relevant to assessing the client's risk tolerance should be gathered
<p>Needs Assessment Based on the facts and information obtained from the client, advisors should identify the client's life insurance need. The extent of the assessment will vary according to product and circumstance.</p>	<ul style="list-style-type: none"> • the advisor should assess needs based on information gathered through the fact finding process • the needs assessment will vary in complexity based on client's circumstance and/or the nature of services being provided by the advisor • the advisor should maintain records that show the scope and nature of the needs assessed
<p>Recommendations and Advice Insurance product recommendations and professional advice should address a client need given the circumstances at the time of the sale.</p>	<ul style="list-style-type: none"> • recommendations and any professional insurance or financial advice needs to be appropriate to the client's assessed needs and risk tolerance • a general rule of thumb to consider: Would the product recommendations and professional advice be reasonably expected to address the client's need given the circumstances at the time of the sale? • the advisor should maintain records that demonstrate the rationale of the recommendations that were made or the advice that was given
<p>Reason Why Clients should receive a written explanation of the recommendation.</p>	<ul style="list-style-type: none"> • summarize relevant information from the fact finding and needs assessment to explain the recommendation • where appropriate, note differences between the recommendation and the client's choice of amount and/or type of coverage • where appropriate, mention unmet needs to be addressed in the future • include a call to action, i.e, ask questions if anything is unclear and retain for future reference

<p>Product Information The client should be informed about options available through the advisor and provided with information about the products that the advisor recommends.</p>	<ul style="list-style-type: none"> • advisors should be familiar with product information provided by companies and able to relate this information to the needs of their clients • specific measures to inform the client about products will vary with channels and circumstances • general educational consumer information available through CLHIA or government websites or brochures
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Explanatory Notes

The recommended product or service must be appropriate for the needs of the client, as determined by a needs-based assessment done by the advisor and/or as identified by the client.

GENERAL BACKGROUND ABOUT THE APPROACH

1. What is the purpose of *The Approach*?

The Approach is an industry-developed description of sales practices that address one of the principles for managing conflicts of interests that was recently introduced by Canadian insurance regulators. By demonstrating that you are following **The Approach**, you can show that your sales practices are consistent with the regulators' principle that the recommended product fits the client's needs.

2. Why was *The Approach* developed?

In 2006, Canadian insurance regulators released three principles for managing conflicts of interest. Rather than introduce new regulations, however, the regulators agreed that the industry could take the lead in determining how to address these principles. The six elements in **The Approach** describe generally accepted sales practices within Canada's life and health insurance industry. **The Approach** shows how these elements, in different transactions that range from the very simple to the very complex, provide a means of ensuring that advice and recommendations are appropriate to the needs of the client.

3. What are the three principles?

The three principles endorsed by regulators for managing conflicts of interest between the advisor and the client are:

- The interests of the consumer must be placed ahead of those of the advisor
- Actual and potential conflicts of interest must be disclosed
- Recommended product must be suitable to the needs of the client.

4. Will I need to change how I conduct my business?

In most cases, probably not. **The Approach** describes sales practices that are commonly used through the life and health insurance industry. One thing that might change is record-keeping. If you are not already carefully documenting your client meetings, you should begin maintaining client files so it is clear how your recommendations link to the client's circumstances.

5. Why do I need to document how I reached my recommendation?

There are a number of reasons. Many advisors find the effort pays off in assisting them in providing better service to their clients and this can lead to increased sales. If manufacturers received a complaint from a client, they will ask to see this documentation. As well, the regulators have indicated they intend to monitor compliance with their principles. If the regulators are investigating a complaint from a client, they will look for evidence that you followed this approach. More generally, if you are ever involved in a client dispute, such documentation can be most helpful in defending yourself.

6. Are the practices required?

Sales practices will vary from transaction to transaction depending on a number of factors. In other words, they are "scalable." Some of the relevant factors are whether the client wants advice or is simply asking you to complete an order for a specific product, the complexity of the products and services being recommended and how much information about potential needs that the client is willing to provide to you. In many cases, specific practices associated with each of the elements are required by regulation in some provinces.

7. I always consider my client's needs in making recommendations but don't always document the steps. Why should I keep documentation?

If a client or a beneficiary has a complaint about the products you recommended, you will need to show how the information the client provided to you linked to your needs assessment and advice. In investigating complaints, evidence that you followed the elements in **The Approach** will help you explain and defend your practices.

8. How do I demonstrate that my sales practices follow the elements?

You need to be able to describe the process you follow in establishing a relationship with the client, obtaining information and making a recommendation. You also need to have notes to explain the depth of your analysis. All of this should be recorded so it can be recovered if you need it.

9. Who will ask for proof that my practices follow *The Approach*?

The practices that are described in *The Approach* are all recognized as sound sales practices within the life insurance industry. As such, if there is a complaint from a client, there are a number of parties that might want proof that you followed these practices. They include insurance regulators, the insurance company that provided the product in question, your E&O carrier, the OmbudService for Life and Health Insurance (OLHI) and the courts if there is a lawsuit.

10. If I am dually licensed, will the account opening and suitability I do for my client for mutual funds need to be repeated for life insurance?

That depends. If you simply do a standard securities Know Your Client (KYC) analysis, that will not be sufficient for life insurance transactions. You may, however, find one approach that is flexible enough to deal with all the types of transactions you handle.

SUPPORTING ELEMENTS IN THE APPROACH

Disclosure to Client

11. How does this relate to the Advisor Disclosure initiative that was introduced in 2005?

The Advisor Disclosure practices that were introduced in 2005 include the information that is described in the Disclosure to Client element of *The Approach*. The idea is that clarifying which companies you represent and the types of products you can sell provides a context for the advice you give and the recommendations you make.

12. In following the 2005 Advisor Disclosure protocol for business relationships, compensation and conflicts of interest, I already provide written disclosure. Is this requiring something else?

No. If you are already following the Advisor Disclosure protocol and documenting this in your client file, you are doing what you need to with respect to this element of *The Approach*.

Client Expectations

13. I generally use an introductory or engagement letter with my clients. Is that enough?

Yes, if the letter is specific to the agent/client relationship and includes information that relates to the description of this element in **The Approach**.

14. Are there other ways of documenting client expectations?

Yes, a notation of a discussion in the client file or a letter to the client may be sufficient. The "how" is less important than the "what" so, if you are satisfied that what you are doing achieves the intent of clarifying client expectations, this should be sufficient.

15. Is there a need to do this every time I meet with my client?

No, the agent/client relationship is intended to be long-term so it is not necessary to formally revisit expectations every time.

Fact Finding

16. Sometimes I gather basic facts in an informal process and other times I use a more complete fact-find, depending on the situation. Should I be standardizing my fact-finding?

No, a standardized fact-find is not necessary. The elements in **The Approach** are "scalable" so the extent of fact finding will vary depending on a number of circumstances including the client's expectations about the service you will be providing and the complexity of the client's needs and the products you recommend.

17. Will the regulators be mandating a form that everyone has to use in all situations?

No, not at this time. The regulators established the principle that products recommended be appropriate to the needs of the client. **The Approach** that the industry has developed to address this principle is intended to be flexible. If the regulators find evidence that advisors are not following **The Approach**, they may mandate forms or other practices.

18. Sometimes clients already know what they want, and don't want to take the time to go through the fact-finding process. What do I do then?

This is an example of what is meant by the elements being "scalable." If the client has already identified his or her needs and is coming to you to buy a specific product, the fact finding has, in effect, been done. There is no need to repeat it. In this situation, if you have documented the client expectations and needs, you can generally proceed with the transaction. **NOTE:** A special situation may arise in Quebec where some have interpreted provincial regulation there as requiring a needs analysis as a condition of proceeding with the sale.

19. Sometimes a client does not want to disclose certain pieces of information. What do I do then?

One option is to clarify what the client wishes to disclose as part of establishing the client expectation. Another option is to place a qualification or caveat in the recommendation or document noting the limited information. But see the **NOTE** about Quebec in #18.

Needs Assessment

20. How would documentation vary from the fact-finding exercise?

In many transactions, fact-finding and needs assessment are two elements in a single process. Fact-finding is the collection of factual information about the client while needs assessment is the evaluative part of the process. Documentation should show the linkage between facts about the client's circumstances and assessed needs. It should also show what options were considered. In some cases, the documentation for both will be combined.

21. In most of my client meetings, fact finding and needs assessment make up one continuous process. Do I need to do anything different now?

Not necessarily. If you are keeping appropriate records that document how the facts relate to needs, this is probably sufficient.

22. Do I need to do all this if my client already knows what he or she wants?

There are a number of situations in which the fact-finding and needs assessment are already done. Your client may have had a financial plan done by someone else or may have identified a need on their own. In situations like these, you do not need to go through the steps with the client but a note in the client file should document these circumstances so it is clear why you sold a particular product to this client.

Recommendations and Advice

23. What should be in the records to show how the need has been addressed?

Documentation about your recommendations and advice should describe the linkage between fact-finding, needs assessment and advice. The record should have enough information so someone with similar knowledge of the products and services could understand why the recommendation was made -- in law this is the "reasonable person" test.

24. Is there a specific test to determine that advice is appropriate?

No. There are usually a number of ways to address a client's needs. The key is to be able to explain how the recommended product or service does this. As well, you may need to take into account needs that are only partially or not immediately being addressed.

Reason Why Letter

25. *The Approach* already talks about having written documentation of the fact finding and needs assessment. Is this duplicating what I already do?

That is not the intent. The requirement to document relates to the records that you keep in your client file. The Reason Why letter is intended to be a brief summary of this information. It is given to the client. In addition to helping the client understand the recommendation, it is something he or she can keep as a convenient reminder of why the policy was purchased. If you already provide this sort of information to the client, you may not need to prepare a separate letter. But the information should be brief and presented in a way that achieves the intent of the Reason Why letter.

26. Do I need to provide a separate Reason Why letter for a replacement?

Generally, the answer to the first question on the Life Insurance Replacement Declaration (i.e., Why do you want to replace your policy?) will address the same issues and does not need to be repeated in a separate letter. See the CLHIA Reference Document *Replacement* Disclosure for more information about how to answer this question on the LIRD.

27. Can the Reason Why letter be an e-mail?

Assuming the client has indicated a wish to communicate by e-mail, yes. If you are sending an e-mail, it is important that the message be formatted in a way that is clear and easy to read. You should put the same care into preparing the e-mail that you would put into a printed letter. You should also consider the sensitivity of specific information and decide if an e-mail is appropriate in the circumstances.

28. What needs to be included in the Reason Why letter?

The letter should address the following:

- Identify the carrier and the product by brand name and type of insurance.
- Briefly and in plain language summarize key client circumstances identified in the Fact Finding.
- Briefly and in plain language describe the client needs that are addressed by the recommendation.
- If the recommendation does not fully meet a need (e.g., the client needs \$500,000 of coverage but can only afford \$250,000), this discrepancy should be explained
- If the recommendation does not address certain needs (e.g., the client needs life and critical illness but can only afford life), a follow-up plan to address these needs in the future should be described.
- If the recommended product has different fee structures (e.g., front-load, no-load and DSC for segregated funds), the choice of a fee structure should be explained. See the CLHIA Reference Document *IVIC Suitability* for more information.
- Tell the client to ask questions about anything in the letter that is not clear or does not sound correct.

Sample letters in Appendix 1 illustrate how this content can be presented.

29. If the client knows what he or she wants, do I need to prepare a Reason Why letter?

Yes. If the client indicates why he or she needs the requested coverage, the client's request and explanation should be reported in the letter. If the client simply requests a certain type and amount of insurance, this should be noted. In these situations, the letter will generally be much shorter than in situations involving analysis and advice.

30. When do I need to deliver the reason why letter?

You should provide it to the client no later than the date he or she receives the policy. If you wish, you can give it to the client at an earlier date.

Product Information

31. Sometimes, I use product brochures and marketing information developed by the insurance companies. Other times, I develop my own marketing information. Are both appropriate?

Possibly. The same standards for accuracy, clarity, etc apply to all information, regardless of its source. If you follow these standards, it may not matter. You need to keep in mind that some insurers may wish to review any materials describing their products so, if you plan to use your own materials, you should check the obligations in your selling contract.

32. I don't use product brochures but I do use illustrations. Is this appropriate?

Probably. A brochure may be easier to understand than a detailed illustration so it is important to consider how the documents are being used and the client's circumstances. You should also bear in mind any conditions specific insurers may place on the use of illustrations.

Appendix 1

Sample Reason Why Letter

These four samples are intended to show the level of detail that should be included in the letter and a possible way of presenting this information in various types of situations. The recommendations described in these samples are not intended to serve as examples of suitable recommendations.

Scenario 1: Recommendations Fully Implemented

I am recommending that you buy a ten year renewable term life insurance policy. The policy is called [name of policy] and it is offered by [name of insurer].

When we met, you indicated that you and your husband are both young and healthy, you are expecting your first child and just bought a house. You said you are the sole income earner in the family and want an inexpensive option to pay off the mortgage if you die.

This policy meets your needs by providing the coverage you want (\$250,000) in the least expensive way. You could extend the coverage with a longer term but this is more expensive. A ten year renewable policy means the insurer will continue the coverage for ten years provided you pay the premium each year.

If any of this information about you or your needs is not correct, please let me know right away.

If you have any questions about the policy or why I am recommending it, don't hesitate to ask me now or at any time in the future. You should also keep this letter with your personal papers as a reminder of why you have the policy.

Scenario 2: Recommendations Partially Implemented

I am recommending that you buy a universal life policy and critical illness insurance. The universal life policy is called [name of policy] and it is offered by [name of insurer]. The critical illness policy is called [name of policy] and it is offered by [name of insurer].

When you met, you indicated that you are quite well off and are primarily concerned about building up an inheritance for your children in a tax efficient manner. You also indicated you are healthy but would like some additional financial security if you become sick and can't work.

We have discussed various ways you can use the universal life policy. For now, the most effective way of meeting your needs is for you to simply pay the premiums. You also indicated that the critical illness insurance is not an immediate priority so you will think about it some more.

About this time next year, we will discuss the critical illness issue.

If any of this information about you or your needs is not correct, please let me know right away.

If you have any questions about the policy or why I am recommending it, don't hesitate to ask me now or at any time in the future. You should also keep this letter with your personal papers as a reminder of why you have the policy.

Scenario 3: Wealth Product with Fee Options

As we discussed, I have sent in the application for an individual variable insurance contract. The policy is called [name of policy] and it is offered by [name of insurer].

When we met, you indicated that you wanted to invest in the equity market but did not feel comfortable with the risk that goes with investing in mutual funds. Instead, you said, you wanted put your money in a segregated fund.

The IVIC you bought has the basic death and maturity guarantees. This means the most you can lose is 25% of your investment. This guarantee applies if you keep your money invested in the contract until it matures or you die. As we discussed, if you need to withdraw money before then and the market value is down, the value of your investment is will be down by the same amount.

You put your money in a Canadian equity fund. You can invest additional amounts in this fund at any time. You can also switch your investment to another fund in the contract or invest additional amounts in a different fund.

This contract has different fee options. You selected the no-load option because you wanted all your money invested up front and you thought you thought you might want to withdraw some of your money while DSCs still applied.

If any of this information about you or your needs is not correct, please let me know right away.

If you have any questions about the policy or your investments, don't hesitate to ask me now or at any time in the future. You should also keep this letter with your personal papers as a reminder of why you have the policy.

Scenario 4: Order Execution

On your request, I have submitted an application for [name of policy] with [name of insurer].

This 20-year term policy for \$500,000 corresponds to the term and amount of your mortgage.

As your bank requires, the policy is collaterally assigned to [name of bank].

If you die and the death benefit is greater than the amount owing on your mortgage, the difference will go to the beneficiary you named.

If any of this information about you or your needs is not correct, please let me know right away.

If you have any questions about the policy, don't hesitate to ask me now or at any time in the future. You should also keep this letter with your personal papers as a reminder of why you have the policy.



October, 2016

**Reference Document:
IVIC SUITABILITY
NEEDS-BASED SALES PRACTICES**

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Reference Document:
IVIC Suitability
Needs-Based Sales Practices

IVIC Suitability Needs-Based Sales Practices

1. INTRODUCTION

1.1 Purpose

The document describes industry practices intended to clarify the relation of the features of an Individual Variable Insurance Contract (IVIC) to the needs of a client.

It is important to bear in mind that the circumstances of individual clients will vary considerably. For this reason, the applicability of specific practices described in this document, except those that are required by statute, can only be determined by taking into account the circumstances of a specific transaction.

The needs-based sales practices described in Section 4 are carried out by advisors. This section is intended to expand on and provide practical guidance in the area of IVICs to help advisors understand the more general advice in *The Approach*, a reference document that was prepared jointly by Advocis, CAILBA, CLHIA and IFB in 2007 and updated in 2015.

The practices related to product design and information, training and oversight are generally carried out by insurers. In some cases, however, insurers may delegate training or oversight functions to another party, such as a Managing General Agent.

1.2 Background

The IVIC is one of many wealth management products designed to address a variety of needs. The IVIC is a highly flexible product that can be used on its own or in combination with other wealth management products. Advisors need to understand the features of this product and how it fits with client needs in order to include it in a suitable recommendation.

When it became a mainstream retail product in the mid-1990s it was primarily used for capital accumulation. It provides consumers with the upside potential of investing in market-linked funds while allowing them to enjoy protection against the down-side risk of market declines. This protection is provided in mandatory 75% death and maturity benefits. Many contracts allow the consumer to increase these benefits to 100 percent. In 2006, with an increasing number of Canadians approaching retirement years, insurers began adding income protection in the form of guaranteed withdrawal benefit (GWB) features. These optional benefits are continuing to evolve and currently guarantee income for life or a specified period.

For many consumers, the decision to purchase an IVIC usually revolves around these guarantees and the role they play in providing a desired level of financial security. But the fact that IVICs are life insurance contracts means that they provide insurance features such as probate bypass and potential creditor protection that, for some, are important reasons to purchase the product.

Insurers and advisors both have important roles to play in ensuring that the product is appropriate for consumers. The task of the insurer is twofold, to design a product that functions

in a reliable and predictable manner and to create product information outlining this for advisors and clients. The task of the advisor is to identify the financial needs of the consumer to ensure the IVIC product is suitable for them in light of their particular circumstances and then assist the consumer in understanding how the product meets his or her financial needs.

Industry practices intended to address issues related to the suitability of IVICs fall under four general areas:

- development of the product and related information
- training of the field force
- product-specific guidance related to needs-based sales practices
- oversight of sales practices

This document describes practices in each of these four areas.

2. PRODUCT DESIGN AND INFORMATION

2.1 Product Design

In designing products, insurers make a number of assumptions about the behaviour of both the advisor and the consumer. These assumptions cover a range of variables including: who will purchase the product, the fee option they will select, what optional features they will select, how long they will live and a number of discretionary choices the client might make once he or she has entered into the contract. These choices are about fund selections, surrenders, payment of additional premiums, resets of guarantees and deferrals of payments.

The accuracy of these assumptions about the behaviour of the advisor and the consumer is critical to assessing the risk that the insurer is assuming with the product. Accordingly, insurers have an interest in ensuring that these assumptions are aligned with the marketing and end use of the product. This interest is addressed by, among other things, ensuring the product is accurately described in the information insurers provide and, as much as possible, accurately understood by both advisors and consumers.

2.2 Product Information

Having access to accurate information about a product is a key to providing sound advice and making an informed decision.

The central disclosure document is the Information Folder. The content and delivery requirements for the Information Folder are set out in CLHIA Guideline G2. Among other things, the delivery requirements include client acknowledgement of receipt. Since 2011, the Information Folder has included Fund Facts and Key Facts. These documents have prescribed formats that are intended to provide brief, plain language descriptions of the investment options and the contract features respectively.

Since the introduction of GWB features, many insurers have started providing illustrations to more effectively explain to clients how these guarantees work. Generally accepted practices for GWB illustrations are described in CLHIA Guideline G15.

Many insurers offering IVICs provide asset allocation software or questionnaires to assist in selecting an appropriate mix of investment options.

Finally, and not to be overlooked, there are a number of regulatory and industry standards related to product information about IVICs and how it is provided. At the most general level, insurers are prohibited by statute from engaging in any unfair or deceptive act or practice. This standard applies to any information insurers prepare about their products, including advertising.

3. PRODUCT KNOWLEDGE

As with any complex life insurance product, disclosure documents and other consumer information prepared by the insurer are generally intended to complement the role of the advisor in ensuring the consumer is able to make an informed purchase decision and use the IVIC appropriately. In addition to helping direct the client towards the most relevant information, the interactive two-way dialogue between the advisor and his or her client is often the best indication of the client's understanding.

In addition to the product information prepared for consumers, insurers also develop more technical information that is specifically intended for professional use. This typically includes a summary product guide, sales concept material and an operations or administrative guide. The sales concepts, in particular, provide detailed advice about product suitability by showing how the product can be used in certain circumstances for certain purposes. All of these materials generally include information about how advisors can receive additional support from insurers.

Advisor support provided by insurers is designed to prevent unacceptable sales practices such as poor needs analysis, failure to assess suitability of the product for the client, misrepresentation and misuse of illustrations. As well, it is part of an insurer's efforts to address its broader responsibilities in relation to the distribution of their products. In this regard, CLHIA Guideline G8 provides that insurers should establish a system to monitor agents that is reasonably designed to ensure that agents comply with relevant legislation, the insurer's Code of Conduct and other industry standards.

4. NEEDS-BASED SALES PRACTICES

The Approach, a Reference Document jointly prepared by Advocis, CAILBA, CLHIA and IFB, describes the steps that advisors take to develop needs-based recommendations about life insurance products. This Reference Document explains how the process described in *The Approach* can be applied to sales of IVICs.

The three steps that are relevant to developing a recommendation are:

- fact finding
- needs assessment
- recommendations and advice

In reading the description of these steps in this Reference Document, it is important to keep in mind that the process is not linear. In fact, most sales transactions will involve going back and forth and revisiting each of these stages to refine an understanding of the client and how various products and features can meet his or her needs. Equally, the steps do not produce a formula with specific questions and answers leading to a single conclusion about what might be suitable for a client.

Each of these steps requires skill and judgment on the part of the advisor. As noted in *The Approach*, the specific questions the advisors should ask will vary depending on the circumstances of the individual client and the complexity of the products being considered. Of the three steps, fact finding is the most objective but even here the advisor must decide on an appropriate level of inquiry and choose an approach that will effectively elicit the information required to identify the client's needs. The process of assessing needs introduces more subjectivity. It requires that the advisor make judgements about the priorities of the client and differentiate between wants and needs. Finally, the development of recommendations is the most subjective as there will seldom be a single preferred or optimal product recommendation to address the needs that have been identified.

Although fact finding, needs assessment and recommendations are described separately in this document, they will generally form part of a seamless sales process that may occur in a single meeting or a series of meetings between the advisor and the client.

The information that is gathered during this process and the rationale for all recommendations should be accurately and completely documented. Complete written documentation should be accessible if it is needed and a written summary to support the recommendation should be provided to the client.

4.1 Fact Finding

Fact finding generally begins with a preliminary assessment of the client's circumstances. This typically informal discussion is used to determine specific areas of interest so more formal inquiry can be targeted and efficient.

Some markers that can be used in a preliminary assessment as indicators that an IVIC is a suitable product include:

- professional and/or entrepreneur: may indicate a need for creditor protection
- older: may indicate a need for probate by-pass
- conservative investment profile: may indicate a need for guarantees
- large estate: may indicate a need for privacy, probate bypass
- approaching retirement: may indicate a need for income guarantees

This is not an exhaustive list. Given the flexible nature of the product, there is a lengthy list of client circumstances that can be addressed by the features in an IVIC.

More detailed questions following the preliminary assessment focus on acquiring a better understanding of the client's needs to help determine whether or not an IVIC can form part of a suitable product allocation. For each of the specific features, the objective of fact finding and sample questions are described below. The sample questions are intended to be illustrative of the type of questions advisors might ask. With experience, advisors will inevitably gain comfort

with specific questions that they find to be most effective to understand their client's circumstances and needs.

4.1.1 Basic Contract

Death and maturity guarantees on capital and insurance features (i.e., creditor protection, probate bypass, etc.) are common to all IVICs. The objective of fact finding in this area is twofold:

- determine the extent to which the client needs or wants up-side opportunities (capital gains) and protection against down-side risks (capital losses)
- identify the extent to which the client needs insurance features such as creditor protection, probate bypass, death benefit

Sample Questions

The following are potential areas of enquiry, and likely will not be applicable in every situation. This list is intended to stimulate effective fact finding strategies, not set out minimum areas of enquiry.

- Do you have life insurance?
- Do you need creditor protection?
- Do you have any dependents?
- Are they involved in your financial decisions?
- Do you have goals for your money after you die?
- Do you have a will?
- Are you concerned about the ability of your heirs to manage their finances?
- How much money will you need when you retire?
- Are you comfortable with market fluctuations?
- Are you comfortable with the risk that you could lose some of your original investment?
- Do you like to make investment decisions?
- Do you want your beneficiaries to get their money quickly?
- How important is privacy to you?
- How long do you plan to hold the investment?
- What do you plan to do with the money in the future?

4.1.2 Income Guarantees

IVICs with GWB features provide the client with a guaranteed stream of income for either life or a fixed period. For almost all clients, GWB income will be a portion of the client's retirement income stream. The objective of fact finding in this area is threefold:

- identify the client's overall retirement income needs
- identify the sources, amounts and extent of risk associated with client's expected retirement income streams
- identify the extent to which risks line up with risk tolerance

At the end of the day, any recommendation about the GWB feature should include a recommendation about how much of a client's total portfolio should be allocated to GWB products. To make this recommendation, the advisor needs to determine how a specific allocation to the GWB stream fits within the client's overall financial mix to address a number of

factors. In developing the recommendation, the advisor may wish to obtain information about the client's:

- overall liquidity needs
- potential risk or volatility in other income streams
- need for continued capital growth to provide future income
- contingency funds for unexpected expenses
- need for capital preservation to build or maintain an estate
- need for tax efficiency

Sample Questions

There are many ways that the advisor can obtain the information necessary to provide informed advice regarding the applicability of GWB products. The following questions cover many areas, not all of which will be applicable in any given situation, and they are not exhaustive. They are meant to stimulate effective fact finding strategies, not set out minimum areas of enquiry.

- How many years do you expect to need income?
- Are you concerned about running out of money?
- Do you require access to your capital?
- What other investments do you have?
- When do you need your money?
- What guaranteed sources of lifetime income do you have?
- Do you have a Defined Benefit pension?
- What, if any, other sources of income do you have? Or will you have?
- Are you concerned about inflation?
- Do you want to protect income for your spouse or partner?
- What level of income do you require for necessities?

4.1.3 Investment Options

IVICs offer a wide range of investment options. The objective of fact finding in this area is to ensure an appropriate allocation of assets to meet the client's need for growth over the long-term and access to capital in the short-term.

Many insurance companies offer asset allocation software or questionnaires to assist with this aspect of fact finding. Advisors may wish to develop a series of questions to either supplement these aids or act as an alternative to them.

Sample Questions

The following questions are not exhaustive. They are meant to stimulate effective fact finding strategies, not set out minimum areas of enquiry.

- When do you need your money?
- Are you comfortable with market fluctuations?
- If the markets go down, what size loss would make you uncomfortable?
- Can you afford to lose 30 percent of your investment?
- Do you like to make investment decisions?
- What other investments do you have?

4.2 Needs Assessment

The advisor should look for needs that can be positively addressed by one or more features of the product and for needs that would be negatively affected by product limitations.

An example of a positive need would be a conservative investor who is concerned about market volatility. All other things being equal, this is a need that is addressed by the IVIC's guarantees.

An example of a need that could be negatively affected is an individual approaching retirement who expects major expenses to arise at unpredictable times after he or she retires. All other things being equal, the effect of excess withdrawals on the GWB income stream would limit the effectiveness of this feature.

The key in both these examples is the phrase "all other things being equal." In most cases, a single need, either positive or negative, will not be determinative. For example, a GWB income stream may still be appropriate in the example cited if the individual has sufficient additional funds outside the IVIC to handle these expenses.

At this stage, the goal is to develop an inventory of client needs. This involves identifying them, quantifying them where possible, and assessing their relative importance for the client.

4.3 Fees and Charges

Throughout the sales process, careful consideration should be given to fees and charges and how these affect both the affordability and the performance of the product for the client.

In presenting recommendations, the advisor should explain the various fees and charges so the client understands both the initial and ongoing costs and how these costs relate to the guarantees and other benefits under the contract.

Many insurers offer multiple fee options with their products. Where there is a choice, the advisor should consider the appropriateness of each option for the client. Some options, such as a deferred sales charge (DSC) may not be suitable for certain clients, e.g., those who are older or those who have indicated they may need more immediate access to their money.

4.4 Recommendations and Advice

Once the client's needs have been assessed, the next step is to determine the product or products that address these needs.

For most clients, a suitable product or products will not address all needs equally effectively. Since the recommendations involve judgments about an appropriate balance, they should be accompanied with advice about needs that are not fully addressed. This type of discussion and related recommendations about product allocation are especially important in the area of income protection as single products are not generally intended to address all of a client's needs.

In discussing the recommendations with the client, it may be helpful to use the description of key features contained in the Key Facts document (a required part of the Information Folder) and relate each of the features to the identified needs.

Where the advisor recommends a leveraging strategy to help the client achieve his or her goals for wealth creation, it is important to reinforce the fact that leveraging can magnify losses as well as gains. The client should be advised that a leveraged purchase involves a greater risk than a purchase using cash resources only. Any recommendations about leveraging should take into account both the client's financial resources to cover any losses that might result from the strategy and the client's tolerance for this risk.

As discussed under Fees and Charges, the advisor should describe the costs associated with the proposed solution and any potential limitations. This is also an opportunity for the advisor to disclose potential conflicts of interest that may arise in relation to fees and charges.

The advisor's recommendations should be accompanied by a written letter that identifies the key client circumstances and needs and explains how the recommendations address the client's needs.

5. OVERSIGHT

Insurers should generally take a risk-based approach to monitoring the sales practices of advisors selling IVICs.

There are a number of "red flags" or indices for review that insurers can use to identify situations calling for heightened monitoring or investigation. These include:

- deferred sales charges incurred due to early surrenders
- surrenders within six (6) months
- excess withdrawals
- product switches, e.g., from mutual funds to segregated funds
- movement between internal policies and/or external organizations within a short period of time, typically six (6) months, one (1) and two (2) years
- frequent transactions (excluding those in systematic plans)
- leveraging
- concentration limits
- deviations from normal sales patterns
- older clients

None of these indices, by themselves, are evidence of unacceptable sales practices. Rather, they are signs that the insurer, or the person to whom oversight has been delegated, should use to heighten monitoring and perhaps question a specific recommendation.

Insurers should have policies and procedures in place that are reasonably designed to detect these indices and implement appropriate measures where they are detected.

In addition to this risk-based approach, insurers should proactively conduct practice reviews of randomly selected advisors to confirm they are following the needs-based sales practices described here.

6. CONCLUSION

Given the inherent complexity of client circumstances and the fact that alternative solutions may often be available, there is seldom a single or best recommendation that advisors can make regarding IVICs.

For this reason, it is important that advisors carefully document the information gathered and used at each step in the needs-based sales process. If, at some time in the future, there are questions about the recommendation, it will generally be necessary to reconstruct the advisor's reasoning to determine whether the rationale for the advice is reasonable. As discussed in the explanatory notes that accompany *The Approach*, the appropriateness of advice and recommendations will be determined by considering the fact finding and needs assessment and whether or not these support the advisor's decisions.

Investor Profile Questionnaire

Advisor Name: _____

Date: _____

Client Name: _____

Signature: _____

1. Which time frame is consistent with your financial goals?

- | | | | |
|---|---------------|-----------|----------------------|
| A | Under 3 years | Score = 0 | |
| B | 3 – 5 years | Score = 2 | Score |
| C | 6 – 10 years | Score = 4 | <input type="text"/> |
| D | 11 – 15 years | Score = 5 | |
| E | 15+ years | Score = 6 | |

2. What is your most important investment goal?

- | | | | |
|---|--|------------|----------------------|
| A | I want my investment to be secure, provide me with modest income now, or to fund a large expense within the next few years | Score = 0 | |
| B | I want my investments to grow and I am less concerned about income. I am comfortable with moderate market fluctuations | Score = 4 | Score |
| C | I am more interested in having my investments grow over the long term. I am comfortable with short-term volatility | Score = 6 | <input type="text"/> |
| D | I want long-term aggressive growth and am willing to accept significant short-term market fluctuations | Score = 10 | |

3. Which of the following would best describe your level of investment knowledge?

- | | | | | |
|---|-----------|---|-----------|----------------------|
| A | Novice | My investment knowledge is limited | Score = 0 | |
| B | Beginner | Have a very basic understanding of investing | Score = 2 | Score |
| C | Average | Have a working knowledge of various investments | Score = 3 | <input type="text"/> |
| D | Extensive | Solid understanding of investments and their risk | Score = 5 | |

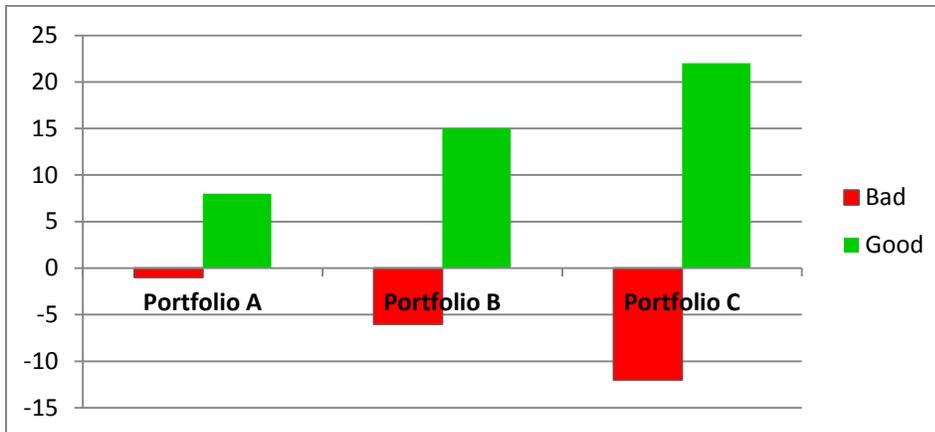
4. Please indicate which statement reflects your overall view on managing risk.

- | | | | |
|---|--|-----------|----------------------|
| A | I am risk averse and not prepared to expose my investments to any fluctuations in order to earn higher long-term returns | Score = 0 | |
| B | I am prepared to experience average fluctuations in order to achieve a higher long-term return | Score = 4 | Score |
| C | I want to maximize my long-term returns and am comfortable with significant fluctuations | Score = 6 | <input type="text"/> |

5. If you owned an investment that fell by 20% over a period of six to nine months, what would you do?

- | | | | |
|---|--|------------|----------------------|
| A | Sell all of the remaining investment | Score = 0 | |
| B | Sell a portion of the remaining investment | Score = 2 | Score |
| C | Hold the investment and sell nothing | Score = 6 | <input type="text"/> |
| D | Buy more of the investment | Score = 10 | |

6. The following portfolios show a best and worst range of return possible in any given year. Which portfolio would you be most likely to hold?



- A Portfolio A Score = 0
 - B Portfolio B Score = 3
 - C Portfolio C Score = 5
- Score**

7. If you could increase your chance of improving your investment returns by taking more risk, would you:

- A Be unlikely to take more risk Score = 0
 - B Be willing to take a little more risk with some of your investments Score = 4
 - C Be willing to take a lot more risk with some of your investments Score = 7
 - D Be willing to take a lot more risk with all of your investments Score = 10
- Score**

8. What type of investor are you?

- A You may be reaching retirement or simply prefer to take less risk. Security of capital is your biggest concern Score = 0
- B You want a balance between growth and security. You are willing to accept some risk for potential higher returns over time Score = 4
- C Growth is more important but security is still a factor. You are willing to accept some risk for potential higher returns over time Score = 8
- D The growth of your money is your main concern and you plan to be invested for a long time. You are very comfortable with riding out the ups and downs of the market potential higher long-term results Score = 10

Total Score

Score	Portfolio	Description
0 – 10	Conservative	Investment horizon is short, prefer to take less risk. Security is most important
11 – 20	Moderate	Investment horizon is relatively short, prefer to take less risk. Security is very important
21 – 42	Balanced	Longer investment horizon, willing to accept some risk for potential higher returns over time
	Global Balanced	Longer investment horizon, willing to accept some risk for potential higher returns over time and looking to diversify outside Canada
43 – 62	Growth	Long time horizon, will accept risk for potential higher returns over time

Reason Why letter samples

Sample #1 – Life insurance

(Name of client),

Based on my review of your needs and subsequent recommendation, you purchased a 10-year renewable \$250,000 term life insurance policy. The policy is called **[name of policy]** and is issued by **[name of insurer]**.

When we met, you indicated that you and your husband are both young and healthy; you're expecting your first child and just bought a house. You said you're the sole income earner in the family and want an inexpensive option to pay off the mortgage if you die.

This policy meets your needs by providing the coverage you want (\$250,000) in the least expensive way. You could extend the coverage with a longer term but this is more expensive. A 10-year renewable policy means the insurer will continue the coverage for 10 years provided you pay the premium each year.

We also discussed critical illness insurance and you indicated it isn't an immediate priority and will think about it some more. We agreed about this time next year, we will discuss the critical illness issue.

If any of this information about you or your needs is not correct, please let me know right away. If you have any questions about the policy, please don't hesitate to ask me now or at any time in the future. You should also keep this letter with your personal papers as a reminder of why you purchased the policy.

Sincerely,

(Name of advisor)

Sample #2 – Segregated funds

(Name of client),

Based on my review of your needs and subsequent recommendation, you purchased a **[name of insurer]** segregated fund (Canadian Equity) for \$100,000. When we met, you indicated you wanted to invest in the equity market but didn't feel comfortable with the risk that goes with investing in mutual funds. Instead, you said you wanted to put your money in a segregated fund.

This segregated fund product you purchased has the basic (75%) death and maturity guarantees and this means the most you can lose is 25% of your investment. This guarantee applies if you keep your money invested in the contract until it matures or you die. As we discussed, if you need to withdraw money before then and the market value is down, the value of your investment will be down by the same amount.

This contract has different fee options. You selected the no-load option because you wanted all your money invested up front and thought you might want to withdraw some of your money in the short term.

If any of this information about you or your needs is not correct, please let me know right away. If you have any questions about the policy or your investments, please don't hesitate to ask me now or at any time in the future. You should also keep this letter with your personal papers as a reminder of why you purchased the policy.

Sincerely,

(Name of advisor)

Sample #3 – Term life – coverage recommendation not fully implemented

(Name of client),

Based on my review of your needs and subsequent recommendation, you purchased a \$500,000 20-year renewable term life insurance policy. The policy is called [**name of policy**] and is issued by [**name of insurer**].

When we met, you indicated you would like an insurance policy to replace income in the event of death of you or spouse. To replace your combined income the need identified was \$750,000.

Based on your ability to afford the policy premium payments, you decided to decrease the coverage to \$500,000 which only partially meets the need identified (\$750,000).

If any of this information about you or your needs is not correct, please let me know right away. If you have any questions about the policy, please don't hesitate to ask me now or at any time in the future. You should also keep this letter with your personal papers as a reminder of why you purchased the policy.

Sincerely,

(Name of advisor)

Sample #4 – Term life – client directive

(Name of client),

On your request, I have submitted an application for [**name of policy**] with [**name of insurer**]. This 20-year term policy for \$500,000 corresponds to the term and amount of your mortgage.

As your bank requires, the policy is collaterally assigned to [**name of bank**]. If you die and the death benefit is greater than the amount owing on your mortgage, the difference will go to the beneficiary you named.

If any of this information about you or your needs is not correct, please let me know right away. If you have any questions about the policy, please don't hesitate to ask me now or at any time in the future. You should also keep this letter with your personal papers as a reminder of why you purchased the policy.

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Reason Why letter samples

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Sincerely,

(Name of advisor)

COMPLAINTS LOG

Recipient of Complaint: _____

Date received: _____

Name of Complainant: _____ **Policy Number:** _____

Address: _____

Telephone: _____ **Fax:** _____

Email: _____

Advisor Name: _____

Nature of complaint:

Date acknowledgement was sent out: _____

If the complaint pertained to Advisor conduct and appears to be serious, has the E&O carrier been notified? _____

Date settled: _____

Explanation of settlement and final position (include whether regulator was involved):

Was the carrier notified of the complaint pertained to Advisor conduct? Date and contact:

