

Compliance tool for advisors

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# Obligations of independent advisor and / or office to the customer

*In this file you will find tools and advices in order to meet the compliance standards in insurance regarding your share with the customer.*

## NEEDS ANALYSIS

In order to advise your customer on products that suit them, make sure you have all the information you need. Make sure you have a complete knowledge of the facts before making a recommendation to a client. First of all, you need to know the person who is in front of you, their goals, needs, family situation, etc.

You must make a diligent effort to obtain full information about the financial and personal circumstances of every client or prospective client prior to making a product recommendation. Any specific product choice or recommendation should be made on a fair and balanced basis.

**The following information must be taken into consideration:**

Client’s insurance needs;

Existing policies or contracts they already hold and their features

Names of the issuing insurers;

Client’s investment objectives (including investment horizon and risk tolerance;

Any other information necessary to understand his situation and needs, for example:

* income;
* financial situation;
* number of dependents;
* personal obligations;
* Family obligations.

We strongly recommend the use of software from the various insurance companies as well as other tools to assist in determining a client’s or prospective client’s needs.

**Example:** With regard to sales of Canada Life segregated funds, it is recommended that an asset allocation tool, such as *Canada Life Asset Allocation Software* (CLAAS), be used to determine the appropriate asset allocation for your clients and prospective clients, based on their risk profiles and on important information provided by CLAAS on the funds recommended.

You should ensure the results of the needs analysis are clearly documented and retained in the client’s file.

###### What if the client refuses?

Sometimes it happens that a client is reluctant. He maybe does not want to provide personal or financial information.

It is important to know that **you cannot be relieved of your obligation to proceed to the need analysis, and this, even with the written consent of your client.** Your obligations in this matter are mandatory, and you must comply.

If you do not have a customized version of a financial needs analysis, we suggest printing our financial outline below:

[Download the Financial Outline](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/abf_dynamique_en.pdf)

**IMPORTANT**

As of July 1, 2018, the CLHIA requires advisors to clearly document discussions with their clients to show how the advisor assessed their needs. A Reason Why Letter, sent from the advisor to the client, helps the client understand why the product recommended/purchased is suitable for them.

Advisors can build trust with their clients and protect themselves and their business with this brief, easy-to-understand letter or email that is an important aspect of sales suitability documentation. This industry requirement acts as a written explanation, for both the advisor and the client, of the product(s) an advisor has recommended – it helps clients confirm their understanding of what they have purchased, its intended goal and how it meets their needs.

[***Reason Why* Sample Letters**](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/ins_cmpl_whylettersamples.docx)  *(reference* [*Manulife.ca*](https://repsourcepublic.manulife.com/wps/portal/Repsource/Repsource/NewsRoom/insurance/newsstories/news_ins_reasonwhyletter/!ut/p/z1/rVLLbsIwEPyV9sAxWidOQnqMqAoCcqEEEl8iJyzgCuzgGFL-vkZIVV-UVq1PO9qd8XjWwCADJvlBrLgRSvKNxTkLi6Gb-IO4T8ZRd0RJPA5Hs9EkcafTEObvB8jDmNiBeBL073uEzDxgf-ET_2d8cuHE5Bp_BgxYJU1t1pBrrBu11xVKbJsCZYeciptKSYPSdIiQzV5zWeG50RilBTZnUNhmoZE3Srbr4waNQX3SriuxgHzpB6VHaeh4QYmOz13u3NGodCoaeNQrMXLLxccsPptl3z81t_zuRT51YX4Q2EIqld7a3T7-0t6AwPBanPa_iKfdjsU21FNqzwayf0_VXuLppJesrH1u1o6QSwXZqwxkb2TO4EuZepum6TaiRycfHtoj3azi2xesQct5/dz/d5/L2dBISEvZ0FBIS9nQSEh/)*)*

For more details about serving the client through needs-based sales practices, please review the [reference document “**The Approach**”](https://www.clhia.ca/web/clhia_lp4w_lnd_webstation.nsf/resources/Guidelines/$file/The_Approach.pdf)

## ACKNOWLEDGEMENT LETTER

You must give the customer the analysis documents that you used for your recommendations. To demonstrate that the documents were handed over, we suggest you print the acknowledgement below:

[Download the acknowledgement](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/acknowledgment.pdf)

## CLIENT FILE & RECORD RETENTION

To comply with privacy requirements in setting up and maintaining a complete client file, you should adhere to the following:

1. Obtain the [Client’s Authorization](https://repnet1.canadalife.com/portal/stellent1/groups/iiip/%40iiipdefaultexternal/documents/content/s1_218992.pdf) to collect, use, communicate and retain the client’s personal information.
2. Only collect and keep information required to do your job; that is, to determine the needs of your client, to recommend the appropriate products and provide ongoing service. You are personally responsible for all information in the file. Do not keep information that is not required to carry out these tasks.
3. Collect client information directly from the client and do not release this information to a third party without your client’s authorization.
4. Keep client files secure and the information confidential. Do not leave client information exposed where it could be viewed by others. Use a shredder when disposing of material containing personal client information.
5. Privacy laws allow clients certain rights of access to their files. Only keep what is relevant to your business dealings with your clients in your file.

**IMPORTANT**

**Client Authorization**

It is prudent to keep in your files only information related to the sale of financial security and investment products. If you believe you have a need to keep any additional information or documents (like those from examples above), we recommend that you adhere to the following:

1. You should have the client sign the appropriate area(s) of the [Authorization form](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/s1_241779.pdf)allowing you to retain this material.
2. You are solely responsible for the safe keeping of this material, for maintaining its confidentiality and for its return to the client.

### **What you should keep in your client files**

* Appropriate client privacy consent(s) [(Example)](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/QC_PrivacyCommitment_EN.pdf)
* Advisor disclosure form signed by the client
* Fact finder (including client name, date of birth, address, telephone and fax numbers, e-mail\*)
* Financial/retirement needs analysis, client’s objectives, goals and priorities
* Proposals and recommendations
* Documentation when a client decides not to act on recommendations
* Investment risk assessment
* In-force illustrations discussed or reviewed with clients and any additional notes or comments attached
* Sales aids and/or illustrations used in presentations
* Copy of form completed at the time of replacement of an insurance policy
* Copies of savings/investment/income applications where applicable
* Date of signature of the application or of the request for service, the mode(s) and date(s) of payment of the product sold or of the service rendered
* In-force delivery illustration with The Policy Delivery Receipt and Acknowledgement page
* Copies of subsequent trading transaction forms
* Limited trading authorizations and MTAF (multiple transaction authorization form)
* Forms from various transactions/requests (e.g. Use of funds form, loan/dividend requests, premium vacation form, client service request form)
* Copies of correspondence (from advisor, client or home office), including emails, letters, and faxes
* Summary of discussions or meetings with clients
* Log of telephone conversations, noting the date and nature of the call and of unsuccessful attempts to contact the client, to verify your attempts to provide proper service
* Documentation of client concerns and complaints
* Group files: Name of policyholder, name of contact person, all bids and proposals\*
* Financial Planner (CFP) files: Engagement letter) and copy of the report.

*\* Required in Quebec only*

Reference Information[[1]](#footnote-1)

[Privacy Statement and Consent](https://www.empire.ca/docs/pdf/Privacy-Statement-and-Consent-EN-web.doc)

### **What you should not keep in your client files**

Information and materials, which are not needed to meet the obligations of your duties as a financial advisor, should not be in your client files.

These include, but are not limited to:

* copies of medical information
* original insurance policies
* original wills
* original powers of attorney
* original marriage certificates
* income tax returns or notice of assessments
* original mortgage/real property ownership papers

This list will allow you to verify that all required elements are present in your customer file:

[Quebec Audit of Client File & Checklist](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/Quebec_Audit_of_Client_file_&_Checklist_S1_241775.pdf)

## MANAGING CONFLICTS OF INTEREST

###### Priority of client’s interest

You must always act in the best interest of your client when providing advice. This means placing the interests of your client above your direct and indirect personal interest. A “conflict of interest” occurs when your actions or private interests interfere, or may reasonably be perceived to interfere, in any way with your ability to act solely based upon the interests of the client.

A conflict situation may arise when you take actions or have interests that may make it difficult for you to effectively determine or recommend the products most appropriate for the client.

A conflict may also arise if outside activities affect or appear to affect your judgment to act in the best interest of clients.

###### Disclosure of actual or potential conflicts of interest

You must provide written disclosure information about your background, your business, and your method of compensation to clients in order to give notice of actual or potential conflicts of interest.

You must also comply with applicable industry and legislative requirements in this regard. This includes disclosing in writing to a client or prospective client any conflict of interest or potential conflict of interest that is associated with a particular transaction or your recommendation. This information assists clients in assessing the objectivity of advice offered by you. Your strict compliance with disclosure requirements is important in enhancing consumer confidence in you, our products, and our industry.

###### Key areas for disclosure

Before you complete a sales transaction, you need to disclose five items to a client in writing. These are:

* The financial services companies you represent;
* The nature of the relationship between you and an insurance company;
* How you're compensated and by whom;
* If you may be eligible for additional compensation, including cash or non-monetary compensation;
* Potential conflicts between your interests and those of the client.

**Template for client’s disclosure letter**

When a consumer is considering the purchase of a life or health insurance product, it is important that they have good information about the product, how it meets their needs, the company offering the product, and the advisor and the advisor’s business relationships. The below document[[2]](#footnote-2) focuses on disclosure about the advisor which should be given in writing to the client prior to the sales transaction...

[**Advisor Disclosure ref doc.pdf**](https://www.clhia.ca/web/CLHIA_LP4W_LND_Webstation.nsf/page/15A93502979CA9E68525784F0051EF3A/$file/Advisor%20Disclosure%20ref%20doc.pdf)

We suggest printing the template letter below:

[Voluntary Communication of Information](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/Voluntary_communication_of_information.pdf)

[Disclosure Notice](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/Statement_27052019.docx)

# Obligations, measures and policies of an independent advisor and/or office

*In this section you will find tools and advice in order to meet the compliance standards in insurance regarding your obligations as an independent advisor.*

## RECORD OF COMMISSIONS

The commissions register contains the following information:

* Details of each commission;
* The contract number or customer name;
* The customer's name, the insurer or any other person who paid a commission to the firm, society or independent representative;
* The statement about each commission;
* Details of any shared commissions.

In your Centralize profile in the "Production" section, you will find almost all the information so you do not need to create a register of commissions. The information is already compiled for you. However, please note that your commission statements are available on the insurers’ website.

## COMPLAINTS HANDLING POLICIES

All firms, independent representatives and firms are required to have a complaints policy and keep a record for each complaint received.

[Complaints Policy](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/POLITIQUE_DE_TRAITEMENT_DES_PLAINTES%20ENG.pdf)

## BUSININESS CONTINUITY PLAN

All firms, independent representatives and firms must develop a business continuity plan. We suggest you print the business continuity plan that is below:

[Business continuity plan](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/Business_continuity_Plan.pdf)

## COMPLIANCE PROGRAM

The "Law on the Proceeds of Crime and Terrorist Financing" requires that firms, independent partnerships and independent representatives endow a compliance policy.

[Compliance program for privacy - Advisor](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/CL%20advisorprivacyprogramQC%20S1_294874%20En.doc)[[3]](#footnote-3)

[Compliance program for privacy – Incorporated advisors](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/CL%20advisorprivacyprogram%20S1_294876%20En.doc)

## MONEY LAUNDERING & TERRORIST REPORTING

**What is money laundering?**

Designated offenses include drug trafficking commonly associated with money laundering, but they also include the following acts:

* + Bribery of judicial officers
  + Operating a gambling house Child Pornography
  + Taking bets
  + Breach of trust by a public servant Forgery
  + Murder
  + Operating a brothel prostitution Robbery
  + Bribes Theft
  + Tampering with market operations Extortion
  + Fraud against the State
  + Possession or development counterfeit currency
  + Corruption of morals Fraud
  + Tax evasion

You must familiarize yourself with the requirements of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* and comply. Under this legislation, any person, including financial advisors and mutual fund representatives, who performs transactions with customers must:

* + Report any suspicious transactions and attempted suspicious transaction to the [Financial Transactions and](http://www.fintrac.gc.ca/intro-eng.asp) [Reports Analysis Centre of Canada](http://www.fintrac.gc.ca/intro-eng.asp) (FINTRAC) and if applicable, the RCMP and CSIS, whether the operation is linked to money laundering, financing of terrorist activities or tax evasion;

o [Overview of indicators of suspicious transactions](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/Overview_of_indicators_of_suspicious_transactions.pdf)

* + Submit a declaration of property belonging to a terrorist group to FINTRAC if the person conducting the transaction is in possession or control of a property deemed to belong to a group terrorist or be controlled on behalf of a terrorist group.

You can find more information on FINTRAC's Web site:

* Your obligation to report suspicious transactions

o [Suspicious Transaction Report Form](https://www.fintrac-canafe.gc.ca/reporting-declaration/form/STR-2008-eng.pdf)

* How to fill in a declaration in the FINTRAC's Web site:

o <http://www.fintrac-canafe.gc.ca/guidance-directives/transaction-operation/1-eng.asp>

Download the Compliance program for anti-money laundering and anti-terrorism financing:

[Template](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/AML_JN2020_En.docx) [[4]](#footnote-4)

## PROTECTING YOUR PRACTICE AND YOUR CLIENTS’ CONFIDENTIAL INFORMATION

It’s important for all of us to be diligent about protecting our clients’ information. Establishing effective controls, security and privacy practices – and ensuring the personal information you collect is protected – helps maintain client trust and confidence.

Here are some ways to protect confidential information: [Download the Privacy breach procedure](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/S1_287790.pdf)

[Sample 1 – INTERNAL PRIVACY and BREACH POLICY](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/SAMPLE-Internal_Privacy_and_Breach_Policy.doc)

Sample 2 - [Privacy Breach Procedure Template](https://www.empire.ca/docs/pdf/Privacy-Breach-Procedure-Template-EN-web.doc)

## FAIR TREATMENT OF CUSTOMERS (CCIR)

This guidance sets out the Canadian Council of Insurance Regulators (“CCIR”) and the Canadian Insurance Services Regulatory Organizations (“CISRO”) members’ vision, including their expectations relating to conduct of insurance business and fair treatment of Customers.

Please click on the below link in order to access the document:

[Guidance conduct of insurance business and fair treatment of customer](https://docs.peakgroup.com/News_letter/Assurance/documents%20de%20conformite/english/Guidance%20Fair%20Treatment%20of%20Customers.pdf)

1. Reference [Empire Life website](https://www.empire.ca/advisor/support/compliance) [↑](#footnote-ref-1)
2. Reference CLHIA website [↑](#footnote-ref-2)
3. [Canada Life](https://repnet1.canadalife.com/wps/myportal/!ut/p/c1/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gDdwNHHz_nEEcLg2CP0EBHZwsjAwgAykcC5S1MHI28g50DnYHyBiHeLkaGMHlidKPJ-xgaEac7HORa_LaD5XEAR5g8Hvuxylvil_cmIB9iDpf388jPTdUvyA2NMMj0zAxIV1QEAPFF0ec!/dl2/d1/L2dJQSEvUUt3QS9ZQnB3LzZfMEcwQUxOQ1RBODBTSFVRQUw5MjAwMDAwMDA!/) website – Compliance section [↑](#footnote-ref-3)
4. [Canada Life](https://repnet1.canadalife.com/wps/myportal/!ut/p/c1/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gDdwNHHz_nEEcLg2CP0EBHZwsjAwgAykcC5S1MHI28g50DnYHyBiHeLkaGMHlidKPJ-xgaEac7HORa_LaD5XEAR5g8Hvuxylvil_cmIB9iDpf388jPTdUvyA2NMMj0zAxIV1QEAPFF0ec!/dl2/d1/L2dJQSEvUUt3QS9ZQnB3LzZfMEcwQUxOQ1RBODBTSFVRQUw5MjAwMDAwMDA!/) website – Compliance section [↑](#footnote-ref-4)