

November 7, 2022

CCIR Secretariat
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

VIA EMAIL: ccir-ccra@fsrao.ca

Dear Sirs/Mesdames,

**Re: Canadian Council of Insurance Regulators (CCIR)
Canadian Insurance Services Regulatory Organizations (CISRO)
Discussion Paper on Upfront Compensation in Segregated Funds**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments to the CCIR/CISRO discussion paper on upfront compensation in segregated funds (Paper).

1. ABOUT ADVOCIS

Advocis is the association of choice for financial advisors and planners. With over 17,000 member-clients across the country, we are the definitive voice of the profession. Advocis champions professionalism, consumer protection, and the value of financial advice. We advocate for an environment where all Canadians have access to the professional advice they need.

Advocis members advise consumers on wealth management; risk management; estate, retirement and tax planning; employee benefits; and life, accident and sickness, critical illness and disability insurance. In doing so, Advocis members help consumers make sound financial decisions, ultimately leading to greater financial stability and independence. In all that they do, our members are driven by Advocis' motto: *non solis nobis* – not for ourselves alone.

2. COMMENTS

We thank the CCIR and CISRO for their efforts to harmonize the rules for segregated funds with those in the mutual fund sector. We share the regulators' concern regarding regulatory arbitrage. Recommendations should be driven by product suitability and client need, not by differences in regulatory regime.

However, segregated funds provide unique benefits to consumers, distinct from mutual funds. The segregated fund guarantees reduce the risk exposure in comparison to comparable mutual

funds. Further, as an insurance contract, segregated funds also provide estate planning and creditor protection benefits.

Despite this, most of the studies relied upon in the Paper relate to deferred sales charges (DSC) in mutual funds. Given the differences between the products and their compensation structures, additional research is required before significant changes are made.

A complete prohibition on upfront compensation might unintentionally discourage advisors from offering segregated funds and impose barriers for consumers who wish to have access to these products. The regulatory regime must allow continued access to these products by retail investors.

We urge regulators to maintain the advisor chargeback as a form of upfront commission. Segregated funds require a principles-based approach that recognizes their insurance component rather than simply a duplication of securities regulation. Instead of a complete prohibition, regulators should explore measures, such as additional monitoring, to address the risks arising from the sale of these products.

In our response to this Paper, we discuss the key features of segregated funds and lay out possible regulatory measures that can address existing concerns related to advisor chargeback options.

Benefits of Segregated Funds

Segregated funds are an important investment and insurance product. They provide Canadians with long-term financial stability and allow for efficient estate planning. The Canadian public values ready access to these products. Market research indicates that more than 80% of consumers are satisfied with segregated funds when it comes to reliable retirement income, protection against risk, and reasonable returns.¹ Any regulatory reform must ensure that Canadian investors—particularly small investors—continue to have access to these valuable products.

Unlike mutual funds, segregated funds are underpinned by an insurance contract that reaches maturity after a long period. Segregated funds are meant to be bought and held. Investors recognize this. Data from the Canadian Life and Health Insurance Association (CLHIA), indicates that the average hold period for a segregated fund is nearly 8 years.² This is significantly longer

¹ On behalf of the Canadian Life and Health Insurance Association (CLHIA), Abacus Data interviewed 709 people who had experience with segregated funds and 782 who had experience with mutual funds between September 4 and October 3, 2022. “Data to Advocis – CCIR Upfront Commissions for Segregated funds,” CLHIA Discussion Paper, October 28, 2022.

² “Data to Advocis – CCIR Upfront Commissions for Segregated funds,” CLHIA Discussion Paper, October 28, 2022.

than the average hold period for a mutual fund of only 4.5 years.³ Investors hold segregated funds for the long-term to reap the full benefits of the insurance guarantees.

Since a segregated fund is a long-term investment, consumers need to carefully consider the benefits and costs at the time of initial sale. An upfront commission with the advisor chargeback option provides advisors with the necessary incentive to provide this long-term advice. The charge back option aligns the advisor's incentives with the investor's buy-and-hold mindset.

We must carefully approach the incentive framework for advisors. Advisors must be paid for the advice that they provide; however, any incentive could potentially result in a conflict with the client's interests. Despite this, the charge back option helps align the advisor's incentives with the investor's buy-and-hold mindset. This long-term approach allows consumers to benefit from the insurance guarantees of the segregated fund.

Further, unlike the DSC, if the consumer exits prematurely, they are not penalized. The cost of the chargeback due to an early exit is borne entirely by the advisor through the chargeback.

Upfront commissions also help ensure access to these insurance and investment products. As the adage goes: "insurance is sold, not bought." Segregated funds fulfill an important market niche, providing an insurance solution for low-risk capital accumulation and succession planning. Advisors incur significant costs early in the life of the contract, as they assess the suitability of the product and provide advice to their clients. Without upfront compensation, advisors may not find it economical to service clients with limited capital to invest.⁴ In addition, upfront commissions enable new advisors to enter the industry and provide their services to clients. By supporting new advisors as they grow their business, upfront commissions ensure continued access to these important financial products. Without this compensation model, the availability of segregated funds to the Canadian public could be reduced.

Regulatory Concerns Have Not Materialized

We share the regulators' concerns about the potential for regulatory arbitrage and churning. For this reason, we are generally supportive of harmonization between segregated fund and mutual fund regulatory regimes. However, the evidence does not show an increased risk of regulatory arbitrage or churning due to upfront commissions with advisor chargeback.

³ "Quantitative Analysis of Investor Behavior, 2020," DALBAR, Inc. www.dalbar.com

⁴ For instance, the CLHIA reports that FEL-0 represents 43% of sales in segregated fund accounts at \$200,000 and above. However, that declines to 31% in segregated accounts at \$50,000 and below. The chargeback option is required to allow advisors to economically offer segregated funds to clients with smaller pools of investable capital. "Data to Advocis – CCIR Upfront Commissions for Segregated funds," CLHIA Discussion Paper, October 28, 2022.

In practice, the evidence shows that advisors do not engage in regulatory arbitrage between segregated funds and mutual funds. As the CCIR has noted: “the CCIR has sought statistical evidence to demonstrate that regulatory arbitrage is occurring within the mutual fund/segregated fund sectors. Despite anecdotal statements from stakeholders and in the media, no such evidence has been found.” [emphasis added]⁵ Further, existing regulatory standards—particularly the product suitability requirement—prevent an advisor from pushing a product on a client due solely to differences in the regulatory regime.

Similarly, concerns regarding churning in the segregated fund sector have not materialized in practice. The average hold period for a segregated fund (almost 8 years) is substantially longer than the chargeback period (2-5 years). Insurance agents are not transferring their clients to new segregated funds once the threat of chargeback passes.

In addition, there is no evidence that the presence of a chargeback is detrimentally impacting the advice provided by advisors. Data from the CLHIA indicates that segregated funds sold under the chargeback option are held for the same length of time on average as those subject to other load types.⁶ The chargeback does not cause advisors to keep their clients invested longer than they should.

Alternative Regulatory Measures

Instead of wholesale changes, we believe that regulatory concerns can be addressed through targeted and proportionate regulatory reforms.

Concerns surrounding inappropriate advice can be mitigated through enhanced monitoring. By tracking redemptions during and following the chargeback period, the benefits of upfront commission can be preserved while the risks to investors are addressed.

To further reduce the risks, the duration of chargeback schedules could be reduced and standardized across the industry. This would reduce the potential for arbitrage by independent agents between different insurers when advising their clients on segregated funds.

We also support clear, simple, actionable disclosure for investors. This disclosure should include an easy-to-understand explanation of the compensation that the advisor is receiving for providing their services. Clear disclosure is consistent with the Fair Treatment of Customers and enables the client to make an informed decision when purchasing segregated funds.

⁵ Canadian Council of Insurance Regulators Segregated Funds Working Group Position Paper (December 2017), pg. 4, available here: <https://www.ccir-ccrra.org/Documents/View/3369>

⁶ “Data to Advocis – CCIR Upfront Commissions for Segregated funds,” CLHIA Discussion Paper, October 28, 2022.

3. CONCLUSION

We welcome the work the CCIR/CISRO have undertaken towards regulating upfront commissions in segregated funds.

We urge regulators to be cognizant of the distinct features of segregated funds when crafting regulatory requirements for these products. As such, we do not support the elimination of upfront commissions and the advisor chargeback for segregated funds. Instead, we support improving the regulatory regime through enhanced monitoring, and standardized disclosures, and chargeback schedules across the industry.

We look forward to further productive discussions with CCIR/CISRO on the issues highlighted in this submission. Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Advocacy and General Counsel at jryu@advocis.ca.
Sincerely,

“original signed by”

Greg Pollock, M.Ed., LL.M., C.Dir., CFP
President and CEO

“original signed by”

Catherine Wood, CFP, CLU, TEP, CHS, MBA, MIST, ICD.D.
Chair, National Board of Directors



Nov. 7, 2022

To: CCIR Secretariat (via email)

Re: Commentary on discussion paper on Upfront Compensation for Segregated Funds

BridgeForce Financial Group Inc. is one of the largest Canadian owned and operated MGAs, with more than 180 years of combined experience in its leadership team. That team wishes to thank the CCIR for the on-going opportunity for those in the industry to have a voice and offer input on the future of our industry.

In considering upfront compensation in segregated fund sales, we generally feel the shift to CB funds & other sales loads and fee-based options are providing choice to consumers, which is much needed; we feel this cannot be overstated.

Intended improvement of oversight of sales suitability by insurers and regulators, coupled with on-going risk-based monitoring by MGAs, will improve positive outcomes for consumers. This needs time to be rolled out and take effect. The vast majority of advisors want to do right by their clients, and in fact, they do. There will always, unfortunately, be a few bad actors who take advantage. Increased oversight will only help to identify them sooner and limit the harm they can do.

Additionally, with the industry's focus on competency through increased and relevant training, compliance with CE credit requirements and the quality of CE, will improve consumer outcomes. This must be coupled with increased and enhanced consumer financial literacy.

A move to ban all upfront embedded compensation, simply to be in lockstep with recent CSA actions, we feel would have significant negative impacts on consumers ability to obtain independent and objective advice from an advisor. Insurance products are not bought, rather need to be sold to consumers. This requires incentives and fair compensation for advisors, from the initial determination of suitability of a seg fund for a client, through the life of servicing a product that is usually held for a long period of time, to take advantage of seg funds' unique features and benefits. Therefore, to impose a significant shift in compensation models alone, in a singular effort to manage conflicts of interest and ensure FTC, would be

dangerous. And especially now, given the current state of the economy and looking to the immediate future, which is uncertain, if not grave.

We are also very concerned for any significant change that would make recruitment and retention of new advisors to the business even more challenging, especially given the average age of advisors today.

We urge the CCIR to consider thoughtful and measured changes, leveraging all available tools and technology. This includes continued reinforcement with insurers, who more than have the means, of their ultimate responsibility to oversee and help ensure product suitability, which in turn manages conflicts of interest.

Regards,

Mari-Jayne Woodyatt and Allen Wong
Presidents, BridgeForce Financial Group Inc.

Nov. 7, 2022

Robert Bradley, Chair
Canadian Council of Insurance Regulators
25 Sheppard Avenue West
Box 21 - Suite 100
Toronto, ON M2N 6S6

Re: CCIR Discussion Paper on Upfront Compensation in Segregated Funds

Dear Mr. Bradley,

As a CLHIA member company, BMO Insurance was a contributor to the formal industry response to the aforementioned CCIR discussion paper, which you have received or will receive from CLHIA imminently. This brief independent commentary is intended to underscore our organization's belief that the withdrawal (banning) of the advisor chargeback sales charge option would have unintended consequences that could negatively impact consumers. It may reduce access to segregated funds to middle- and lower-income markets or result in an increase in incentive arrangements that would reduce the terminal value of the investment.

It is our opinion that the most significant risk associated with the withdrawal of the advisor chargeback option is that it may further widen the advice gap in Canada. The "advice gap" we refer to is the notion that Canadians will increasingly become divided into groups of those for whom it is economical to provide financial advice, and those for whom it is not. It is likely that the changes in permitted upfront compensation would negatively affect the middle to lower markets as interest in serving these markets would decline.

We appreciate the CCIR's concerns regarding the potential relationship between incentives and conflicts of interest. However, withdrawal of the chargeback option could broaden the advice gap as a consequence of the fact that trailing commissions alone on small account balances results in minimal compensation to the intermediary. This could deter interest in offers to this market and therefore restrict the options available to these consumer groups. Only intermediaries with a large number of accounts in these markets would consider it sustainable. Unfortunately, many do not.

To illustrate this point, below is a table containing actual demographic data from BMO Insurance. At time of writing, over 75% of advisors with active segregated fund contracts at BMO Insurance had 5 or fewer contracts. The table below groups those advisors into cohorts based on whether they have 1, 2, 3, 4, or 5 active segregated fund contracts with us, and then presents the hypothetical annual trailing commission that would be earned based on the median and average total market values, assuming a trailing commission rate of 1%. This is based on data taken from BMO Insurance's administrative systems.

Number of Accounts	Median		Average	
	Median Total Market Value	Annual Trailing Commission at 1%	Average Total Market Value	Annual Trailing Commission at 1%
1	\$19,843	\$198.43	\$81,419	\$814.19
2	\$36,799	\$367.99	\$128,152	\$1,281.52
3	\$55,683	\$556.83	\$170,655	\$1,706.55
4	\$81,030	\$810.30	\$180,028	\$1,800.28
5	\$118,053	\$1,180.53	\$279,112	\$2,791.12

This table paints an alarming picture of the state of financial advisor compensation for over 75% of our advisor base if up-front commission options are eliminated. To the extent that other insurers have similar demographics, the table above would be optimistic because many insurers pay a trailing commission rate of just 0.5% on balances allocated to fixed income funds (though BMO Insurance does not do this). We believe the threat posed by the potential dual banning of the DSC and advisor chargeback options could be an existential one as it would likely result in reducing access to segregated funds for Canadians as many advisors could be expected to exit or not enter the market.

It is also our opinion that the withdrawal of the advisor chargeback option may encourage advisors to shift to the Front-End Load sales charge option, where a percentage of the client's initial investment is deducted and paid to an intermediary. While there isn't anything inherently wrong with Front-End Load arrangements, for long-term investors, the loss of initial principal would be expected to adversely impact the terminal value of their investment when compared to a sales charge option that allowed 100% of the initial deposit to be invested.

As a result, we see the proposed changes as negatively impacting access and increasing the "advice gap" or leading to increased Front-End Load fees (thus impacting clients' account performance). In that eventuality, it would be questionable whether the elimination of the advisor chargeback option truly did anything to improve conflicts of interest between clients and advisors.

We appreciate your consideration of these facts and opinions in your ongoing efforts to improve the state of our industry for the benefit of all Canadians.

Respectfully,



Bryan Vanderleeuw
Director, Annuity Solutions
BMO Insurance

November 7, 2022

VIA EMAIL

Canadian Council of Insurance Regulators
Canadian Insurance Services Regulatory Organizations
c/o CCIR Secretariat
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Re: *Discussion Paper on Upfront Compensation in Segregated Funds (the “Consultation”)*

The Canadian Advocacy Council of CFA Societies Canada¹ (the “CAC”) appreciates the opportunity to provide the following general comments on the Consultation.

We are supportive of the current review being undertaken by the Canadian Council of Insurance Regulators (“CCIR”) and the Canadian Insurance Services Regulatory Organizations (“CISRO”) on upfront compensation paid for the sale and servicing of certain insurance products. We were (and remain) very supportive of the effective ban on deferred sales charges in segregated fund sales, and we believe additional review of other types of upfront compensation and ongoing sales incentives in the insurance sector is indeed warranted, and that **all forms of Upfront Compensation (both DSC and Advisor Chargeback options) should be banned as soon as possible because of the foundational irresolvable conflicts they create between financial consumers and those who provide them advice (in this case through advice relating to an insurance product purchase)**. We believe that comparison to the CSA’s reasons for considering ending embedded commissions in securities-regulated investment funds (and underlying the associated recent ban of deferred sales charges) is instructive, as the three identified foundational investor protection and market efficiency issues (as reproduced in the Consultation) from CP 81-408 provide sound basis for evaluating similar customer alignment and compensation issues for insurance regulators. In the review of ongoing sales incentives, we believe CSA Staff Notice 33-318 – *Review of*

¹ The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 19,000 Canadian CFA Charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors’ interests come first, markets function at their best, and economies grow. There are more than 190,000 CFA Charterholders worldwide in 160 markets. CFA Institute has nine offices worldwide and there are 160 local societies. For more information, visit www.cfainstitute.org or follow us on [LinkedIn](#) and Twitter at [@CFAINstitute](#).

Practices Firms Use to Compensate and Provide Incentives to their Representatives may be instructive to insurance regulators, as it explores the conflicts that various ongoing sales incentives create between securities registrants and investors. Many of these enumerated concerns likely directly translate to similar compensation structures and conflicts for the insurance segment.

We agree that upfront commissions and certain ongoing compensation methods or sales incentives (most particularly DSC and Advisor Chargeback options) in segregated funds raise conflict of interest concerns because a consumer relies on someone to sell them a suitable product, and the intermediary and/or licensed individual is being paid by the product manufacturer for the sale. We are particularly concerned about the possibility that insurance representatives will be incentivized to sell products (and provide advice to consumers) that provide them with the highest compensation (either directly or through incentive or 'bonus' programs), rather than selling the product that is most suitable for the consumer. This conflict is compounded in the case of the Advisor Chargeback option when faced with a policyholder/investor with changing personal circumstances over the life of the sold product subject to the Advisor Chargeback option, in that the consumer/purchaser should be able to rely on their salesperson for advice that is responsive to their changing personal circumstances, without having to navigate the conflict of the potential for the advisor to have to repay a (potentially substantial) upfront commission if they overcome their inherent (and fundamentally – likely irresolvable) conflict and advise the client to make the product switch that is most appropriate for their changing circumstances. **We believe the Advisor Chargeback option, while lightening perhaps the fee obligations on a customer of a product switch relative to a DSC option, deeply compounds the conflict-of-interest issues present in all Upfront Commission structures. We would *urge* insurance regulators to extend the Upfront Commission ban to also cover the Advisor Chargeback option.**

It is also problematic that fee disclosures do not provide consumers with the information needed to properly assess the impact of all costs and fees on their returns (or potential return), especially with respect to the lack of on-going disclosure on intermediary compensation that would better allow a consumer to consider the impact of salesperson/intermediary conflicts in the product advice that they've received. As CFA Charterholders, we support rules that foster clear, transparent and comparable disclosure to investors about the costs of financial products and investing. In our view, CCIR's and CISRO's approach to fee reporting should be guided by the same principles that guide performance disclosure under the Global Investment Performance Standards (GIPS®): fundamentally that information should be calculated and presented "in a fair and comparable format that provides full disclosure"².

We note in particular that sales of insurance products are often made by dually-licensed salespeople, which exacerbates potential conflicts in that the salesperson might be incentivized to sell the lesser-regulated product – particularly the product/regulatory treatment with the lesser standard for conflict disclosure/mitigation or cost/fee disclosure. In addition, there are a number of hybrid investment products currently in the market which combine features of both securities and insurance products, leading to investor

² CFA Institute, Global Investment Performance Standards (GIPS®) Handbook, 3rd ed (2012) at p. 2 (emphasis added). GIPS® is a registered trademark owned by CFA Institute.

confusion with respect to the applicable regulatory regime and realistic expectations of disclosure from their advisors and the appropriate cost of their investment products and related advice.

As part of the FTC Guidance, we understand that insurers and intermediaries are expected to manage or avoid potential and actual conflicts of interest, including those arising from compensation matters. If it is not possible to place a customer's interest ahead of their own interests, such individuals are expected to decline to act. While this guidance is laudable, to be effective we believe it is necessary to reflect these principles directly in insurance legislation or regulation, similar to what is provided for in the securities industry pursuant to the Client Focused Reform amendments now embedded in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

We recognize that the ability of licensed individuals to distribute products for more than one intermediary or insurer in many jurisdictions may complicate supervision of adherence to conflict-of-interest rules. However, we believe that it is possible to impose such obligations directly on those licensed individuals, through necessary enhancement of existing regulatory structures and mechanisms. Many end-users of insurance products rely heavily on the advice provided by insurance representatives, and may have little to no interaction with the insurer itself, or any other party. We believe insurance regulators should demand either disclosure of current indirect and non-disclosed compensation (such as compensation through the Intermediary not disclosed at point of sale) or ban it outright (our preference) to minimize the conflict that this generates with consumer interests due to lack of awareness or comprehension. We have not seen any compelling data to suggest that non-transparent and conflict-generating compensation structures (or inordinately expensive insurance product compensation) should be allowed generally, or on the basis that this provides effective subsidy for new Intermediaries to build their businesses.

Additional guidance could then (and should) be provided with respect to regulatory expectations for these individuals as it relates to comparability of available products. Such guidance should explain how a consideration of alternative insurance products, including with respect to costs and fees, helps to place a customer's interest ahead of the representative's own with respect to compensation and conflicts.

Concluding Remarks

We strongly support initiatives to increase cost and fee transparency in the sale of insurance products, particularly given the interdependencies and potential for regulatory arbitrage at point-of-sale for many retail investors between the insurance and securities markets. We strongly urge regulators to ban both Upfront Commission structures (both DSC and Advisor Chargeback) because of the irresolvable conflicts they place between Intermediaries and their clients. Trust in both the insurance and financial industries would benefit from a structure of economic incentives that more actively promotes transparent, simple fee structures, full attribution of all costs to the customer related to their financial advice and products, and an industry structure that more actively promotes competition in the distribution of insurance products to investors on the basis of transparent value-for-service and advice.

We thank you for the opportunity to provide these comments and would be happy to address any questions you may have. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council of
CFA Societies Canada*

**The Canadian Advocacy Council of
CFA Societies Canada**

Nov. 7, 2022

CCIR Secretariat
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Re: Discussion Paper on Upfront Compensation in Segregated Funds – CAILBA Response

Dear Sirs/Mesdames,

CAILBA is a national industry association of life insurance intermediaries and represents the voice of its MGA members across Canada. We actively participate in industry regulatory committees with the goal of ensuring the Canadian life insurance industry remains vibrant and competitive, providing financial security to Canadians of all economic strata, while consistently improving FTC outcomes.

We thank the Canadian Council of Insurance Regulators (CCIR) for the opportunity to comment on CCIR's discussion paper on upfront compensation in segregated funds. We appreciate the thoroughness of the paper, including the 8 Targeted Customer Outcomes itemized on page 7, and the 6 clear questions posed at the end of the paper.

We agree with CCIR's directive to ban DSC sales effective June 1, 2023. Aside from potential advisor misuse of DSC, the fact remained that customers who wanted or needed to withdraw money from DSC sales structures, beyond the allowed annual 10%-free withdrawal amount, would suffer financial withdrawal penalties, during the DSC schedule, through no fault of their own.

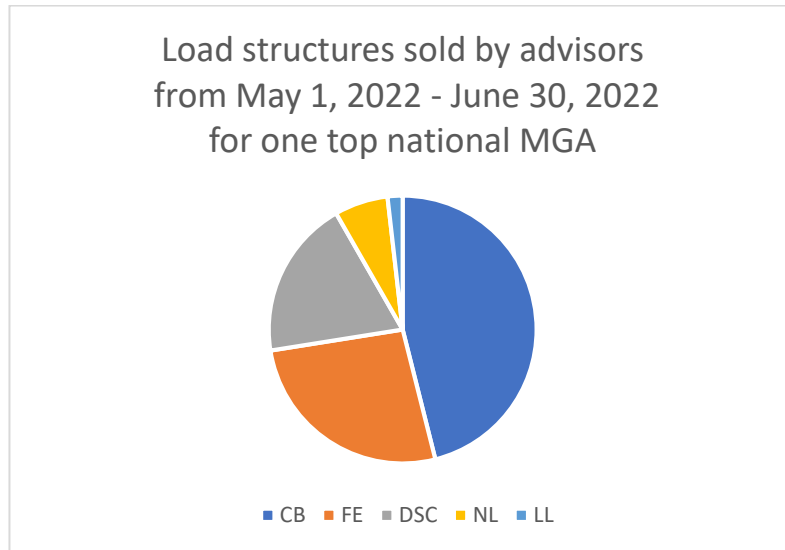
Now, we appreciate that CCIR is further examining and considering if,

"Upfront Commissions in segregated funds may present similar concerns to the sale of other financial products in terms of the potential for conflicts of interest and alignment in cost and services provided in situations where the Customer is relying on an advisor to sell them a suitable product and the advisor is being paid by the product manufacturer for the sale."

CAILBA's General Viewpoint

The advent of advisor chargeback (CB) series segregated funds some 4 years ago, has created a steady migration away from DSC and into CB, FE, and fee-based structures, evidenced by the chart below. We further note that major insurers who offer CB series funds, have a similar breakdown sales load types, which insurers and CLHIA will no doubt include in their submission to CCIR. This demonstrates that advisors want to treat clients fairly, and do so with the right tools available.

This trend, coupled with growing focus on advisor oversight by regulators¹/insurers/ distribution channels, proposed total cost reporting to customers², and growing competitive customer choices externally offered by Fintec Robo-advisors and index funds³; will substantively improve customer outcomes, while preserving the industry's pro-business environment that has successfully served the financial security needs of Canadian customers for so many years⁴.



CB	46%
FE	26%
DSC	19%
NL	6%
LL	2%
TOTAL	100%

A Progressive Evidence-Based Approach

CAILBA believes these tectonic shifts occurring in the market place will alleviate many of CCIR's FTC concerns, and are worth observing for a period of time, rather than immediately moving to next steps to ban all upfront embedded compensation, simply to be in step with recent CSA actions - the benefits of which have yet to be verified and quantified for customers and for the securities industry. In fact, from a consumer cost perspective, a May 2015 update to the 2012 study by Investor Economics and Strategic

¹ FSRA, "FSRA takes action to ensure those in the Life and Health Insurance Sector treat customers fairly", Financial Services Regulatory Authority, September 2022

² CSA, "Canadian Financial Regulators Propose Total Cost Reporting for Investment Funds and Segregated Funds", Canadian Securities Administrators, April 2022

³ Tracey Lemay, "DAC2015 Robo-advisors face challenges", Investment Executive, November 2015

⁴ CLHIA, "Canadian Life and Health Insurance Facts – 2016 Edition", Canadian Life and Health Insurance Association, September 2016

Insight for The Investment Funds Institute of Canada⁵, calls into question the idea that the cost of ownership of mutual funds for consumers would fall as a result of unbundling fees. Page 11 of the report states:

“This analysis, combined with the findings of the Strategic Insight research in 2012, also suggests that a move to unbundled fee-for-advice models has not resulted in a reduction of investor costs of mutual fund ownership.”

CCIR should be cautious in its approach to the matter of embedded upfront compensation, seeking current and emerging evidence, specific to the Canadian Life insurance industry, when assessing its Targeted Customer Outcomes, before drawing conclusions. Indeed a recent article⁶ in the Investment Executive called into question the idea that compensation differences between mutual funds and segregated funds necessarily create the conflict of regulatory arbitrage. The article quoted Carlos Cardone, senior managing director with Investor Economics in Toronto,

“Regarding segfunds, Cardone was unequivocal that the increase in (segfund) sales wasn’t attributable to regulatory arbitrage: “There has never been anything in the data to indicate that [regulatory arbitrage] is happening in any way, shape or form,” he said.”

Advisor Incentive/Workflow

Caution is warranted with respect to banning embedded upfront compensation, because IVICs are unique products, different in many ways to mutual funds. IVICs require additional time and effort to solicit, set up and service. This includes helping the client to understand and choose their investment guarantee structure, contract owner/joint owner/successor owner, annuitant/successor annuitant, and beneficiaries. Mutual funds are investment products which customers can purchase with or without an advisor, whereas customers can purchase IVICs only through a life-licensed advisor. Therefore, without proper advisor incentive, the financial security benefits of IVICs may never reach many average Canadians, who are arguably the most in need of these benefits.

Life insurance-licensed advisors must be incented/compensated to perform the upfront work and human interaction required to explain the features and family security benefits of segregated fund ownership to customers. Indeed, these features and benefits, over and above what mutual funds provide, often come with slightly higher MERs, which require even deeper and more exhaustive solicitation and explanation. Without the incentive to perform this work, many Canadians may never discover the protections and guarantees afforded by segregated funds⁷. The result will be fewer Canadians benefiting from the positive customer outcomes described in the Advocis publication titled “The Value of Financial Advice⁸.” Upfront advisor work, in addition to items outlined in the above two paragraphs, can include:

⁵ Investor Economics, “Monitoring Trends in Mutual Fund Cost of Ownership and Expense Ratios: A Canadian-U.S. Perspective”, The Investment Funds Institute of Canada, May 2015

⁶ Michelle Schriver, “What caused soaring segfund sales last year?”, Investment Executive, November 2020

⁷ Manulife, “Get Acquainted with Segregated Funds”, Manulife Investment Management, September 2020

⁸ Advocis, “The Value of Financial Advice”, The Financial Advisors Association of Canada, May 2013

- Initial assessment of investor risk tolerance, investment objectives and time horizon
- Assessment of immediate and future income needs and goals
- Detailed explanation of principle guarantees, death benefit guarantees and income guarantees
- Explanation of potential creditor protection (versus bankruptcy protection) across all account registration types (RRSP, TFSA, Non-reg.)
- Exploration and explanation of client needs for joint/successor ownership, successor annuitant, and proper designation of beneficiaries
- Advice and implications on withdrawal strategies and their income tax implications
- Advice on the use of different investment account types
- Behavioral coaching and helping investors navigate difficult financial circumstances such as job loss or divorce as well as volatile financial markets
- Setting up client access to online account information
- Creation of Reason Why letter tying in all of the above
- Fulfilling all documentary components of “The Approach”⁹

Product Positioning

Unlike mutual funds, which are often viewed by customers as securities, to be bought and traded in subsequent years, segregated funds are positioned as ‘buy and hold for a lifetime’ financial instruments – the component of a client portfolio to be held for a lifetime - due to guarantees, creditor protection and estate preservation characteristics. The advisor, in essence, becomes part of the customer/family’s eternal estate plan.

For this reason, the work involved in establishing the foundation of a life-long client-advisor relationship, along with the workload involved in soliciting and setting up a segregated fund, is arguably higher upfront. Therefore, we argue that a reasonably structured advisor chargeback commission schedule (See CB vs FE (front end) example below), that provides an upfront commission and less trailer compensation in the first 3 years, creates a compensation profile that is commensurate and congruent with the workflow and service provided to the client.

CAILBA therefore views CB as a viable and valuable consumer choice that should remain available to Canadian customers, particularly for mass market clients (defined as those with financial wealth of less than \$100,000) who may be averse to complex fee for service arrangements.

CB vs FE compensation example: \$10,000 invested

Gross Compensation	Year 1	Year 2	Year 3	Year 4	Year 5	Total
CB	\$350	\$50	\$50	\$50	\$100	\$600
FE	\$200	\$100	\$100	\$100	\$100	\$600

Gross Compensation	Year 6	Year 7	Year 8	Year 9	Year 10	Total
CB	\$100	\$100	\$100	\$100	\$100	\$1100
FE	\$100	\$100	\$100	\$100	\$100	\$1100

⁹ CLHIA, “The Approach”, Canadian Life and Health Insurance Association, November 2016

Front End Costs to Advisors

In addition to compensation pattern needing to match workload pattern, advisors may use CB commission to finance the cost of offering advisory services to mass market clients. Indeed, MGAs encourage advisors to make investments in their business to meet and exceed the rising demands of industry compliance and FTC, such as:

- Cyber security systems and hardware (Example: NPC Dataguard cyber-secure computer hardware and systems)
- CRM tool subscriptions to secure and organize client data, enhance relationships and communicate securely with clients (Ex. Equisoft)
- E-newsletter and client communication systems to ensure timely and regular client outreach and customer service (Ex. FSB Powered by Advisorstream)
- Industry-wide insurance quotation system subscriptions to ensure advisors can assess the market place and provide unbiased insurance recommendations from a variety of insurers (Ex. Lifeguide)
- Financial strategy planning and projection systems and software subscriptions to model financial solutions (Ex. Razor Financial Software)
- Asset allocation software with aggregate segregated fund management capabilities for advisors to measure and match client risk tolerance with segregated fund portfolios across different insurers (Ex. Asset Allocation add-on module to Equisoft)
- Asset analysis software to help customers understand the technical attributes of different peer to peer segregated funds, similar to the requirements of client focused reforms in the securities industry¹⁰. (Ex. Asset Allocation add-on module to Equisoft)

So, in opposition to the statement made in the last paragraph of page 8 of CCIR's paper, these new-age compliance and FTC costs are in fact ongoing and increasing, and not just needed "to support new Intermediaries entering the business." New age costs are in addition to traditional costs of maintaining an office, staff, etc. Even large Robo-advisor firms incur front end costs making them profitable only after 4 years following client acquisition¹¹, which means they must secure financing at startup, whereas most independent advisors could not survive this way.

Eliminating CB may result in advisors having to charge an upfront fee to cover the cost of their services, when customers could have instead agreed to a CB structure, with no upfront fee to the customer. Indeed, a survey conducted by the Gandalf Group¹² between April 7th and May 5th 2017 is perhaps one of the most telling as this survey was conducted after investors had a chance to review their first mutual fund dealer compensation and performance reports. This report concluded that:

"there is little dissatisfaction with the current system of financial advice in Canada and the way advisor compensation is calculated. While there may be some dissatisfaction about fees, generally, there is relatively higher satisfaction when it comes to advisor transparency around

¹⁰ CSA, "Client Focused Reforms", Canadian Securities Administrators, October 2019

¹¹ Tracey Lemay, "DAC2015 Robo-advisors face challenges", Investment Executive, November 2015

¹² The Gandalf Group, "The Canadian Investor's Survey: An Opinion Research Study in Fees & Advisory Services", The Gandalf Group, May 2017

fees. The acceptability about the current fee models relates partly to investor's preference for a commission-based approach to advisor compensation based on portfolio value, instead of a fee-for-service approach, that would see investors invoiced with a bill they would have to pay out of pocket.....In a forced choice, more consumers opted for a system of commissions paid by fund providers and financial institutions to advisors from the capital of the investments purchased with the advisor."

Further, as stated on page 15 of the "MFDA Client Research Report: A detailed look into Members, Advisors, Clients"¹³,

"As mass market households are less likely to and willing to afford direct pay arrangements and are less likely to be eligible for fee based programs, they would be the most impacted by a ban of embedded compensation."

And finally, evidenced by Pierre Lortie, in the University of Calgary SPP Research Paper Volume 9, issue 13¹⁴,

"this was seen in the U.K., after the decision was made to unbundle fees, the opening of investment accounts worth less than 100,000 pounds fell by half. After Australia required fees to be unbundled, there was a similar effect."

Clearly, the actions taken in the U.K. and Australia resulted in unfortunate and unintended consequences for consumers in those two jurisdictions.

Final Thoughts

It is interesting that the mutual fund industry hardly experimented with, and never embraced CB series funds. Therefore, we will never know if CB would have represented a viable option for fostering positive consumer outcomes in that industry.

We urge CCIR to consider that for the past 10 years, the mutual fund industry has been steadily migrating to fee for service in anticipation of the eventual ban of DSC. The segregated fund industry would not have the benefit of a decade to adjust technically and culturally to a full ban on embedded upfront compensation. This would surely lead to limitations on consumer choice and poor consumer outcomes.

¹³ MFDA, "MFDA Client Research Report: A detailed look into Members, Advisors, Clients", Mutual Fund Dealers Association (of Canada), May 2017

¹⁴ Pierre Lortie, "A Major Setback for Retirement Savings: Changing How Financial Advisers Are Compensated Could Hurt Less-Than-Wealthy Investors Most." The School of Public Policy Publications 9 (13): 1–40, April 2016

Now, with respect to CCIR's specific concerns expressed within the discussion paper:

CCIR Concern 1 - Regulatory Arbitrage (CCIR paper, pages 4 & 6): *"As segregated fund contracts and mutual funds are investment products with some similar characteristics, Insurance Regulators are concerned about keeping the regulatory regimes for these products as harmonized as practical and appropriate, to avoid regulatory arbitrage in the sale of these products and to provide similar investor protection for both products."*

CAILBA Response: A national mutual fund dealership with over 700 mutual fund advisors reports that no regulatory arbitrage has occurred with respect to reps suddenly wanting to become insurance licensed or with dual-licensed advisors increasing their off-book segregated fund production. Instead, for the past 15 years, its mutual fund representatives have migrated from DSC to front end load fund recommendations where in 2021 only about 3% of the dealer's revenue could be attributed to commission from a back end load sale. This trend away from DSC has evolved with more and more advisors adopting fee based compensation models. Note that across the mutual fund industry assets in fee base accounts have grown at a three year CAGR of 86%. CAILBA also notes that chargeback series mutual funds were never widely offered by mutual fund companies, so we will never know if they would have become used to good effect for customers.

CCIR Concern 2 - Arbitrage between insurers (CCIR paper, page 8): *"Insurance Regulators are also aware that upfront compensation paid for other life insurance products, such as those with market-linked investment features, may be significantly higher than upfront compensation paid for segregated funds. The higher compensation increases the risk Intermediaries may recommend Customers purchase these other products over segregated funds."*

CAILBA Response: Subject to anti-competition laws, CAILBA agrees that movement towards industry harmonization of CB commission rates and schedules should occur if current evidence points to poor outcomes for customers, but we must leave this question to CLHIA and insurers.

CCIR Concern 3 (CCIR paper, page 8): *"Regulators note mutual fund and segregated fund Facts documents include different information relating to upfront commission rates and may make it more difficult for investors to compare the products."*

CAILBA Response: Some MGAs have made good use of a version of the "Sales Charge Disclosure Form" for advisors to use with Customers – shown below. CB fund series could be added to this form, which insurers could adopt and mandate at point of sale for all segregated fund sales.

Segregated Fund Sales Charge Disclosure Form

We know most things in life aren't free and that, of course, extends to financial advice and service. Advisors receive commissions from the financial products they sell to you, such as segregated funds issued by Canadian life insurance companies. The vast majority of Advisors in Canada are paid this way. How it works depends on the product. It's important to learn the different styles of compensation, so you can make an informed decision about which type you prefer. Segregated funds can have different types of initial commissions; each determining how you will pay for the financial service and advice that you receive.

Front End Load (FEL) commissions are a percentage of the transaction amount. For example if you invest \$1000 into a segregated fund with a front end fee of 1.5%, the total commission is \$15 and the remaining \$985 will be deposited to your segregated fund account.

Deferred Sales Charge (DSC) commissions are paid by the life insurance company, so you do not see a fee deducted from your initial investment amount. For example; if you buy \$1000 of segregated funds using the DSC method, the total initial commission will be 5% or \$50, but the entire \$1000 will be deposited to your segregated fund account. However if you withdraw money from the fund within an initial set period of time, you will pay a redemption fee. Below is an example of a typical 'DSC declining redemption charge schedule'. Your advisor will provide you with an information folder that contains the exact DSC redemption schedule applicable to the segregated fund you are purchasing.

When you withdraw your money:	You pay a fund redemption fee of:	
	Percentage	For every \$1000 you redeem:
Within 1 st year after fund purchase	5% of the amount you redeem	\$50
During the 2 nd year after purchase	4% of the amount you redeem	\$40
During the 3 rd year after purchase	3% of the amount you redeem	\$30
During the 4 th year after purchase	2% of the amount you redeem	\$20
During the 5 th year after purchase	1% of the amount you redeem	\$10
After 6 th year	No fee	\$0

Low Sales Charge (LSC) commissions - sometimes referred to as Low Load (LL) - work similar to the DSC option but pay a smaller total initial commission (typically up to 3%) and have smaller declining redemption charges, typically starting at 3%, and shorter redemption schedules, typically lasting 3 years.

When you withdraw your money:	You pay a fund redemption fee of:	
	Percentage	For every \$1000 you redeem:
Within 1 st year after purchase	3.0% of the amount you redeem	\$30
During the 2 nd year after purchase	2.5% of the amount you redeem	\$25
During the 3 rd year after purchase	2.0% of the amount you redeem	\$20
After 3 rd year	No fee	\$0

No load (NL) – No initial fee when you invest and they do not charge a redemption fee for withdrawals. Typically, this type of fund structure is sold within financial institutions where the advisor is paid a salary, or where the client is charged an annual fee for service by the advisor.

Other Considerations:

- o For estate purposes, the DSC/LSC redemption schedule is eliminated in the event of the plan holder's death.
- o Most segregated fund companies offer 10% free withdrawals where you are not charged a redemption fee for withdrawing up to 10% of your fund value per year.
- o Separate and apart from initial sales charges of DSC, LSC and NL; segregated funds charge an annual fee referred to as a Management Expense Ratio (MER) consisting of three components - administration, distribution and insurance costs. The advisor is paid an ongoing fee out of the distribution cost. The MER charged for each fund can be found in the Information Folder and Fund Facts given to you by your advisor when you purchase the fund.

I/WE HAVE READ AND UNDERSTAND THE ABOVE DISCLOSURE AND ACKNOWLEDGE THE FOLLOWING:

1. In making this new investment, are you transferring or redeeming money from an existing DSC investment where you have to pay an exit penalty? YES NO If yes: please state the exit fee and the logic/rationale in making this decision: \$ _____

2. I have chosen the following load structure in making this new investment (please circle one): FEL DSC LSC NL

Client Name _____ Client Signature x _____ Date _____

CCIR Concern 4 (CCIR paper, page 8): *“Beyond Upfront Commission, Insurers may provide other payments or benefits to Intermediaries beyond the commission set out in the Information Folder and Fund Facts documents, such as bonuses based on previous sales placed with an Insurer. On top of an Insurer’s compensation, Intermediaries can compensate Licensed Individuals for sales placed with an Insurer through the Intermediary. Insurers and Intermediaries are not required to disclose these other compensation arrangements to Customers. As such, Customers may not be aware of these arrangements nor how they may impact the Customer, such as where these arrangements increase the financial incentive for a Licensed Individual to sell specific IVICs.”*

CAILBA Response: Advisors disclose the fact that they are paid a commission, on their Advisor Disclosure Form, under the ‘How I am compensated’ section where they include a statement similar to:

“If you choose to purchase a financial product through me, I will be paid a sales commission from the company that provides the product. I also receive renewal commission for ongoing service, if you are happy and keep your plans for years to come. I may also be eligible for additional compensation, such as bonuses, or non-monetary benefits, depending on various factors such as the volume or persistency of business that I place during a given time period.”

More broadly we ask CCIR to consider that many vocations are rewarded for high performance in the form of year-end bonuses. Even an employee being promoted for high performance, is a version of financial reward/incentive.

CCIR Concern 5 (CCIR paper, page 8): *Outside the Fund Facts and Information Folders, the Insurance Regulators understand IVIC Customers presently receive minimal ongoing disclosure about Intermediary compensation costs....*

CAILBA Response: CAILBA supports better disclosure to customers but we defer this task to CCIR/CSA’s “Total Cost Reporting for Investment Funds and Segregated Funds” project where proposed prototype client investment statements contain total MER cost breakdown of management fees, distributions fees and insurance fees for segregated funds¹⁵.

CCIR Concern 6 (CCIR paper, page 9): We kindly refute CCIR’s concern/assertion,

“Once a Customer purchases an IVIC, they may make more deposits into the contract but the IVIC’s benefits are often only realized after owning it for an extended period of time. A Customer’s longer term need of an IVIC can conflict with the short-term financial benefit (Upfront Compensation) an Intermediary may receive for the sale of segregated funds. Upfront Compensation may incentivize an Intermediary to sell an IVIC even where a Customer does not have a need for an IVIC.”

CAILBA Response: There are short term reasons as well as long term reasons for customers to purchase segregated funds. First, from a quantitative perspective, some segregated funds have MERs almost

¹⁵ CSA, “Canadian Financial Regulators Propose Total Cost Reporting for Investment Funds and Segregated Funds”, Canadian Securities Administrators, April 2022

equivalent to mutual funds, particularly as some insurers offer household MER discounts if total amount invested with the insurer exceeds a certain amount (Ex. \$350,000 with Industrial Alliance.)

Secondly, with respect to qualitative improvements, some advisors use financial models to illustrate what percentage of a client's wealth is exposed to creditors and lawsuits, before and after the adoption of segregated fund and life insurance products into the customer's economic model. The financial security improvement can be substantial and clients were often unaware that such improvements were possible. Similar to the death or disability of a household's main income earner, a sudden bankruptcy or lawsuit can decimate a family's future dreams of financial security. While RRSPs of all varieties now enjoy protection under bankruptcy law, true creditor protection, regardless of account registration, is still the purview of segregated funds. Please see actual example below of this kind of customer protection process in action where the redemption department at Desjardins informed a bankruptcy trustee that the segregated fund account was not subject to seizure.



[REDACTED]
March 30, 2004

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Mrs. [REDACTED],

Re: [REDACTED] a Bank [REDACTED]
Millennia III Segregated Funds – Plan No. [REDACTED]
Client No. [REDACTED]

We are in receipt of your letter of March 30, 2004.

We are not able to comply with your request to liquidate the assets in the above plan as this contract is a segregated fund and [REDACTED] has designated her father as the beneficiary. Under the Insurance Act, this contract is protected from seizure from creditors.

If you have any questions, please do not hesitate to contact our office.

We also ask CCIR to consider that if an advisor who is life-licensed makes a personal and business connection with a customer where they choose to do business together, provided their discussions include broad disclosure of what the advisor can and cannot sell to the client, we feel this customer is

well-served by embarking on a savings strategy that involves segregated funds. A “Client Engagement Letter” (created by Empire Life) and “Reason Why letter” also serve to remind the customer of what the advisor can and cannot offer, so that the client can seek out other choices in the market place. See samples below:

Letter of Engagement
 <Agency/Agent Name>

<Date>

Dear <Client Name>,

Thank you for the opportunity to meet with you to discuss your financial objectives. I look forward to working with you.

This letter sets out our terms of engagement. Please read it and make sure you understand the extent of our engagement.

If there are any changes to the terms of this engagement, these should be documented in writing and mutually agreed upon by all parties.

Please be assured that all information that you provide will be kept strictly confidential.

CLIENT ENGAGEMENT

In order to ensure that I have adequate information about your needs and objectives, I may ask that you complete a <name of fact-find questionnaire used>. In order to make effective recommendations, it is your responsibility to provide me with complete and accurate information. Incomplete disclosure of your financial situation can lead to inappropriate recommendations.

Services

As discussed, this engagement will include: <choose and add all that apply, delete all that do not apply, and add any that apply and are not included in the list below>

- Budgeting
- Cash flow analysis
- Debt management
- Estate planning
- Insurance planning
- Planning for major purchases
- Retirement planning
- Educational funding
- Net worth analysis
- Tax planning
- Succession planning
- Reviewing goals and objectives
- On-going monitoring of financial affairs

Products

I can offer a range of products and services. Listed below are the following areas that may be of interest to you and would wish to discuss with me. These areas can be discussed during the initial appointment or for future review: *[Edit as appropriate based on your qualifications.]*

Product/Service	I am interested.
Life (term, whole life, universal life)	
Critical Illness	
Disability Insurance	
Long Term Care	
Health and Dental	
Group Benefits	
Segregated Funds	
Annuities	
GICs	

Areas that have been left blank will not be discussed and, as such, you agree to remove me from any

Sample Reason Why Letter:

Dear _____

Thank you for meeting with me virtually today to discuss your investment needs. To recap, below is a summary of our discussion and why you purchased this product.

Registration Type:

We reviewed the merits of RRSPs, TFSAs and non-registered investments. While all three registrations have unique strengths and weaknesses, due to your high income potential this year, and your desire to defer taxes and reduce your income tax this year, we decided to start with an RRSP account where you will deposit \$500 every month, automatically from your chequing account.

You also indicated you may wish to make a lump sum deposit in February prior to RRSP contribution deadline, but that you will wait to speak with your accountant at that time. I will notate my calendar to give you a call mid-February to follow up on this item as the RRSP deadline is March 1st. At this time, you have decided to forgo a full retirement needs analysis, stating you would prefer to just “get started saving” for now, but I look forward to engaging with you on this important topic, and will contact you in 6 months to see if you are ready.

Investment Class and Company:

We reviewed the fact that investment funds are available in two main categories: segregated funds and mutual funds. We reviewed the merits of investing in segregated funds; including features and benefits such as potential creditor protection, and principal and death benefit guarantees. Empire Life’s Guaranteed Investment Funds (GIFs) contracts offers a variety of guarantee structures but you preferred the 75% principal guarantee, 75% death benefit guarantee (75/75), in order to keep MERs as low as possible versus the 75/100, and 100/100 contracts.

Please note that the principal guarantee applies only at age 100 for the 75/75 contract. You indicated you are fine with the 75% death benefit guarantee because you feel that your life insurance policies provide adequate coverage for your family in the event of your death. However, you particularly liked the fact that the 75% death benefit guarantee applies from day one of your contract and the guarantee automatically resets each year on the policy anniversary date if the value of your portfolio has grown. Indeed, I have clients who invested 5 or 6 years ago and who now enjoy a death benefit guarantee close to 100% of their original deposits, due to the resets.

Investor Risk Profile:

During our meeting we completed a risk tolerance questionnaire (attached) which concluded that your risk profile is “Balanced”. Therefore, in alignment with your risk profile, we selected the following fund allocation for your portfolio:

- Short Term High Income GIF 40%
- Asset Allocation GIF 20%
- Dividend Growth GIF 15%
- American Value GIF 15%
- Small Equity Cap GIF 10%

Below are the links to Empire Life’s Information Folder and Fund Facts, which we reviewed during our meeting and which you can further study. As per the sales charge disclosure form we completed, we are using chargeback load series, which means there are no withdrawal penalties charged to you by Empire Life at any time should you need to make withdrawals. Instead Empire Life will charge my firm a portion of the upfront commission paid to me for helping you set up this account, according to their chargeback schedule.

<https://www.empire.ca/sites/default/files/2021-01/INV-943-EmpireLifeGIF-InfoFolder-EN-web.pdf>

https://www.empire.ca/sites/default/files/2021-01/INV-941-FundFactSheet-2019Financials-ENConsolidated-with-941C-web_1.pdf

<Client Name>, feel free to contact me if you have any questions with respect to this investment, and congratulations again and taking this important step for your financial future.

CCCIR Concern 7 (CCIR paper, page 9): *“When a Customer invests money on an Advisor Chargeback basis, it introduces a potential conflict of interest for the Intermediary. An Intermediary may benefit financially if the Customer stays invested to the end of the chargeback period, even if staying invested is not aligned with the Customer’s interests. While this conflict of interest exists in other situations, such as encouraging a Customer to stay invested in an IVIC so the Intermediary might continue to earn trailing commission, the potential conflict of interest is greater in the context of Advisor Chargeback. The overall impact of the chargeback to an Intermediary will increase with an increase in the money paid upfront for the sale and the duration of the chargeback period.”*

CAILBA Response: Provided that CB schedules are reasonable and congruent across the IVIC industry (see sample CB commission schedule on page 4), the conflict of interest level is not substantially higher than for FE or fee for service schedules. Clients are always free to withdraw money. Some advisor oversight is necessary, by MGAs and insurers, to spot egregious advisor conduct and patterns.

CCIR Concern 8 (CCIR paper, page 9): *“If an Intermediary has to repay some or all of their compensation because a customer withdraws money from an IVIC, and the Intermediary does not have the money to repay this chargeback, then the Intermediary could owe money to an Insurer or managing general agency (“MGA”). If the Intermediary continues to sell insurance for the Insurer or MGA to whom the Intermediary owes money, the creditor could use compensation earned on the new sales to reduce the amount the Intermediary owes them, instead of paying it directly to the Intermediary. This means the Intermediary may be motivated to sell products available through other insurers or MGAs, even if the most suitable product for a Customer is one available through the creditor.”*

CAILBA Response: MGAs are well-aware of this risk, particularly as MGAs represent a back-stop guarantor for unpaid advisor debt. Our answer to this concern is two-fold and involves enhanced advisor oversight by MGAs and insurers:

1. Through APEXA, MGAs and insurers are actively monitoring real time credit scores for advisors because the industry recognizes that advisors who are dispensing financial advice to customers, should themselves possess a degree of fiscal stability and responsibility. Advisors who feel they must deviate to another MGA to covertly write more investment business, often display poor or declining credit profiles. The industry (insurers and MGAs) is moving towards setting minimum acceptable credit parameters for advisors (see Empire Life circular on next page.) Very low credit scores and credit profile, particularly when the advisor has provided no viable explanations such as a surprise financial crisis or marital breakdown, can lead to termination. Further mitigating the risk of advisors suffering sudden and large CB debt positions, borderline advisor credit profile can result in MGAs issuing partial release of commission to advisors for new segregated fund sales, so that money is left over to repay chargeback debt, if it occurs.
2. MGAs are aware and watchful of advisors who wish to split their business/insurers between MGAs. So, advisor credit/debt-monitoring, combined with heightened observance of advisors splitting business between MGAs, makes it easier for MGAs to monitor and guard against this kind of risk of poor advisor conduct.

DATE: June 28, 2021
CATEGORY: **ADVISOR CONTRACTING**
TO: Managing General Agents, Associate General Agents, General Agents
SUBJECT: **Unacceptable Criteria for Contracting**

N° 2021-15

We are committed to ensuring our customers receive the best service possible. The quality of our advisors is therefore one of our most important priorities. In addition, we are also a member of the Canadian Life and Health Insurance Association (CLHIA) and must adhere to their advisor sustainability guidelines.

For these reasons, we conduct additional advisor screening to supplement the initial screening done by the MGA, AGA, or GA. This ensures we have all the information we need to determine if an advisor meets our contracting criteria.

Sometimes our screening reveals certain facts about an advisor that we consider unacceptable criteria for contracting. We must decline entering into a contractual relationship with an advisor whenever any unacceptable criteria are discovered. In order to make the contracting process as simple, fast and easy as possible we have prepared the list below of unacceptable criteria as a reference. If any unacceptable criteria apply to an advisor seeking a contract, you should decline without sending the contracting documents to us. If we receive contracting documents and discover any unacceptable criteria contracting may be declined.

The following are considered **Unacceptable Criteria** for advisor contracting:

- A credit score below 600
- Unpaid collections to creditors
- Undischarged bankruptcy
- Discharged bankruptcy within the last 12 months
- Active bankruptcy proposal, consumer proposal
- Active bankruptcy proposal, consumer proposal within the last 12 months
- History of multiple bankruptcies or bankruptcy proposals, consumer proposals even if discharged or fulfilled
- Outstanding Legal Items in excess of \$5000 either individually or combined
- Conviction of financial crimes (i.e. theft, fraud, forgery, etc.)
- Conviction of serious crimes that could be seen as detrimental to client safety (i.e. assault, rape, weapon possession etc.)
- Any unresolved criminal charges
- Conviction of any case of fronting
- Any unresolved disciplinary action by regulators or insurance councils
- Unpaid debts in excess of \$500 with one of our existing MGA's without repayment efforts
- Unpaid debts in excess of \$500 with other carriers without repayment efforts

If you are uncertain whether you should submit contracting for a particular advisor please send an email with your comments and recommendations to contracting@empire.ca along with an Advisor Screening Questionnaire and Empire Life Consent and Authorization form. We will review the file and we will provide you with a final decision.

Reference:

Christa Stephenson, Director, Retail Operations

CCIR Concern 9 (CCIR paper, page 9): *“Lastly, the Insurance Regulators note, from publicly available Fund Facts and Information Folders, significant differences between Insurer’s Advisor Chargeback models. Some Upfront Commission rates ranging from 3% up to 7% of a Customer’s deposit into an IVIC. In some*

cases, the Fund Facts documents state the duration of the chargeback period and note trailing commission rates may vary because of the Upfront Commission paid, but this information is not always provided.”

CAILBA Response: Subject to anti-competition laws, CAILBA agrees that movement towards harmonization of CB commission rates and schedules should occur if current evidence points to poor outcomes for customers, but we must leave this question to CLHIA and insurers.

CCIR Concern 10 (CCIR paper, page 9): *“Varying lower trailing commission rates may also create a risk of unserved Customers (“orphan clients”), where the trailing commission rate is so low as to disincentivize a new Intermediary to take over the servicing of Customer’s IVIC. A new Intermediary may take over servicing a Customer’s IVIC if a Customer is dissatisfied with their previous Intermediary or the previous Intermediary is no longer able to service the IVIC.”*

CAILBA Response: Please refer to the sample CB commission schedule on page 4 of this document, which outlines how trailer compensation doubles after the chargeback period ends. We deem this trailing commission profile to be commensurate with workload and therefore contains due incentive for the advisor to service the account over the very long term. One can argue that this concern is greater with life insurance orphan clients where, unlike IVICs, the new advisor receives no trace renewal commissions at all. Yet MGAs have still been successful at reassigning orphan life insurance clients.

CCIR Concern 11 (CCIR paper, page 9): *“Another potential disincentive for servicing may arise in a situation where a chargeback debt or potential chargeback transfers to a new Intermediary when they start servicing a Customer’s IVIC.”*

CAILBA Response: Reasonable CB schedules should serve to minimize this concern. Our experience with orphan accounts, or with clients who wish to have a new advisor assigned to their account, is that the new advisor understands the chargeback risk, before agreeing to manage the account. Managing the account is an opportunity for advisors who wish to grow their business. If a suitable advisor who is willing to take on the chargeback risk cannot be found, the MGA would need to assign a licensed manager to assume management of account. This sometimes occurs in the life insurance space where an advisor ceases to be licensed and the insurer asks the MGA to reassign the book of business. Or when an advisor buys a book of business from another advisor. The purchasing advisor understands the chargeback risk and this is factored into purchase price.

CCIR Concern 12 (CCIR paper, page 10): “(Upfront Commission under the Advisor Chargeback model) has the potential for Insurers to rely more on compensation over IVIC features and fund performance to generate sales;”

CAILBA Response: CAILBA’s experience is that most advisors select fund families based on features, benefits, performance and insurer customer service. Advisors understand that unhappy customers will eventually choose a new advisor. All remaining concerns would be addressed by uniform CB commission schedules.

CCIR Questions:

1. Please comment on whether the topics and details covered in this discussion paper accurately describe the current environment in which Customers are offered IVICs and segregated funds and provide any necessary factual corrections or additional information. –

The discussion paper generally contains sufficient depth and scope, with perhaps the exception that CCIR should consider that the mutual fund industry had over a decade to move slowly and steadily away from embedded compensation to fee for service, before the abolishment of DSC. A sudden and forced abolishment of upfront embedded compensation for IVICs would be disastrous for the industry and for consumers.

2. Should Insurance Regulators consider other Targeted Customer Outcomes?

The outcomes are sufficient.

3. For each Sales Charge Option in Appendix 1,

- a) How prevalent is the Sales Charge Option? – We have provided an MGA snapshot on page 2 of this paper and we ask CCIR to review insurance company data that will surely be provided by insurers and CLHIA in their response to the paper.

- b) Where a Sales Charge Option has a range of possible compensation rates, such as Front-End Load, how do Insurers or Intermediaries determine the amount to charge a Customer? Are there common rates charged? – The standard range that an advisor can charge their client is 0% - 5%. However, it is rare for advisors to charge anything other than 0%.

- c) Please describe in detail how current Insurer and Intermediary processes and controls align with Targeted Customer Outcomes, including, but not limited to, outcomes 1 to 3. Are there different processes and controls for different Sales Charge Options, such as between the Advisor Chargeback and Front-End Load options?

- As stated on page 7 of this paper, under “CCIR Concern 3”, some MGAs may use a version of the “Sales Charge Disclosure Form” which can be amended to include CB series funds. This form serves to ensure clients are aware of the different load structures and understand the effects of each load structure before expressly choosing one. This disclosure serves to neutralize compensation based conflict of interest, which aligns with Targeted Customer Outcomes 1 & 2.
- Our comments on pages 3 & 4 of this paper address Targeted Customer Outcome 3 with respect to fostering alignment of any Upfront Compensation with the services provided to Customers at point of sale and ongoing.
- Furthermore, as described on page 2 and throughout this paper, increased scrutiny and improvement of advisor oversight by regulators, insurers and MGAs, will serve to address Targeted Outcomes 1 – 3. For example, some insurers such as Sun Life, flag and question redemptions from DSC accounts requiring explanation from the advisor and proof that the client is aware of the exit fees. Similarly, MGAs monitor to detect instances of churning. These advisor monitoring efforts by MGAs and Insurers are increasing, aided by technology, and can detect conduct problems beyond commission

based conflicts. Insurers, supported by MGAs, are performing an increasing number of Advisor Practice Reviews (APRs) where the insurer will inspect the advisor's client files to be sure that the 7 documentary elements of "The Approach" are present in the client file as follows:

- Advisor Disclosure/Privacy Consent
- Client Engagement Letter
- Fact Finding
- Needs Analysis/Risk Tolerance Form
- Recommendations
- Reason Why Letter
- Supporting Notes

CALBA would like to remind CCIR that "The Approach" was created, in conjunction with Advocis, CALBA, CLHIA and Independent Financial Brokers (IFB), as a response to a paper handed down in Spring 2006 by CCIR and the Canadian Insurance Services Regulators' Organization (CISRO), outlining the three principles for managing conflicts of interest that might arise in the sale of life and health insurance products:

- 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.

The 7 client file elements of the Approach, provide insight as to how well the advisor's sales process avoids conflict of interest and leads to fulfilment of Targeted Outcomes 1 – 3, more so than would simply eliminating embedded upfront compensation.

Beyond these efforts, MGAs have successfully encouraged advisors to adopt technology tools such as Equisoft's Asset Allocation module to accurately monitor a customer's equity to fixed income ratios within segfund portfolios across multiple insurers. This way the advisor can be sure a customer's segregated fund portfolio, which is sometimes dispersed among two or three different insurers, is in alignment with their risk tolerance profile.

4. Please describe how Insurers and Intermediaries can encourage innovation and flexibility in ways Customers can pay for advice. – Insurers have created CB series and "O" class segregated funds. Insurers have also created large account or large account MER discounts for Customers with a portfolio, or household portfolio, that reaches a certain size threshold.
5. Please comment on the extent to which Insurers and Intermediaries provide payments or benefits for the sale of segregated funds or IVICs other than the commission rates set out in Information Folders and Fund Facts and how the payments or benefits align with the Targeted Customer Outcomes, including, but not limited to, outcomes 1 to 3.
 - Some MGAs may have sales campaigns which provide prizes or monetary rewards to advisors. MGAs may also have conferences for qualifying advisors. However, these campaigns and conferences should always be insurer neutral where rewards are given for

overall production, regardless of which insurer(s) the advisor places business with. We feel this aligns with Targeted Outcomes 1 – 3.

- Some insurers offer volume bonuses to advisors, usually paid at year end and based on total advisor production. IVIC volume bonuses are usually paid independent of load structure used by the advisor, and so are in alignment with Targeted Outcome 1 and 3. Please refer to previous comments made on page 9 of this document, in response to CCIR concern 4.

6. If Insurance Regulators were to implement a regulatory ban on Upfront Commission or Upfront Compensation, what would be the insurance sector considerations to take into account for achieving the Targeted Customer Outcomes? Where possible, please provide data to support your position.
 - a) How could any ban for segregated funds be worded to achieve the Target Customer Outcomes? – As stated throughout our response paper, a regulatory ban would adversely affect Targeted Outcome 5 by severely limiting consumer exposure, education and access to the benefits of IVICs.
 - b) What would be the minimum transition time needed to implement an applicable ban and arrange for the use of different compensation and fee structures? – As stated on page 6 of our response, under the subheading ‘Final Thoughts’, the mutual fund industry steadily migrated to fee-based sales over a 10-year period which allowed for the business culture changes and consumer mindset changes, necessary for this type of new approach. We feel that such a migration would not translate well with respect to IVICs.
 - c) What are the estimated qualitative and quantitative costs and benefits of a ban to Insurers and Intermediaries? – Sales of IVICs would definitely fall and some advisors would leave this sector of the industry. CAILBA appreciates that the insurance industry has a high number of licensed advisors, but many of these are inactive. It would be a shame for the industry to lose active advisors who are actively helping Canadians.
 - d) What are the estimated qualitative and quantitative costs and benefits of a ban to Customers? - A regulatory ban would adversely affect Targeted Outcome 5 by severely limiting consumer exposure, education and access to the benefits of IVICs. The impact to insurer sales would be sizeable. Qualitatively, consumers would lose access to the synergies of segregated funds along with life insurance as a holistic financial strategy containing financial defense and financial offense. Quantitatively, we can only speculate how much money Canadians would lose (or never save up) by defaulting all of their investment needs to banks and mutual fund companies, because they are not actively solicited by advisors to learn about and buy segregated funds. Wealth lost due to consumers/families/business owners, who own investments with no guarantees and no creditor protection, could be large, particularly if global markets further correct downwards.
7. If Insurance Regulators were to implement alternative or complementary regulatory measures to a ban, which regulatory measures would help achieve the Targeted Customer Outcomes? Throughout Insurance Regulators’ discussions with industry, the following measures were proposed as examples to foster stakeholders’ reflections on this matter:

- a cap on amount of Upfront Commission, - this would be inconsistent with current compensation structures with respect to life insurance sales. Larger cases typically require deeper and longer upfront work.
- limits on the duration of chargeback schedules, - CAILBA agrees
- increased monitoring of Licensed Individuals with chargeback debt, - CAILBA agrees
- enhancing disclosure of potential costs or negative effects to the Customer of available Sales Charge Options, and – CAILBA agrees
- requiring Upfront Compensation paid to Intermediaries be reasonably proportionate to value of the product and amount of service provided to the Customer. – pages 3 & 4 of this document address Targeted Customer Outcome 3 with respect to fostering alignment of any Upfront Compensation with the services provided to Customers at point of sale and ongoing.

Please provide supporting evidence in your response to explain:

- a. where such measures differ from the regulatory approach taken by the CSA, why such an approach would be reasonable for segregated funds even if the approach is not permitted for mutual funds, - as stated (with cited evidence) throughout our response paper, IVICs differ from mutual funds and securities. IVICs, as with permanent life insurance, have many benefits for consumers that are not always intuitively understood and therefore IVICs are not “bought” but are “sold.” Without commensurate compensation to advisor, this will not happen.
- b. how such an approach aligns with Targeted Customer Outcomes, - outlined in our paper
- c. the estimated qualitative and quantitative costs and benefits of the applicable alternative regulatory measures to Insurers and Intermediaries, - outlined in our paper
- d. the estimated qualitative and quantitative costs and benefits of the applicable alternative regulatory measures to Customers, and – outlined in our paper
- e. the minimum transition time needed to implement such regulatory measures. – CAILBA feels the CB structure is promising and warrants time to further study and understand impacts.

Submitted on behalf of CAILBA.

Sincerely,

**Eric Wachtel
CAILBA Compliance Chair, Legislative Affairs**

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October 31st, 2022

Attn: Canadian Council of Insurance Regulators

Re: Upfront Compensation in Segregated Funds

Dear Members of the Canadian Council of Insurance Regulators

Please accept the following commentary paper put forth by the Financial Planning Association of Canada in regards to the Upfront Compensation in Segregated Funds. We would like to thank you for the opportunity to formally submit to you our views on the subject matter.

If anyone should have any additional questions regarding our submission, we would be happy to discuss the matter further and would welcome any other future opportunities to be of assistance.

Regards,

A handwritten signature in black ink, appearing to read 'JP', with a large, sweeping flourish that extends to the left and then curves back to the right.

Jason Pereira
President

The Financial Planning Association of Canada

Official Commentary Submitted to

Canadian Council of Insurance Regulators

Regarding

Upfront Compensation in Segregated Funds

October 2022

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About this Submission

This commentary is submitted to the Canadian Council of Insurance Regulators in response to their request for commentary on proposed guidance in regards to upfront compensation on segregated funds.

At the Financial Planning Association of Canada, we welcome the opportunity to participate in this process and lend our perspective on this important change within the Canadian financial industry regulatory landscape.

About the Financial Planning Association of Canada

The Financial Planning Association of Canada (FPAC) is a professional association founded in 2019, dedicated to the professionalization of the Financial Planning industry.

Our goal is to make financial planning a profession with the highest standards of fiduciary responsibility, competency, and practice standards possible. We believe that Financial Planners are uniquely positioned to help improve the lives of Canadians through comprehensive financial planning – and that only when Financial Planners are held to the highest standards, which would, in turn, lead to greater consumer confidence and trust, will FPAC be able to fully achieve its mission of professionalization of the financial planning industry.

Our Position on Upfront Compensation

As stated in our submission on Unfair Incentives of April 2022, it is the position of FPAC that Canadian consumers deserve to be dealt with in all financial matters by qualified professionals who are fairly compensated for their efforts and that consumers must be free to both select the professional they wish to deal with and to change that determination.

We recognize that compensation, in any form received as a result of advice that results in any sale, represents a conflict of interest. As such, we acknowledge that there is no “perfect” form of compensation that is free of conflicts of interest. Instead, we understand that all compensation systems inevitably exercise in mitigating conflicts and designing incentives to align with desired consumer outcomes.

While these comments were concerning life and living benefits insurance, we hold the same beliefs in regard to investment products and in this specific case, segregated funds.

It is our position that:

- Intermediaries should be incentivized to provide service to clients not only at the time of sale but over the life of the relationship with the client.
- No compensation structure should exist that incentivizes the sale of one investment product over another due to the conflicts of interest it creates.

To that end, it is our position that all upfront compensation, including deferred sales charges and advisor chargebacks, should be banned for all the reasons identified in the various reports cited in the CCIR comment paper.

Response to Questions

The following is our response to the questions posed in the discussion paper.

Question 1

Please comment on whether the topics and details covered in this discussion paper accurately describe the current environment in which Customers are offered IVICs and segregated funds and provide any necessary factual corrections or additional information.

We find the summary provided in this discussion paper to be a valid summary of the current landscape.

Question 2

Should Insurance Regulators consider other Targeted Customer Outcomes?

We see no need to consider any additional targeted outcomes. However, we would like to call into question and comment on targeted outcomes 5 and 6.

Targeted Outcome 5

Balances the need for quality advice and personal recommendations for IVICs while enabling access to affordable advice and ongoing service

The point of access to affordable advice has been made every time compensation reform has been tabled in any regulatory jurisdiction. While access to quality advice should be a concern to regulators, this consideration as it relates to eliminating deferred sales charges is not supported by recent events in Canada. A ban on deferred sales charges on mutual funds came into effect in June this year. Since there has not been a mass exodus of advisors from the industry.

Targeted Outcome 6

Reduces the risk of mis-selling of segregated funds and IVICs over securities products by dually licensed Intermediaries due to differing upfront compensation arrangements;

We wish to point out that any compensation model that favours the sale of seg funds over any other product will create this conflict. As such, the only option to ensure this outcome is to follow the CSA's ban on deferred sales charges on mutual funds to ensure the incentives for Intermediaries are equal between both products.

Question 3

For each Sales Charge Option in Appendix 1,

- *How prevalent is the Sales Charge Option?*
- *Where a Sales Charge Option has a range of possible compensation rates, such as Front-End Load, how do Insurers or Intermediaries determine the amount to charge a Customer? Are there common rates charged?*
- *Please describe in detail how current Insurer and Intermediary processes and controls align with Targeted Customer Outcomes, including, but not limited to, outcomes 1 to 3. Are there different processes and controls for different Sales Charge Options, such as between the Advisor Chargeback and Front-End Load options?*
- *Please describe how Insurers and Intermediaries can encourage innovation and flexibility in ways Customers can pay for advice.*

Unfortunately, we do not have access to data on the prevalence of each sales option. However, we can state the following about the prevalence of the options:

No Load & Fee For Service

No load and fee-for-service options have become the norm in the investment industry. The only issue we see with this model is the industry's failure to report embedded costs on statements to clients. The initiatives being undertaken in Total Cost Reporting will one day solve this problem.

Front-End Charges

Front-end loads are rare in the investment industry and typically require client disclosure and consent in advance. They are so rare that unlike fee-for-service rates, which customarily start in the 1-1.5% range, there is no customarily acceptable range of front-end load charges. While we as an organization disapprove of such a model if they are to be permitted, to achieve Targeted Client Outcomes 1-3, full plain language written disclosure and consent should be provided prior to any transaction resulting in a front-end charge.

Advisor Chargebacks

Advisor chargebacks are a new form of compensation that has only existed for a short while and only as a last-ditch effort by insurance companies to maintain upfront incentives given the looming ban on deferred sales charges that they knew were coming. We also find it very telling that this “innovation” has only come about at the eleventh hour prior to a potential ban on DSC. Which begs the question of if this structure had merit, why is it only coming about now? One can only assume that correlation is causation in this case.

Frankly, we find the development of advisor chargebacks shameful. They are nothing more than a near-carbon copy of deferred sales charge structures with a change to whose pocket the redemption charge is coming from. This arrangement fails to address any of the conflicts or issues created by deferred sales charges, except for client redemption charges and also creates new issues.

First of all, we need to address the fact that upfront commissions must be financed by the issuer. There is a cost of capital to the issuer that comes from financing commissions up front that will take years to recuperate from management fees. The net cost of this financing is in turn, passed on to investors through higher management expense ratios.

Secondly, this worsens the incentive for intermediaries to detract and even pressure clients from redeeming funds they have invested due to the adverse financial impact on the intermediary themselves.

In the end, advisor chargebacks fail to address any of the issues created by DSC, save one, while creating another. Permitting them to continue will result in an abject failure of Targeted customer outcomes 1 and 3.

Innovation in Compensation Models

We believe that innovation in methods of compensation is not the purview of insurance companies. If anything, the current regime of embedded compensation and deferred sales charges in place by these companies are likely to be partially responsible for the lack of innovation in the Canadian marketplace.

Other jurisdictions such as the United States, the UK, and Australia, where these compensation models are not prevalent or outright banned, have seen innovation driven by the intermediaries themselves. These include retainer-based, monthly subscription/retainer-based, referral, group planning memberships, percentage of income, percentage of net worth, advice only, and various hybrid models. Meanwhile, in Canada, many of these are all but in their infancy. It is hard to point to anything other than the use of embedded compensation and deferred sales charge as the underlying cause, given the similarities between jurisdictions.

We believe that the primary role of the intermediary should be in lowering the cost of distribution, where they are responsible for it, and lowering the cost of product to make access

to advice more affordable to Canadians. Their secondary role should be one of educating and encouraging the development of business models by their intermediaries to make advice more accessible.

Question 4

Please comment on the extent to which Insurers and Intermediaries provide payments or benefits for the sale of segregated funds or IVICs other than the commission rates set out in Information Folders and Fund Facts and how the payments or benefits align with the Targeted Customer Outcomes, including, but not limited to, outcomes 1 to 3.

Any incentive or payment made by an insurance company creates conflict. That is why we at FPAC believe the only way to fully eliminate issues caused by this form of conflict is to do away with any compensation payments from insurers to intermediaries. However, we recognize that such a policy is not being considered at this time. Failing the opportunity to eliminate embedded compensation fully, we believe the only way to achieve the targeted client outcomes is to not only eliminate deferred sales charges and advisor chargebacks but to prohibit any vendor from paying an intermediary a trailer greater than the standard 1% on no load products. The standardization and disclosure of this standard fee will create a level playing field among all mutual and seg fund products.

The exception to this will be fee-for-service accounts. However, given that these fees must be disclosed, negotiated, and approved by the client, we feel that this added level of transparency provided to the client will provide the information required to determine for themselves if they feel the fees charged are in line with the value they are receiving.

Question 5

If Insurance Regulators were to implement a regulatory ban on Upfront Commission or Upfront Compensation, what would be the insurance sector considerations to take into account for achieving the Targeted Customer Outcomes? Where possible, please provide data to support your position.

- A. *How could any ban for segregated funds be worded to achieve the Target Customer Outcomes?*

We recommend something to the effect of “The only forms of compensation permitted to be paid by the insurance company to an intermediary is an ongoing trailer for service or a fully disclosed, with proof of client consent, up front end charge, that is to be paid directly from the clients invested capital at the time of purchase. All other forms of compensation between the insurance company and the intermediary are prohibited.

- B. *What would be the minimum transition time needed to implement an applicable ban and arrange for the use of different compensation and fee structures?*

Ideally, such a ban would be immediate. The current situation where DSC has been banned concerning the sale of mutual funds has created the incentive for intermediaries to market and sell segregated funds over mutual funds, which on average, have lower fees. This situation is in direct opposition to Targeted Client Outcome 6. We encourage the CCIR to make these changes no later than the targeted June 2023 date but urge you to look to a sooner date.

Given both the developments in the mutual fund world and the length of time this initiative has been worked on by the CCIR, intermediaries have had more than sufficient warning of these looming changes. The CCIR should not concern themselves with the concerns of intermediaries who failed to see these changes coming.

C. What are the estimated qualitative and quantitative costs and benefits of a ban to Insurers and Intermediaries?

The issues have been well documented in the reports cited by the CCIR in its discussion paper and its citation of several studies, with most of them leading to the same general conclusions that the deferred sales charges and embedded compensation create conflicts of interest, limit awareness of costs, do not align with service provided, increase costs, and several other issues.

The real question is why such a structure should continue to exist at all, given the inherent negatives associated with it at the cost of client welfare.

We do not believe that these changes will impact insurance companies materially, except for the loss of business from advisors who were only selling seg funds to capitalize on upfront compensation now that they have been banned in the mutual fund industry. Frankly, any such business is without material merit, and the negative impact of this loss should not be a point of consideration.

As for intermediaries, they will have to adjust their business models to focus on ongoing service and stewardship rather than sales. If these intermediaries are truly advisors providing qualified advice, that advice is of value to clients, not only at the time of sale. Moving away from upfront compensation will better align incentives to service offerings.

D. What are the estimated qualitative and quantitative costs and benefits of a ban to Customers?

The issues have been well documented in the reports cited by the CCIR in its discussion paper and its citation of several studies, with most of them leading to the same general conclusions that the deferred sales charges and embedded compensation create conflicts of interest, limit awareness of costs, do not align with service provided, increase costs, and several other issues.

Furthermore, the reality is that, as of this moment, the Targeted Client Outcomes are not being met and cannot be met without a ban.

The result of a ban on upfront compensation will be that two methods of paying for advice will be eliminated, but this still leaves several viable forms that are more transparent and the incentive for intermediaries to work to develop new ones.

Question 5

If Insurance Regulators were to implement alternative or complementary regulatory measures to a ban, which regulatory measures would help achieve the Targeted Customer Outcomes? Throughout Insurance Regulators' discussions with industry, the following measures were proposed as examples to foster stakeholders reflections on this matter:

- *a cap on the amount of Upfront Commission,*
- *limits on the duration of chargeback schedules,*
- *increased monitoring of Licensed Individuals with chargeback debt,*
- *enhancing disclosure of potential costs or negative effects to the Customer of available Sales Charge Options, and*
- *requiring Upfront Compensation paid to Intermediaries be reasonably proportionate to the value of the product and amount of service provided to the Customer.*

Please provide supporting evidence in your response to explain:

- where such measures differ from the regulatory approach taken by the CSA, why such an approach would be reasonable for segregated funds even if the approach is not permitted for mutual funds,*
- how such an approach aligns with Targeted Customer Outcomes,*
- the estimated qualitative and quantitative costs and benefits of the applicable alternative regulatory measures to Insurers and Intermediaries,*
- the estimated qualitative and quantitative costs and benefits of the applicable alternative regulatory measures to Customers, and*
- the minimum transition time needed to implement such regulatory measures.*

Deferred Sales Charges & Advisor Charge Backs

As stated, our position is that DSC and ACB should be banned outright. This would not solve the concerns raised by the reports referenced in the discussion paper but would also bring Seg Funds in line with compensation structures in the mutual fund industry, eliminating the conflict that the current difference in regulations has created.

While ACBs have not been banned by the CSA, that is because they did not exist in the mutual fund world. As stated earlier, these are nothing more than carbon copies of DSC structures that change who the redemption fee is charged to. In doing so, while eliminating the issue of clients paying redemption charges, it created a new conflict where intermediaries would work to avoid these charges by preventing redemption of the investments, even if merited. These structures should also be banned as maintaining them would continue the conflict that currently exists

between regulatory regimes.

Banning ACB compensation would also eliminate the need to develop a policy regarding the duration of chargebacks, monitoring of licensees with chargeback debt, and disclosure of the negative impacts of this option. If anything this option comes with increased compliance requirements, the cost of which will in turn be passed on to investors.

We are of the opinion that there is no alternative here. Failure to eliminate both options would make the achievement of Targeted Client Outcome 6 impossible. The mutual fund industry has banned anything that looks like a deferred sales charge. Any action that fails to do the same in the insurance industry will achieve little more than legally leaving consumers exposed to abuse by the worst actors in the space.

Front End Loads

While we believe Front end charges should be banned, we do not believe they raise the same issue as DSC and ACB. Furthermore, this method of compensation was not banned by the CSA, nor do we believe it to be prevalent in the industry. This is likely due to the fact clients are likely averse to paying an upfront commission for purchases out of their invested capital.

That said, we are of the belief that this form of compensation should also be banned as disclosure does not fully prevent abuse.

Closing Summary

In closing, we at the Financial Planning Association of Canada thank you for the opportunity to provide commentary regarding this important issue. We hope that you have found our submission to be in keeping with the intended spirit of consumer protection and with our goal of the professionalization of the financial planning industry. It is our hope that you will see fit to implement our recommendations as outlined. We will also continue to make ourselves available for further input and support for this initiative.



Canadian Life & Health
Insurance Association
Association canadienne des
compagnies d'assurances
de personnes

Stephen Frank
President and CEO

November 7, 2022

Robert Bradley

Chair
Canadian Council of Insurance Regulators

Eric Jacob

Chair
Canadian Insurance Services Regulatory Organization

Sent by email to: ccir-ccra@fsrao.ca

Dear Robert and Eric,

On behalf of the Canadian life and health insurance industry, I am pleased to provide the industry's feedback on the Canadian Council of Insurance Regulators (CCIR) and Canadian Insurance Services Regulatory Organization (CISRO) consultation regarding upfront commissions. A key takeaway from our submission is that the insurance industry strongly supports the important role played by the advisor chargeback sales charge option.

Our submission is organized as follows:

- The industry's high-level views on key issues;
- A more fulsome explanation and support for the industry's views are included as Appendix A; and
- The industry's responses to the CCIR and CISRO's questions from the consultation paper are set out in Appendix B.

About CLHIA

The Canadian Life and Health Insurance Association (CLHIA) is a voluntary association with member companies that account for 99 percent of Canada's life and health insurance business. These insurers are significant contributors to Canada and its economy. In 2021, they provided financial security to over 29 million Canadians and made over \$110 billion in benefit payments (of which 90 percent went to living policyholders as annuity, disability, supplementary health, or other benefits with the remaining 10 percent going to life insurance beneficiaries). In addition, life and health insurers have nearly \$1.1 trillion invested in Canada's economy. In total, 92 life and health insurance providers are licensed to operate in Canada.

Overview of Key Issues and the Industry's Views

The current system, including the advisor chargeback sales charge option, works well and helps a broad range of consumers achieve financial security. Any contemplated changes should be carefully considered to ensure there is improved service provided to consumers and unintended harms to consumers do not result. We strongly support the continued use of advisor chargebacks to ensure Canadians continue to have access to segregated fund products and advice more generally.

The industry's key reasons for supporting the continued use of advisor chargebacks are as follows:

- a. Segregated funds and mutual funds are complementary within an investor's portfolio (not substitutes): Segregated funds are often part of a comprehensive financial plan and complement mutual funds due to their long-term nature and unique protection and financial planning benefits. Therefore, differences in how they are regulated should be supported.
- b. Advice is more important to accessing segregated funds than mutual funds: Segregated funds provide unique tax, creditor, and estate planning optimization strategies to consumers. These features can be complex and are not well known to the general population, which makes access to professional financial advice more important when investing in segregated funds than mutual funds.
- c. Access to advice will be lost for the majority: We estimate segregated funds accounts at \$50,000 and below are at serious risk of being uneconomic for advisors to serve in a trailer commission-only sales charge option. These account sizes represent approximately half of all segregated funds investors.
- d. Fee-for-service sales charge option is not well suited to segregated funds: Managing General Agents (MGAs) do not have the same Self Regulatory Organization (SRO) oversight or expectations as securities dealers do. This means that sales charge options are generally managed with each separate insurer through client name accounts.
- e. Risk of conflict of interest is low with segregated funds: The average hold time for segregated funds is nearly 8 years. As such, it is not common that advisors have to return commissions. In addition, chargebacks are at the account level for segregated funds so fund holdings can be switched within an account without incurring chargebacks.

- f. Chargebacks are consistent with CCIR guidance: Commission recovery from the advisor disincentivizes churning. The CCIR's draft incentive management guidance expects insurers and intermediaries to provide arrangements for recovering the commission to minimize this risk.

The industry recognizes that regulators have concerns with certain aspects of chargebacks, such as the potential for conflicts of interest. As set out in our submission, there are approaches that could manage these risks effectively while also allowing chargebacks to be maintained. This could include establishing a chargeback period with a three-year cap on the length of chargeback schedules. This would be the most balanced approach going forward as it would improve the current system, which works well and helps ensure a broad range of consumers continue to have access to the advice and product that they need to achieve financial security, while addressing regulatory concerns.

We look forward to further collaboration with regulators on how improvements can be made while maintaining chargebacks with a view to benefitting consumers.

Yours sincerely,

Stephen Frank

APPENDIX A – THE IMPORTANCE OF RETAINING CHARGEBACKS

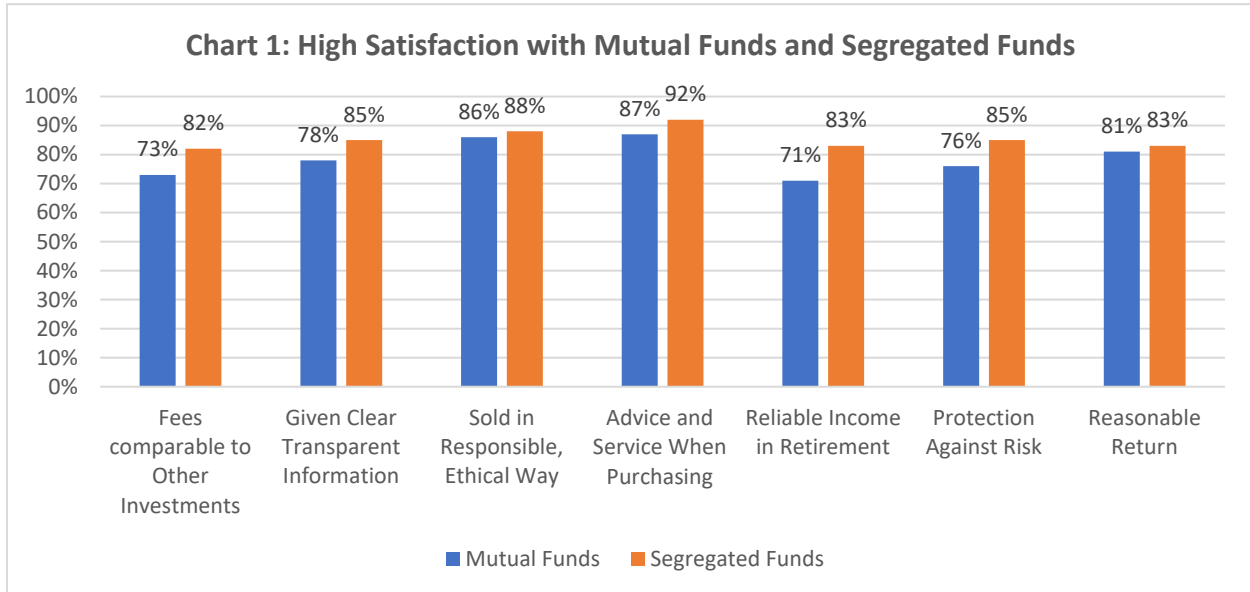
SEGREGATED FUNDS AND THE MARKET WORK WELL FOR CONSUMERS

Market research was recently conducted by Abacus to obtain views from users of segregated funds and mutual funds to determine how well the market is serving consumers.¹ The key findings from the research are as follows:

- Satisfaction levels with both products are high, with the satisfaction level being higher for segregated funds than mutual funds. Specifically, more than 80 percent of consumers are satisfied with segregated funds when it comes to reliable retirement income, protection against risk, and reasonable returns.
- Of the Canadians that have used segregated funds, 77 percent purchased these products from an insurance broker whereas those who have used mutual funds have mostly purchased them from a financial advisor (58 percent) or a bank broker (38 percent). This demonstrates a higher need for advice in the purchase of segregated funds.
- When it comes to advice and service consumers received from an insurance broker when purchasing segregated funds, satisfaction levels are high – with 92 percent being satisfied.
- In terms of the fees associated with segregated funds, 82 percent of consumers who have used segregated funds are satisfied that the “fees are comparable to other investments”, whereas 73 percent held the same view for mutual funds.
- 85 percent of consumers are satisfied buyers are “given clear and transparent information” when they are sold segregated funds, compared to 78 percent for mutual funds.
- 88 percent of those with experience with segregated funds are satisfied they are “sold in an ethical and responsible way”.

¹ In total, 709 people who had experience with segregated funds and 782 who had experience with mutual Funds were interviewed between September 4 and October 3, 2022.

Chart 1, below, illustrates the high degree of satisfaction with the current market for segregated funds and mutual funds.



This market research demonstrates that segregated funds are serving consumers well in the current environment. Furthermore, the results are consistent across different demographics including regional, generational, and socio-economic.

WHY SEGREGATED FUNDS HAVE CHARGEBACKS IF MUTUAL FUNDS DO NOT

With the context of a segregated fund market that currently serves consumers well, we now turn to examine a number of important issues related to both segregated funds and mutual funds. This includes, for example, the role each plays, how they are different, the role of advice and potential conflicts of interest.

a. How segregated funds are different from mutual funds

Regulators are concerned about keeping the regulatory regimes for segregated funds and mutual funds as harmonized as practical to avoid the possibility of regulatory arbitrage. This is a worthy objective that we generally support. However, we would note that there is no evidence of regulatory arbitrage in the current environment.²

² See the November 2, 2022, Investment Executive article “What caused soaring seg fund sales last year”, where Investor Economics confirm that the increase in sales was not due to regulatory arbitrage. Market performance and a focus on estate planning were key reasons for a rise in seg fund sales. “Overall on-book segregated fund assets among independent financial advisor dealers (largely MFDA) dropped about 10% in 2020 and were relatively flat in 2021,” <https://www.investmentexecutive.com/news/industry-news/what-caused-soaring-seg-fund-sales-last-year/>

There are substantial differences between mutual funds and segregated funds that merit different treatment related to retention of the advisor chargeback model. Indeed, the regulatory framework should recognize that there are positive consumer outcomes associated with mass market distribution of segregated fund products.

i. The role of segregated funds and mutual funds

Segregated funds are a wealth preservation, protection and growth product. Conversely, mutual funds are primarily a growth product. Segregated funds are often purchased as one component of a comprehensive financial plan. For example, segregated funds are often purchased in addition to mutual funds, rather than instead of mutual funds (i.e., they are complimentary, not substitutes). Segregated funds are used more as an estate planning tool than mutual funds since they combine the growth potential of mutual funds with principal protection for peace of mind.

The benefits under segregated funds can be paid to beneficiaries or assigned to a successor owner both inside and outside registered accounts. This is an effective estate planning benefit of segregated funds as it helps keep assets from getting held up in the estate administration process and avoids probate fees. Mutual fund holders can only appoint beneficiaries in registered accounts.

As life insurance products, segregated funds with a named beneficiary can also offer potential creditor protection. As well, segregated funds can guarantee an immediate income stream in retirement for a fixed period or for life. Features such as these are unique to segregated funds.

The Abacus market research provides further evidence of the benefits of segregated funds to consumers. In particular, the research found that the most important aspects to consumers are:

- Reasonable return (89 percent)³,
- Reliable income in retirement (87 percent),
- Protection against risk (85 percent),
- Creditor protection (84 percent), and
- Estate planning features (80 percent).

³ The percentages identified represent responses that indicated “highest” or “important”.

ii. How the use of segregated funds and mutual funds differ

Segregated funds are by their nature a long-term investment product. In many cases, the benefits of segregated funds (such as the guarantees and the funds that guarantee income in retirement) cannot be realised until retirement or death.

The long-term nature of segregated fund investments is evidenced by 80 percent of segregated funds contracts being in registered accounts. Conversely, only 62 percent of mutual fund units are in registered accounts. In addition, the Abacus market research adds further support that consumers recognize segregated funds as being a long-term investment with 83 percent holding this view.

The average time segregated funds investors stay invested is also higher than for mutual funds. The average hold time of a segregated fund is nearly eight years, whereas in 2019 the average equity mutual fund investor stayed invested for 4.5 years.⁴ The chargeback function recognises the long-term nature of segregated funds.

In addition to those looking for retirement savings and income, segregated funds are typically marketed to the following types of customers with protection objectives:

- Customers saving for retirement who are looking for the benefits offered by segregated funds including risk capital protection and life insurance features with capital growth potential,
- Customers seeking capital risk protection for their estate and the opportunity to name beneficiaries,
- Customers saving for a first house who want growth potential and need capital protection,
- Customers saving for a child's education through an RESP and need downside protection,
- Customers who are close to retirement and want to protect against market volatility, and
- Small business owners or professionals looking for potential creditor protection.

b. Segregated funds are an insurance product

Segregated funds are an insurance product accessed through an insurance advisor. Segregated fund compensation structures should therefore be considered differently than mutual funds. Customers may be content to pay under the fee-for-service sales charge option for mutual fund dealers but this does not mean this option will be viable for insurance advisors and MGAs.

Chargebacks were created by the insurance industry to recognize the long-term nature of insurance products. If an insurance policy lapses, the advisor risks having to pay back the sales commission. This incents an advisor to only sell products which are suitable and meet the clients needs by encouraging the advisor to plan for the client's future rather than a short-term sale and commission.

⁴ Quantitative Analysis of Investor Behavior, 2020 BALBAR, Inc. www.dalbar.com

Chargebacks have not been used for mutual funds which, as noted above, are generally shorter-term investments compared to segregated funds.

Point of sale disclosures make customers aware of the different sales charge options available that provide them with the choice of how their advisor is compensated. Further, point of sale disclosures make customers aware that an early withdrawal could result in their advisor having to return all or part of their commission. We are therefore confident that customers dealing with life insurance agents commonly understand that their advisor is paid an upfront commission and are aware of the chargeback function.

c. Dealer fee-based accounts work well within a nominee name structure but not an MGA model

The ban on up-front commissions for securities dealers resulted in a transition from advisory fees embedded in the Management Expense Ratio (MER) to directly charged fees in dealer fee-based accounts.

Nominee accounts allow intermediaries to group their clients' assets held at different manufacturers, thereby allowing a singular fee to be levied by the intermediary. Conversely, separate client name accounts are set up with each insurer a client may hold assets at, meaning that a separate fee must be levied to each account.

Since a different compliance and regulatory structure applies to dealers vs. MGAs (i.e., MGAs do not have the same SRO oversight or expectations as securities dealers do) sales charge options are generally managed by MGAs with each separate insurer through client name accounts.

Fee-based segregated fund sales charge options administered by the insurer have been introduced in this client name model but have not gained traction due to challenges and complexity with this structure. Moreover, the *Income Tax Act* does not allow the customer to deduct fees on their tax return for segregated fund investment advice, but it does allow it for securities, which makes a separately charged advisory fee option much less attractive for segregated funds.

d. Advice is more important to accessing segregated funds than it is for mutual funds

Receiving advice on the purchase of segregated funds is critical to customers. This reflects that segregated funds are complex products. Advice ensures the customer understands the unique benefits they offer and ensures they are suited to the customer's circumstances. This is less applicable to mutual funds.

There are unique tax, creditor, and estate planning optimization strategies available through investment in individual variable insurance contracts and segregated fund investments. Since these features can be complex and are not well known to the general population, access to

professional financial advice is more important when investing in segregated funds than other financial products like mutual funds and exchange traded funds (ETFs).

Independent distribution, as opposed to exclusive sales forces, accounts for 75 percent of all segregated fund assets under management. When life insurance advisors and MGAs are independent, insurers compete on the features and price of the range of their products which ultimately benefits consumers. Independent distributors rely on upfront commissions to cover their costs of doing business. Without upfront commissions, independent distribution channels are at risk of being non-economic.

Many consumers would lose access to a competitive independent distribution market without upfront commissions and the chargeback option. This is especially true for smaller accounts, which would not be economical for advisors to service on a trailer-only commission.

To illustrate this point, data collected by Investor Economics in 2015 shows that the average recurring annual business expense to an advisor and/or MGA per client is between \$750 and \$1,000, which is a conservative estimate as it does not account for the greater “start-up” or “onboarding” costs during the first year. Further, it does not account for the increase in administration costs that will result after the client-focused reforms and CCIR’s planned Market Conduct Guidance for Segregated Funds.

CLHIA has collected data from its members and conservatively estimates segregated accounts at \$50,000 and below are at serious risk of being uneconomic for advisors to serve in a trailer commission only (Front End Load (FEL) Zero or No-load) model.⁵ Currently, approximately half of segregated funds investors, have less than \$50,000 as their account/ policy value, which would equate to over 1.5 million Canadians.

A ban on chargebacks, therefore, has the real potential for significant consumer harm.

Experiences in the UK and Australia with removal of upfront commissions suggest that there is a real risk of loss of advice in the mass market.⁶

⁵ Under current upfront commissions sales charge options, an initial deposit of \$25,000 could pay an advisor and/or MGA \$750 in the first year and \$250 thereafter. On an initial deposit of \$75,000, an advisor and/or MGA might make \$2,250 in upfront commission and \$750 in subsequent years. Please note that charge-back structures vary across the industry. This example is for illustration purposes only.

⁶ The December 2020 report of the U.K. Financial Conduct Authority entitled “Evaluation of the Impact of the Retail Distribution Review and Financial Advice Market Review” (see page 13) found that people with lower investable assets are simply ignored and not approached by advisors, even those at banks. “One potential barrier mentioned in our qualitative research was that consumers are not always encouraged to seek it. For example, some explained that, in the past, they were prompted to engage with their finances during visits to bank branches, when bank staff would encourage them to seek support for financial planning questions.” Up to 8.4 million people with more than £10,000 in investable assets do not currently seek formal support from which they could potentially benefit by helping them make financial decisions. 2020 [Evaluation of the impact of the Retail Distribution Review and the Financial Advice Market Review \(fca.org.uk\)](https://www.fca.org.uk/publications/research/Evaluation_of_the_impact_of_the_Retail_Distribution_Review_and_the_Financial_Advice_Market_Review)

e. Aligning compensation to the cost of providing the service

“Start-up” or “onboarding” costs mean that the cost of providing advisor and MGA services to clients is higher in the initial years and then decreases. The way advisors and MGAs are compensated should recognise this and allow for cost recovery immediately rather than having to wait multiple years to receive a profit.

Advisor chargeback options and upfront commissions mean that advisors can at least cover the cost of providing the service initially. The advisor chargeback does not change the cost to the client or investment performance over the expected life of the contract. There is no difference in the cost to the client between the advisor chargeback and FEL-0 options.

f. Chargebacks can protect customers

The industry agrees that in the context of reviewing upfront compensation for segregated funds the key outcome should be the fair treatment of customers. We believe that the advisor chargeback sales charge option is not in conflict with FTC objectives.

We would note that the CCIR draft Incentive Management Guidance in section 2.8 states that the design and management of incentive arrangements should include recovery of compensation, where appropriate, once it has been paid. We believe it is appropriate to recover commissions in situations where the sale was not appropriate.

In addition, chargebacks are a well-established structure in the insurance industry. As noted, segregated funds are intended to be a long-term investment product and they are viewed that way by consumers. Consistent with this, the chargeback function encourages advisors to recommend a suitable long-term financial roadmap. This includes the advisor thinking about the long-term objectives of the consumer.

Commission recovery from the advisor also disincentivizes churning since advisors would need to repay the commission from the initial purchase before collecting a commission from the next investment. An advisor having to pay back a commission to an insurer may indicate the sale was not suitable in the first place (a change in life circumstances could also be a factor). If customers do not have any liquid assets to use in emergencies, then segregated funds are generally not a suitable product.

It is important to note that advisors having to return commissions is not common. This reflects that the average hold time of a segregated fund is nearly eight years, and the average chargeback period is between two and five years. This indicates that chargebacks are not generally being paid by advisors.

g. Are advisors conflicted under the chargeback option?

The concern has been raised about whether an advisor would ever recommend a redemption during the chargeback period.

Segregated funds are not as susceptible to market forces in comparison to mutual funds due to the guarantees on segregated funds. In most circumstances, it will be in the customer's best interest to stay invested in the segregated funds despite market fluctuations due to the guarantees.

In addition, holdings can be optimized within the contract since switches are allowed within a contract. This means advisors can move their clients to a different fund manager, to lower risk or higher risk investments, as appropriate, without incurring chargebacks.

Furthermore, since the chargeback is at the contract level rather than the fund level there is no commission incentive for advisors to select one fund over another.

Looking at the data collected by the CLHIA, there is also no evidence of shorter or longer hold times for segregated funds sold under the chargeback option and when compared to other load types (i.e., Front-End-Load). This indicates that the chargeback does not incentivize advisors to keep clients invested longer than they should.

Ultimately, any concern of conflicted advice can be mitigated by monitoring redemptions after the chargeback period expires.

Any potential conflict can be managed by the requirement for disclosure by an intermediary that a chargeback will apply and documentation of the reasons for a recommendation. This is addressed in the CCIR's planned Market Conduct Guidance for Segregated Funds.

A robust regulatory framework currently exists for the management of conflicts of interest.

APPENDIX B: INDUSTRY RESPONSES TO CONSULTATION PAPER QUESTIONS

1. Please comment on whether the topics and details covered in this discussion paper accurately describe the current environment in which Customers are offered IVICs and segregated funds and provide any necessary factual corrections or additional information.

Generally, the Consultation Paper is accurate in describing the current environment in which customers are offered Individual Variable Insurance Contracts (IVICs) and segregated funds.

At page 9, under the heading 'Potential Customer Harms' the Consultation Paper notes that 'Varying lower trailing commission rates may also create a risk of unserved Customers ("orphan clients"), where the trailing commission rate is so low as to disincentivize a new Intermediary to take over the servicing of Customer's IVIC.' However, today almost all trailing commissions revert to the highest trailing commissions available after the end of the chargeback period. (i.e., that is usually to the trailer offered under low-load or FEL Zero). As such, there is no general disincentive for an advisor to service orphan clients.

At page 9 under the heading 'Potential Customer Harms' the Consultation Paper states that upfront commissions may incentivize an intermediary to sell an IVIC even when a customer does not need an IVIC. We would note that sale of an IVIC should be based on a customer's needs. From a consumer perspective there is no conflict if they have been sold a suitable product which meets their needs. An intermediary should not be required to make the sale in context of a comparison with a mutual fund strategy. Evaluation should not extend beyond the general requirement for the product to be suitable. However, any potential for conflict can be addressed by the requirement for a reason why letter setting out why the segregated fund is recommended.

Also at page 9, under the heading 'Potential Customer Harms' the Consultation Paper notes that commission rates may vary to as high as 7 percent. We would note that the 7 percent upfront commission rate is a temporary promotional rate offered by one insurer and does not incur any additional cost to the consumer. The current maximum rate in the industry on the advisor chargeback sales charge option is 5.6 percent.

The paper states on page 8 that outside of Fund Facts and Information Folders, IVIC customers presently receive minimal ongoing disclosure about intermediary compensation costs. We note that when the TCR is implemented customers will receive comprehensive information about the costs they are paying. We understand that CCIR is proposing that there should not be a break-out of distribution costs as part of total cost reporting (TCR) and that consumers are best served by reporting a total cost figure. Customers are aware of the percentage commission their intermediary receives based on the sales charge option they select with their intermediary at the time of sale.

To ensure that customers are aware that a chargeback may apply, where applicable, the insurance industry suggests including a flag on the annual statement to give the customer a heads up that an advisor commission chargeback may apply upon a fund unit redemption.

2. Should Insurance Regulators consider other Targeted Customer Outcomes?

We agree with the identified customer outcomes. However, we would note that the objectives describe circumstances that are not common problems in the market.

Additional important customer outcomes are:

- Providing consumers with long-term financial security.
- Ensuring segregated fund products are available to the mass market.
- Paying segregated fund proceeds to named beneficiaries.
- Assisting consumers with saving for retirement, education or buying a house.
- Providing protection against market volatility in the circumstances of unexpected death.

As the Abacus market research demonstrates, these are objectives that are important to consumers and are being met under the current market. It is important that any contemplated changes would not negatively affect the ability for these outcomes to be achieved.

3. For each Sales Charge Option in Appendix 1,

a. How prevalent is the Sales Charge Option?

The CLHIA conducted a survey of members this past spring requesting information about the current mix of sales charge options being used. The information collected for 2021 is set out in the table below.

2021

Commission type	AUM	Sales value
Front-end Load	24%	36%
Deferred Sales Charge	46%	18%
Low-Load	6%	4%
No-Load (Excl. Charge-back)	10%	10%
Charge-Back	14%	31%
F-Class/Fee-Based	0%	1%

The CCIR should be aware of the following observations:

- There is almost no FEL with a negotiated fee. Almost all of the FEL sales are FEL-0.
- The industry tracks FEL-0 under FEL, whereas the CCIR has included FEL-0 under No-load.
- FEL-0 is the most common sales charge. However, it is often not an economical model for individual, independent advisors, smaller MGAs and new entrants, who are providing

service to the mass market or younger people with less assets and may need structures that better align the timing of compensation with the timing of the work being done by the advisor.

- Historically, advisor chargeback was categorized as being part of No-load and used predominantly by one insurer so there is no separate categorization before 2020. Please see note 5 below.

The following are statistics for the previous three years to help give context to the 2021-year information.

Recent sales by sales charge options

Sales charge type	2018	2019	2020⁷
FEL	38%	37%	34%
DSC	30%	26%	22%
Low Load	8%	5%	5%
No Load (incl. Charge-back) ⁸	20%	27%	36%
Fee-Based	4%	5%	3%

b. Where a Sales Charge Option has a range of possible compensation rates, such as Front-End Load, how do Insurers or Intermediaries determine the amount to charge a Customer? Are there common rates charged?

Where there are a range of sales charge options offered under an IVIC, the consumer and intermediary agree together about which is the best sales charge option to pick. Where there is a range of compensation rates such as for FEL, the advisor and consumer would agree together on the fair rate to be charged. However, please note that the FEL option which allows for investment minus a negotiated upfront fee is not generally being used. The reason being the same for why fee-based accounts have not gained a lot of traction; there are challenges with distribution structures. Generally speaking, independent advisors and MGAs do not have system capability to accommodate processing fees for each client. There is an insufficient regulatory structure for MGAs.

Due to the range of distribution practices in the insurance wealth space, there is a range of different compensation structures. This allows for broad access to insurance wealth by all segments of the Canadian population. For example, National Accounts which are large, sophisticated enterprises that also sell mutual funds, can facilitate flat fee structures due to their sophisticated structures, whereas, independent advisors and smaller MGAs do not have the

⁷ 2020 data represents data collected from CLHIA members up until June 30, 2020.

⁸ The amount of Charge-back in 2020 was 21 percent of 2020 total gross sales, meaning No Load was 15 percent. There has been a significant increase in advisor Charge-back in recent years. The amount of advisor Charge-back prior to 2020 cannot be separately disclosed at an industry level from the No Load option since prior to 2020 categorization of the Charge-back sales option was not consistent across the industry.

accounting capacity to maintain fee accounts for all their customers. It is more common for these independent advisors and smaller MGAs, who typically provide service to customers with less investable assets, to utilize the charge-back option.

Some insurers however allow for a separate advisory fee (F-Class/Fee-Based) to be charged and paid monthly by redemption of units. The consumer and intermediary agree to the rate to be charged. Higher percentage rates generally apply for small-value contract situations and range for larger contracts. As explained above, it is the insurer not the MGA or advisor who deals with the accounting aspects of this kind of structure.

Reduced management fees can also apply for high-net worth contracts starting at \$250,000 or up. For ultra-high net worth clients, further reduced advisory fees may be agreed to.

c. Please describe in detail how current Insurer and Intermediary processes and controls align with Targeted Customer Outcomes, including, but not limited to, outcomes 1 to 3. Are there different processes and controls for different Sales Charge Options, such as between the Advisor Chargeback and Front-End Load options?

Advisor processes and controls

As part of the initial sale, the intermediary meets with the client and explains the different sales charge options that are available and how the intermediary will be compensated. This includes a discussion of the features of each option. Details of the advisor chargeback option would be explained to a consumer including disclosure of the possibility that the advisor may have to return the commission.

Advisors have statutory obligations to avoid conflicts of interest and operate in compliance with this framework. (See discussion related to conflicts of interest above)

Plain language disclosure of the sales charge options is provided on Fund Facts.

A large amount of time is needed to review the needs of a client and explain an IVIC including the insurance and investment features. The upfront commissions offered in the advisor chargeback sales option reflect this requirement and act to fairly compensate for the time and effort needed.

The chargeback option provides an annual trailer fee payment to the advisor for ongoing service. Similarly, all of the other sales charge options provide compensation for ongoing service to the contract holder which provides an incentive for the intermediary to provide ongoing service to the client.

From the customers perspective, the advisor chargeback option gives customers control over ongoing service as advisors are incentivized to ensure their customers are satisfied with their level of service to avoid incurring any chargeback penalties. In the scenario that a customer is unsatisfied with their advisor (which we see from the Abacus data is rare) customers can withdraw their funds and move to a different advisor. The risk that advisors would unduly influence their customers to stay invested in segregated funds that are not in their best interest is very minor since a customer who is not satisfied with their advisor can withdraw funds directly with the insurer and does not need to contact their advisor.

Insurer Processes and Controls

Insurers adopt a risk-based approach to compliance monitoring. If any unusual practices or patterns of conduct related to an intermediary are identified, these would be investigated. Requests for investment which do not fit within the standard parameters of a product would be individually reviewed.

Similarly, insurers monitor for persistency to ensure that customers are not moved into a new product at the end of the chargeback period. This could suggest that the advisor is churning, or that the customer was influenced to stay in a fund until the chargeback period has ended.

Insurers also monitor for switches between sales charge options during the chargeback period that could indicate an advisor is trying to take advantage of a renewed or higher commission option.

d. Please describe how Insurers and Intermediaries can encourage innovation and flexibility in ways Customers can pay for advice.

Consumers are best served by having a broad range of options in the market. Regulatory action should not limit this choice by placing undue restrictions on the compensation models available in the independent distribution system. A free market will allow insurers and intermediaries to foster innovation and result in a broader range of financial services being made available to consumers. Too many regulatory restrictions will limit choice.

Consumers need to be encouraged to save and invest and benefit from receiving advice from an intermediary. It is crucial that the provision of advice remains economically viable.

The advisor chargeback is an innovative model that insurers have developed. It has the advantage of providing upfront compensation to intermediaries, of providing customers equivalent or better investment performance than other sales charge options, and consumers are not required to pay a fee when they sell units.

4. Please comment on the extent to which Insurers and Intermediaries provide payments or benefits for the sale of segregated funds or IVICs other than the commission rates set out in Information Folders and Fund Facts and how the payments or benefits align with the Targeted Customer Outcomes, including, but not limited to, outcomes 1 to 3.

The commission payments described in the information folder and fund facts constitute all of the compensation that an advisor receives for the sale of segregated fund products.

Insurers do provide production and persistency bonus payments based on the volume of sales of traditional life insurance products. For captively contracted life insurance agents, segregated fund sales may be included when considering the total volume of sales for purposes of qualification for bonuses. However, there is no distinction made based on the sales charge option choice. There is therefore no advantage or conflict created in choosing front-end load versus advisor chargeback.

Segregated funds provide a low commission rate relative to traditional life insurance products and the market is highly competitive.

Insurers support the principal that incentives should align with the fair treatment of customers. Insurers support a risk-based approach to incentives management. In the absence of a risk-based approach, insurers would lose the ability to focus attention and resources where the greatest benefit could be achieved.

5. If Insurance Regulators were to implement a regulatory ban on Upfront Commission or Upfront Compensation, what would be the insurance sector considerations to take into account for achieving the Targeted Customer Outcomes? Where possible, please provide data to support your position.

There are many negative outcomes that could result from a decision to implement a regulatory ban on upfront commissions.

The main risk is loss of access to advice in the mass market. As mentioned, we estimate segregated accounts at \$50,000 and below are at serious risk of being uneconomic for advisors to serve in a trailer commission-only sales charge option, which is approximately half of segregated funds investors.⁹

⁹ For example, under the current upfront commissions sales charge options, an initial deposit of \$25,000 would advance an advisor and/or MGA \$750 in the first year (3%) and \$250(1%) in each year after the end of the chargeback period. On an initial deposit of \$75,000, an advisor and/or MGA might receive \$2,250 (3%) in upfront commission and \$750 (1%) in subsequent years after the end of the chargeback period. On a trailer commission- only sales charge model, the same advisor would receive only \$250 in the first year and subsequent years on a \$25,000 deposit, and \$750 in the first year and subsequent years on a \$75,000 deposit. Chargeback structures vary across the industry, and this is an illustrative example only. Generally, there is a reduced trailer fee paid during the chargeback period. The trailer fee becomes level after the end of the chargeback period. Total compensation is generally similar to other sales charge options. There is no difference in cost to the client.

We would also note that the loss of advice has been observed in the securities industry with the move away from DSC sales which caused consolidation and a reduction in the number of advisors. The MFDA Client Research Report 2020 notes that the number of advisors licensed by Financial Advisory firms decreased by 5,681 or 17% from 2016 to 2019. The majority of these advisors had books of less than \$10 million. This decrease is largely a result of MFDA prohibiting the sale of DSC funds which small book advisors rely on to finance their operations.

Insurers may also provide compensation to MGAs based on the volume of business the MGA does with an insurer. The insurance sector requires clarity from regulators that they are only consulting on a regulatory ban on upfront commissions paid to advisors in connection with the sale of segregated funds. Any broader scope would have profound negative impacts on the industry, since the compensation paid to MGAs is based on all insurance products the MGA distributes through its advisors. A regulatory ban on upfront compensation paid to MGAs in connection with segregated funds might result in a preference for advisors to sell products that do not have upfront compensation banned, thereby creating the potential for conflict, rather than reducing it.

a. [How could any ban for segregated funds be worded to achieve the Target Customer Outcomes?](#)

The targeted customer outcomes can be best achieved by establishing best practices on the use of the advisor chargeback sales charge option. Possible restrictions are discussed in our response to question 6 below.

The potential for a conflict is created when there is a need for withdrawal of funds earlier than expected. The advisor chargeback should not exceed the time horizon for investment. Any conflict of interest will be eliminated if the time horizon for investment is longer than the chargeback period.

A minimum 10 percent free withdrawal amount should be standardized for all contracts. This will generally level the playing field between an intermediary and a consumer seeking access to funds by removing a commission charge to the intermediary where a portion of the funds are withdrawn.

A chargeback should also not apply for RRIF withdrawals in accordance with the statutory minimum withdrawal rate ranges. This will give consumers access to their invested funds in retirement without creating a conflict for the intermediary.

b. What would be the minimum transition time needed to implement an applicable ban and arrange for the use of different compensation and fee structures?

Adapting to changes will not be easy. The insurance industry has been reliant on an independent distribution framework. A major change to the commission approach (no more upfront commissions) needs to be considered in context of the overall regulatory framework for distribution and sale of segregated funds.

The switch to using a directly charged fee model in the securities industry has been supported by the robust regulatory framework for Mutual Funds Dealers Association (MFDA) and Investment Industry Regulatory Organization of Canada (IIROC) dealers, which does not currently exist for MGAs.

Many system changes are needed to support a different sales charge option. While many companies offer several different sales charge options, not all companies do. A transition period of several years is needed to make required system adjustments and restructure compensation.

c. What are the estimated qualitative and quantitative costs and benefits of a ban to Insurers and Intermediaries?

It is difficult to separate the qualitative and quantitative costs and benefits of a ban. Insurers will potentially lose access to new sales in the mass market.

The potential quantitative impact of a ban on advisor chargeback is that sales in the mass market will not be economic. The CLHIA calculates that there are approximately three million segregated fund policyholders. Half of these have contracts that are \$50,000 or less. Approximately 31 percent are sold using advisor chargeback. When the change related to DSC and a change related to advisor chargeback are considered together, this represents approximately 50 percent of sales. The possible impact is that there will not be new sales to the mass market. Customers with under \$100,000 to invest will not be served by independent advisors and will require to seek investment assistance by a bank advisor.

Advisors will need to adjust their target market and sales approach to have a model which is economically viable.

The potential qualitative impacts are that there is not an economic model for new advisors starting out. This could result in fewer young intermediaries entering the market, where the average age of an insurance intermediary is currently over 50 years old.

d. What are the estimated qualitative and quantitative costs and benefits of a ban to Customers?

Consumers will likely have less access to advice.

Consumers will likely have less access to the unique insurance features that segregated funds offer.

Consumers will likely have less savings and less long-term financial security.

Many consumers are motivated by a “financial coach” to establish a plan for a secure financial future and there will be fewer consumers being encouraged to save.

6. If Insurance Regulators were to implement alternative or complementary regulatory measures to a ban, which regulatory measures would help achieve the Targeted Customer Outcomes? Throughout Insurance Regulators’ discussions with industry, the following measures were proposed as examples to foster stakeholders reflections on this matter:

- a cap on amount of Upfront Commission,
- limits on the duration of chargeback schedules,
- increased monitoring of Licensed Individuals with chargeback debt,
- enhancing disclosure of potential costs or negative effects to the Customer of available Sales Charge Options, and
- requiring Upfront Compensation paid to Intermediaries be reasonably proportionate to value of the product and amount of service provided to the Customer.

Our industry has a strong history of working with regulators to develop measures to enhance customer outcomes.

The industry is willing to meet with regulators to discuss the customer protection measures mentioned above that would support the Targeted Customer Outcomes.

In addition to the above, other consumer protection measures could include, for example, capping the chargeback period with a three-year cap on the duration of chargeback schedules.

Please provide supporting evidence in your response to explain:

- a. where such measures differ from the regulatory approach taken by the CSA, why such an approach would be reasonable for segregated funds even if the approach is not permitted for mutual funds?

Advisor chargeback is a sales charge option being used for segregated funds. It is an insurance developed approach that has a long history of successful use and which has been more widely adopted by insurers in the last few years. Since it was not in general use on the mutual fund side, different considerations apply in determining whether to no longer allow it. We have provided detailed reasons above why segregated funds should be considered a different product than mutual funds.

- b. how such an approach aligns with Targeted Customer Outcomes?

The shortened period for the chargeback which we are proposing reduces the possibility for conflict of interest. If segregated funds are withdrawn within a short period of time, in many circumstances it raises the question about suitability of the original sale. The longer segregated funds are held, the more likely it is that a change will be driven by a change in the consumer's circumstances.

The industry is willing to meet with regulators to discuss the customer protection measures mentioned above that would support the Targeted Customer Outcomes.

- c. the estimated qualitative and quantitative costs and benefits of the applicable alternative regulatory measures to Insurers and Intermediaries?

Under our proposed compromise approach, intermediaries are likely to receive less upfront commission and more trailing commission. This will reduce the upfront income for new intermediaries in the short term. The compromise is intended to provide a balance to reduce the potential for conflict, while providing fair compensation for the work involved with a segregated fund sale. Intermediaries will need to adjust their business model with a new approach to compensation.

- d. the estimated qualitative and quantitative costs and benefits of the applicable alternative regulatory measures to Customers?

As detailed at length above, it is possible that consumers in the mass market will receive less upfront service with reduced incentive to intermediaries.

e. the minimum transition time needed to implement such regulatory measures?

Adjustments will be needed to systems, however, changes to the compensation parameters for advisor chargeback could be implemented fairly quickly. As with all changes, a 1–2-year implementation period is needed.

From: Michael A. Gigliotti <magigliotti@shaw.ca>
Sent: Tuesday, September 27, 2022 10:11 AM
To: 'ccir-ccra@fsrao.ca' <ccir-ccra@fsrao.ca>
Subject: Up front commissions seg funds

Hi,

I've managed a large book of investment assets for most of my career. I'm completely aware of the evolution of how commissions are earned. Most of my current business now is zero front end load with a 1% gross commission annually. It works for me because I have an established business. I couldn't do that today if I were just starting out.

In addition I still use DSC up front commissions in extraordinary circumstances where the clients are not going to invest long term. This has happened with a salary pension savings program for a medium sized employer. They understand why I need to make some money (via DSC) while helping them to manage their employees. The FEL zero would not do that.

Similarly when I have a client I know won't live long term due to illness then the DSC also makes sense to help them manage their affairs.

In neither of these cases is there any sort of "abuse" going on. There are sound reasons for these two exceptions (and of course if I was new in the business then that is also a sound reason for needed up front commissions). There is full disclosure and proper attention to assisting the client and as always what is in their best interests is paramount.

Those that attack DSC blindly are not so sophisticated to understand this position I have.

Good luck. The world has gone mad with finding bogeys where there are none.

Mike G.

Michael A. Gigliotti, B.Comm., LL.B., Chartered Life Underwriter | Since 1992
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4685 Woodburn Road
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Tony Toy

From: CCIR-CCRRA
Sent: Friday, October 28, 2022 11:10 AM
To: Tony Toy
Subject: FW: Up Front Compensation

From: Richard Reynolds <rick@rerinvest.ca>
Sent: Friday, October 28, 2022 9:54 AM
To: CCIR-CCRRA <ccir-ccrra@fsrao.ca>
Subject: Up Front Compensation

[EXTERNAL] This message originated from outside the organization. STOP & THINK before opening attachments or clicking links, especially from unknown senders

My clients simply love the No Load Segfunds that I offer through many Life Insurance Carriers. My clients are not restricted from withdrawing their Segfund deposits in anyway! Of course I stress long-term investing but if a client needs access to their investment then they can redeem their funds with no fees or penalties. My clients love this flexibility and they love the fact that I do not send them any type of bill or charge them a fee, other than the MER contained in their Segfund.

I can offer this option because I am prepared to take on the substantial risk that I will not receive any compensation whatsoever, if my client changes their mind and surrenders their Segfund. The important point is that I take the risk not my clients.

Without NCB...(no chargeback to client options) virtually all new Advisors would struggle mightily to survive in the business and to provide service for their clients...I don't understand how this could ever be a good thing!

Kindest regards. Rick Reynolds CLU CH.FC

November 7, 2022

Canadian Council of Insurance Regulators Secretariat
ccir-ccrra@fsrao.ca

Re: Discussion Paper on Upfront Compensation in Segregated Funds (Consultation)

FAIR Canada is pleased to provide comments in response to the above-referenced Consultation.

FAIR Canada is a national, independent charitable organization dedicated to being a catalyst for the advancement of the rights of investors and financial consumers in Canada. We advance our mission through outreach and education, public policy submissions to governments and regulators, and proactive identification of emerging issues. FAIR Canada has a reputation for independence, thoughtful public policy commentary, and repeatedly advancing the interests of retail investors and financial consumers.

A. OVERVIEW

We support the efforts of the Canadian Council of Insurance Regulators and the Canadian Insurance Services Regulatory Organizations (together, the Insurance Regulators) to gather information from the industry to better understand upfront compensation in segregated funds and determine how to improve customer outcomes.

A key regulatory objective should be to ensure compensation structures are aligned with, and help promote, fair outcomes for consumers. Where compensation structures do not further this goal, or where they create conflicts of interest that cannot be adequately managed, they should be banned. In line with this principle, FAIR Canada supports banning deferred sales charges (DSCs) and advisor chargebacks (ACBs) for segregated funds.

Below is a summary of our comments on select issues in the Consultation. More detailed comments follow.

Deferred Sales Charges

- We support the ban on DSCs for segregated funds, and recommend it be implemented as soon as possible.
- Research on commission structures demonstrates that DSCs distort the advice process and skew advice towards products that pay these fees, as opposed to products that best serve consumers. (This research is equally relevant for ACBs.)
- Moreover, the ban will close-off opportunities for regulatory arbitrage between mutual funds (where DSCs have been banned since June 1, 2022) and segregated funds.

Advisor Chargebacks

- Even though ACBs are structured differently than DSCs, they raise similar consumer protection concerns.
- Like DSCs, ACBs create a potential conflict between the interests of the intermediary and the client, which could lead to poor customer outcomes.
- The fact that the intermediary pays the chargeback does not diminish the potential for conflicts or poor client outcomes.
- Pending a ban, the intermediary should disclose these conflicts to the client, resolve them in the client's best interest, and illustrate how they executed these steps.
- In addition, the Insurance Regulators should enhance their monitoring and enforcement to ensure that insurers and intermediaries are taking these steps.
- Banning ACBs would promote effective competition that works in the consumer's interest. It would also move us closer to other jurisdictions, such as the United Kingdom and the Netherlands, which have banned commissions on all retail investment products.
- A ban on ACBs would encourage industry participants to develop alternative compensation structures that better serve consumers to replace ACBs. This aligns with targeted customer outcome No. 8 in the Consultation, which is to enable innovation and encourage flexibility in the way customers can pay for advice.
- Given the similarities between ACBs and DSCs, the ban on ACBs should coincide with the June 1, 2023 ban on DSC sales in segregated fund contracts.

Finally, we note that the Insurance Regulators may need to consider whether other compensation structures that come to light from the Consultation should also be banned or regulated in some way.

B. DEFERRED SALES CHARGES

Beginning June 1, 2022, the Canadian Securities Administrators (CSA) banned fund organizations from paying upfront sales commissions to advisors, effectively ending the use of DSCs in connection with mutual fund sales.

DSCs create a conflict between the interests of the intermediary recommending the product and the consumer, which can have a negative impact on consumer outcomes. The CSA adopted the DSC ban¹ after independent empirical research showed that commission structures, such as the DSC sales option, distort the advice process in a way that is harmful to consumers. The study, which examined the extent to which sales commissions and trailing commissions affect mutual fund sales, revealed that:

¹ Canadian Securities Administrators, [Canadian securities regulators adopt ban on deferred sales charges](#), February 20, 2020. The CSA stated that upfront commissions create conflicts of interest, incentivize product recommendations that may not be in the client's best interest, and lead to suboptimal consumer outcomes.

- The impact of past performance on fund sales is significantly lower when fund manufacturers pay sales and trailing commissions.
- As past performance becomes less influential on fund sales, future fund performance is poorer.
- Fee-based mutual fund sales are highly influenced by past performance, which has a positive effect on future fund performance.²

Similarly, a review of the literature on mutual fund compensation found that:

- Funds that pay commissions to advisors have lower returns than funds that do not pay commission.
- Advisor recommendations are sometimes biased in favour of alternatives that generate more commission for the advisor.
- Compensation influences the flow of money into mutual funds. Higher embedded commissions stimulate sales.³

A ban in the insurance sector is necessary to ensure that clients purchasing segregated funds receive the same protections as mutual fund investors. It would also support targeted customer outcome No. 6 in the Consultation, which is to reduce the risk of mis-selling segregated funds over securities products by dually licensed intermediaries due to differing upfront compensation arrangements, and prevent such individuals from engaging in regulatory arbitrage.

Given the lengthy notice of a pending ban, fund managers and intermediaries have had sufficient time to prepare for the ban without the need for additional delays. In line with the ban in the securities sector, FAIR Canada, therefore, supports the Insurance Regulators' commitment to prohibiting DSC sales by June 1, 2023, at the latest.

Pending implementation, we support the Insurance Regulators' efforts to discourage new DSC sales in segregated fund contracts. To paraphrase the CSA, the Insurance Regulators should "... be highly attuned to inappropriate sales of DSC products ahead of the ban."⁴

Lastly, the Insurance Regulators should assess whether temporary measures may be needed where clients continue to hold DSC segregated funds in their accounts after the ban. This could include, for example, requiring intermediaries to inform clients that, despite the ban, they may still be charged a DSC on segregated funds they continue to hold. The Insurance Regulators may also wish to encourage fund managers to consider waiving DSCs in certain circumstances, such as in cases of hardship.

² Douglas Cumming, Sofia Johan and Yelin Zhang, [A Dissection of Mutual Fund Fees, Flows, and Performance](#), October 19, 2015. The study examined 43 mutual fund companies representing 67% of fund assets in Canada.

³ Edwin Weinstein, The Brondesbury Group, [Mutual Fund Fee Research](#), Spring 2015.

⁴ Canadian Securities Administrators, [Canadian securities regulators adopt ban on trailing commissions for order-execution-only dealers](#), September 17, 2020.

C. ADVISOR CHARGEBACKS

We are pleased that the Insurance Regulators are turning their attention to ACBs. We have concerns about the conflicts of interests ACBs raise and recommend they also be banned.

Except for the fact that the intermediary pays the chargeback, ACBs are essentially DSCs masquerading under a different name. Both involve payment of a sizeable upfront commission to the intermediary. Like DSCs, ACBs create conflicts of interest that risk distorting the advice process. Simply put, some intermediaries may recommend products that pay the most commissions upfront, as opposed to products that best serve the client's interests or needs.

Our concern about distorting the advice process is not academic. To encourage the sale of their segregated funds, Canada Life recently announced it was increasing the amount of advisor compensation for the sale of such funds from 3% to 4% until April 24, 2023.⁵

This development is troubling because it shows that insurers are keenly aware that the amount of the upfront commission influences sales. By incentivizing the sale of certain products over others, they further demonstrate the risks upfront commissions pose to a fair and efficient marketplace when compensation, rather than advice, drives the business. Not only is this detrimental to the client's interests but, over time, it reduces consumer confidence in the value of financial advice.

Some argue that ACBs do not harm consumers because it is the intermediary, not the client, who pays the costs of early redemptions. Doubling-down, they then argue that ACBs promote better outcomes because they focus the intermediary's attention on selling ACB segregated funds to only select clients—that is, those they believe will not need to redeem them during the chargeback period. From their perspective, the ACB enhances the intermediary's suitability assessment at the point of sale.

These arguments are fallacious in several respects. First, even though the intermediary may be responsible for paying back the commission, the client ultimately bears the financing cost of the ACB through higher fund management expenses. Secondly, the distinction regarding who pays the charge does nothing to eliminate the conflicts either at the point of sale or when funds are redeemed during the chargeback period. Just like DSCs, ACBs misalign the interests of the intermediary and the customer and raise serious consumer protection concerns:

- Most intermediaries, particularly those starting out in the business, will be hard pressed to overlook the substantial upfront commissions they can earn from ACBs. Based on behavioural insights and human psychology, we know that we tend to weigh immediate rewards more heavily than future events.⁶
- The upfront commission could incentivize intermediaries to recommend segregated funds with the highest commission or to recommend segregated funds with ACBs over comparable cheaper products without ACBs that may be more or equally suitable. Thus, as with the use of DSCs for mutual funds, ACBs could distort advice at the point of sale in ways that could saddle consumers with more expensive, less suitable products.

⁵ Canada Life, [Chargeback option sales compensation increase](#).

⁶ This phenomenon is known as [time or temporal discounting](#).

- ACBs also place the interests of the intermediary and the client in direct opposition during the entire redemption period. In some ways, this conflict is materially worse than in the case of DSCs for mutual funds. This is because the intermediary may actively counsel the client not to redeem the funds because of the financial implications for the intermediary. And unlike DSCs, where the client can choose whether or not they want to sell and pay the deferred commission, the client may not even be aware of the ACB, or why their intermediary would be advising them not to sell the segregated fund.

In our view, banning ACBs would support targeted customer outcome No. 1 in the Consultation, which is to effectively address conflicts of interest created by upfront compensation. We recommend the ban on ACBs be implemented at the same time as the ban on DSC sales, that is, no later than June 1, 2023.

D. EUROPE: BANS ON COMMISSIONS FOR RETAIL INVESTMENT PRODUCTS

The approaches in the United Kingdom and the Netherlands are instructive when considering an ACB ban in Canada. In both these countries, all third-party commissions on retail investment products are prohibited and product providers are not permitted to remunerate advisors. Instead, advisors must charge their clients a separate fee tied to the advice they provide.

Reviews on the impact of these bans show they have enhanced consumer outcomes through increased competition and lower product prices. Given the comprehensive measures these European countries have implemented to protect consumers, banning DSCs and ACBs would represent an incremental, but important, step towards making advice the key driver in the advisor-client relationship.

United Kingdom

In 2006, the UK Financial Services Authority (FSA) launched the Retail Distribution Review (RDR) to address concerns with the distribution of retail investment products. The FSA noted several issues, including complex charging structures and a lack of clarity as to how they benefit consumers. The FSA was also concerned about misalignment between the interests of advisors and consumers because product providers often remunerate advisors.⁷

In January 2013, as a result of the RDR, the Financial Conduct Authority (FCA)⁸ banned intermediaries from receiving commissions on retail investment products from product providers. The FCA also required advisors to be paid for their services by charging the client a separate fee.

An evaluation of the RDR found that the ban had reduced the sale of products that had higher commissions pre-RDR and increased the sale of those with lower or no commission. There was also a move towards lower-cost products and products that did not attract high commissions pre-RDR, and increased competition between product manufacturers.⁹

⁷ Financial Services Authority, [A Review of Retail Distribution](#), June 2007.

⁸ The Financial Conduct Authority is the successor to the Financial Services Authority.

⁹ Europe Economics, [Retail Distribution Review Post Implementation Review](#), December 16, 2014.

In 2015, the Financial Advice Market Review (FAMR) built on the work of the RDR. The objective of the FAMR was to encourage the market to deliver affordable, accessible financial advice. The FAMR included a call for stakeholder input on various questions about the UK’s financial advice market.

Most respondents who commented on advisor compensation structures agreed that the post-RDR requirement to charge financial consumers directly for services and advice produced positive consumer outcomes. A minority of respondents recommended a return to commissions for financial advice. The final report on the FAMR concluded that “[g]iven the strong arguments against a commission-based system, such as the lack of transparency and distortion of incentives, FAMR does not believe there is a case to consider this, and is therefore not recommending a return to commission-based financial advice.”¹⁰

Netherlands

In 2009, following a series of mis-selling scandals, the Dutch Authority for the Financial Markets introduced a cap on commissions for financial intermediaries. A subsequent evaluation of the regime revealed that consumers were not well-informed about services and costs. It also found that the provider, rather than the consumer, was the party determining the amount of the intermediary’s remuneration.¹¹

The Dutch government decided that to give consumers more transparency and control, it was necessary to unbundle products and the related compensation.¹² In 2013, the Netherlands introduced a ban on commissions for various financial products, including insurance and investment funds. The ban was later broadened to cover all other forms of retail investment products.

Despite fear mongering by some in the industry, reviews of the effects of the ban concluded that competition between product manufacturers had increased, product prices had decreased, and the quality of advice had improved.¹³

We believe these results are equally attainable in Canada. But we must first acknowledge how upfront commissions distort the advice process and competition, which harms the industry and consumers.

E. INTERIM MEASURES: DISCLOSURE AND CLIENT BEST INTERESTS

Given the significant consumer protection concerns DSCs and ACBs raise, it will be important to find ways to mitigate consumer harm pending their ban. Until then, intermediaries should be required to disclose how they create conflicts, how they will undertake to resolve them in the client’s best interest, and to document how they have taken these steps.

These interim measures are consistent with the Guidance – Conduct of Insurance Business and Fair Treatment of Customers, which states that:

¹⁰ HM Treasury and Financial Conduct Authority, [Financial Advice Market Review Final Report](#), March 2016 at p. 46.

¹¹ Allen & Overy LLP, [Ban on commissions for complex products in the Netherlands announced](#), October 3, 2011.

¹² Rijn van der Linden, [A Ban on Commissions: The Netherlands Approach to Transparency and Remuneration](#), June 24, 2019.

¹³ Bureau Européen des Unions de Consommateurs AISBL, [The Case for Banning Commissions in Financial Advice](#), September 9, 2019.

- The Insurance Regulators expect that any potential or actual conflicts of interest be avoided, or properly managed and not affect the fair treatment of customers.
- To achieve this outcome, insurers and intermediaries should place a customer's interests ahead of their own.
- Insurers and intermediaries should ensure that, when relying on disclosure for managing conflicts of interest, it is used appropriately and does not put an unreasonable onus on the customer.¹⁴

The Insurance Regulators should clarify their expectations regarding the timing of the disclosure under the Guidance. In our view, it should be made at the point of sale, when the customer is seeking to redeem segregated fund units, and when the customer is considering exiting the individual variable investment contract. Further, there should be monitoring and enforcement mechanisms to ensure that customers are receiving appropriate disclosure, that conflicts are resolved in the best interests of the client, and that intermediaries are documenting how they fulfilled these obligations.

We are proposing enhanced disclosure as a temporary measure until the ban takes effect because we believe disclosure is an inadequate long-term solution for managing conflicts. According to the G20 High-Level Principles on Financial Consumer Protection (the Principles):

Where the potential for conflicts of interest arise, financial services providers and authorised agents should endeavour to avoid such conflicts. When such conflicts cannot be avoided, financial services providers and authorised agents should ensure proper disclosure, have in place internal mechanisms to manage such conflicts, or decline to provide the product, advice or service.¹⁵

Thus, avoiding conflicts of interest (by, for example, removing certain conflicts altogether) is the preferred approach to controlling conflicts of interest.

Recently, the Organisation for Economic Co-operation and Development proposed strengthening the Principles by adding the following language addressing the shortcomings of disclosure: "Disclosure as a means of effectively managing conflicts of interest may be limited due to the way some consumers are likely to behave in response, and behavioural insights should be used, where relevant, to test and inform approaches."¹⁶

Research supports the limits of disclosure in addressing conflicts of interest. It suggests that disclosure would be more effective when recipients of advice have expertise or experience to help them assess the potential effects of the disclosed conflict.¹⁷ As one study noted, "[f]or disclosure to be effective, the

¹⁴ Canadian Council of Insurance Regulators and Canadian Insurance Services Regulatory Organizations, [Guidance – Conduct of Insurance Business and Fair Treatment of Customers](#), September 2018.

¹⁵ Organisation for Economic Co-operation and Development, [G20 High-Level Principles on Financial Consumer Protection](#), October 2011 at p. 7.

¹⁶ Organisation for Economic Co-operation and Development, [Public consultation on draft proposed revisions to the Recommendation on G20/OECD High-Level Principles on Financial Consumer Protection](#) at p. 12.

¹⁷ Daylian M. Cain, George Loewenstein, and Don A. Moore, "The Dirt on Coming Clean: Perverse Effects of Disclosing Conflicts of Interest" (2005) 34(1) J. Legal Stud. 1 at p. 20.

recipient of advice must understand how the conflict of interest has influenced the advisor and must be able to correct for that biasing influence.”¹⁸

Similarly, research found that even when different types of commission are explained to retail investors, half were unable to form an opinion about whether the commission structure posed a potential conflict of interest. Among those that did form a viewpoint, three-quarters believed the advisor would look out for their best interest. The researchers concluded that based on this belief, investors have little reason to seek out alternative forms of compensation.¹⁹

These findings show that disclosing conflicts to the average retail client, who is in the greatest need of protection, is insufficient to manage conflicts. The better approach is to avoid them altogether. For these reasons, we support banning both DSCs and ACBs for segregated funds.

Thank you for considering our comments on this important issue. We welcome any further opportunities to advance efforts to improve outcomes for segregated fund customers. We intend to post our submission on the FAIR Canada website and have no concerns with the Insurance Regulators publishing it on their websites. We would be pleased to discuss our submission with you. Please contact Jean-Paul Bureaud, Executive Director, at jp.buread@faircanada.ca or Tasmin Waley, Policy Counsel, at tasmin.waley@faircanada.ca.

Sincerely,



Jean-Paul Bureaud
President, CEO and Executive Director
FAIR Canada | Canadian Foundation for Advancement of Investor Rights

¹⁸ Ibid. at p. 3.
¹⁹ Brondesbury Group, *supra* note 3, at p. 48.

From: [CCIR-CCRRA](#)
To: [Tony Toy](#)
Subject: FW: comment on Discussion Paper on Upfront Compensation for Segregated Funds
Date: Monday, November 7, 2022 9:17:22 AM
Attachments: [sales-inducements-in-asia-pacific.pdf](#)

From: Eric Yeung <eric.yeung@plantax.ca>
Sent: Friday, November 4, 2022 8:28 PM
To: CCIR-CCRRA <ccir-ccrra@fsrao.ca>
Subject: comment on Discussion Paper on Upfront Compensation for Segregated Funds

[EXTERNAL] This message originated from outside the organization. STOP & THINK before opening attachments or clicking links, especially from unknown senders

Dear CCIR Secretariat,

My name is Eric, and I want to provide a comment on the discussion paper on Sep 2022 by CCIR and CISRO. I am dual licensed in both mutual funds and on the life insurance side. I started my career around 2005 and got licensed around 2008 just not too long before the US Subprime event happened.

I always wanted to express my feedback on the “banning of DSCs” but I am limited by many factors, the main one of course being time.

I do not do too many DSCs anymore, but I used to have clients on DSC because I believe it can help them to achieve their long-term goals. I will outline more below.

I will address the CSA Consultation Paper 81-408 in a bit, but I will first share my own opinion about banning DSCs. I believe it is necessary to look at the root of the problem for DSC. Most of the cases I heard are either the client experienced a bad market downturn and needed the money or they are completely unaware about the existence of their investments on DSCs. The regulator often believes it is not fair for the consumers to have to pay DSC when they need to withdraw their money or DSC simply is bad for consumers. Banning commissions does not automatically safeguard investor outcomes, this is a phrase taken from a CFA Institute paper in 2019. I will provide the link in the last part of my paragraph. The regulator thinks upfront commission poses a conflict of interest. We can all think of DSC as an object, such as a knife, when used properly, it can save people or, on the other hand, if used improperly, it can take away people's life. The problem here is: is DSC being deployed properly? The regulator only sees the dark side of DSC but believe it or not, the DSC actually helped a lot of my clients from making the wrong decision at the wrong time. Because of its nature, the DSC is like a fence around their investments, DSCs make them think twice about why it is there. DSC's feature as we all know, has a longer redemption fee schedule that typically can last around 7 years, the surrender fees can be in the high 5% zone. If investors are aware about DSC, they know investment should be long term and not short term. If an investor can stay invested for the entire 7 years period, the chance of losing money actually is lower than investing for just 1 year. DSC provided a reason for a lot of investors not to withdraw because in most of the cases I encountered investors feared psychologically that their investment would disappear completely. There is nothing wrong with the investment fundamentally. Investors can get very emotional when faced with a market downturn. The agent can comfort the investor as much as possible, but the DSC actually is a safety net for

them to consider twice before making any irrational decision. I am not going to go over if a typical investment fund will go to zero. But we can all agree that a typical investment fund is somewhat diversified in terms of the number of holdings. The root problem here is mainly suitability. Cutting upfront commission cannot improve consumer protection completely. If we simply want a complaint-free environment in the investment sector, we can just issue a Canada-wide ban on investment so nobody would lose anything, but we understand in reality that is just an exaggeration. We know even in the absence of DSC, there will still be investors suffering losses and that's a possibility due to lack of suitability, proper disclosure/education or even agent's misconduct.

Now, I want to provide a quick comment on CSA Findings, the 3 key investor protection and market efficiency issues arising from embedded commission from the 2012 Consultation Paper.

Point 1 stated the embedded commissions raise conflict of interest. We need to understand there will always be conflict of interest whether or not upfront commission exists or not. Even if we are talking about a fee-based model, as long as the investor is paying for a service, there is a somewhat conflict of interest here. Our focus should be how the investor can make an informed decision when investing. There are only two ways to deal with conflict of interest; do not perform the action or provide a proper disclosure. I truly believe the only way to resolve conflict of interest is through disclosure. If the investor is aware about the potential compensation that the dealer or advisor or investment management company will get, it will help with making a more informed decision. I don't see investors make a wrong decision most of the time. Rather, I see them making a decision that is not suitable because of the lack of information provided at the beginning. I had a feeling that regulators want to eradicate upfront commission but what they do or do not realize is most of the advisory service comes from the independent channel (outside of the bank area) and they are mostly commission based. Perhaps receiving proper advice is not that important in the eyes of the regulator. But without DSCs, the ultimate beneficiary is certainly not the public investors. It will only be the banks. What the regulator is doing right now is assisting the banks to become more monopolized in the investment field by eradicating the main competitor, the independent brokers.

Some might argue banks are better because there is less conflict of interest; there are less upfront commissions because most banks' employees are paid salary. However, does the regulator know that typical employees get bonuses and also quotas to meet in order to stay in a particular position? That's a conflict of interest that is not properly disclosed. However, I don't think the regulator did not really go after the banks on that. Do the regulators know in addition to the above, a typical employee gets assigned so many accounts that the bank representative cannot possibly make any fund switch for the average customer? Smaller accounts often get little or no service. The role at the bank will always be a sales role, not an investment advisory role. Is this truly acting in the best interest of the Canadian public? I do not know if CSA studied the number of fund switches performed on average per account in the bank channel vs the broker channel or the length of funds stayed invested in the account. A lot of my clients came from the bank channel because they are underserved or not serviced at all. The customer has not engaged with the bank anymore since the initial sale of the investment funds took place.

Since the launch of CRM2, I can see point 2 greatly improved. I do not have much comment on that point.

In terms of point 3: embedded commissions paid generally do not align with the services provided to investors. I cannot agree or disagree because what constitutes fair is different from different points of view. A server at a restaurant that does not provide much service gets tipped anywhere from 10-20% based on item cost (sometimes even if it tastes awful) happens

on a daily basis and yet no government is stepping in to stop this arrangement because most people think it is ok. Here we have a scenario where we provide recommendations, run the risk of being sued and have a fiduciary duty to the clients we serve who get criticized by being compensated unfairly. If I recall correctly, the gross upfront commission paid on DSC is around 5%. Registered representative/agent needs to get proper licensing, liability insurance with continued education requirements and among other administrative set up. I have difficulty determining fair compensation here.

In page 4 of the 2012 CSA consultation paper, it stated embedded commissions lead to underperformance, drive up retail prices for investment products and encourage dealers or representatives to sell high commission products only. These happened due to insufficient/improper disclosure and certainly lack of education. The thing is, I can argue otherwise and I will pick on the bank again because they mostly promote no-load investment funds and bank representatives are mostly compensated based on salary although I mentioned bonuses. Without DSC, and the upfront commission, there is insufficient data to suggest it will lead to overperformance, retail prices for investment being normalized or a more suitable investment product is offered.

In fact, I can confirm I went to the bank a couple of times where the bank representative is reluctant to sell growth funds because of risk issues. In other scenarios, the growth-oriented platform is limited to certain channels only (not available at branch level). It is common for the bank representative to promote products that has low risk in nature despite suitability. The reason is simple, it is the bank's nature to avoid complaints. The lower the risk, the less chance for losses and the less probability for complaints. However, is the customer served properly?

Perhaps I am getting too far from the topic. I wanted to go back to the discussion paper on Sep 2022. The purpose of the 3 points:

- Compensation arrangements in segregated funds and IVICs, and what other changes to Upfront Compensation may be needed, including understanding the impacts of a complete ban of Upfront Commissions or other measures that could be taken to improve Customer outcomes;
- Potential impacts for Customers, Intermediaries, and Insurers, including whether compensation models can align the interests of Insurers, Intermediaries and Customers so Customers' insurance needs are met and the Customer receives the ongoing service they need throughout the life of the product; and
- What would be a reasonable period of time for the industry to adapt to any changes.

Although Segregated Funds and IVICs are similar to mutual funds in many aspects, the representative who can actually sell the product is very different. Mutual funds can be sold in the bank, as well as through mutual fund dealers that are outside of the bank channel (independent broker). Insurance agents, typically are in the broker channel (licensed through MGA) and not through banks directly. Therefore, the ban of upfront commission, without much doubt definitely would push a lot of insurance agents to stop offering segregated funds and IVICs products. There would be different parties at loss; decreased sales/revenue for insurance companies/investment companies, leading to economic underperformance. The decreased income for the insurance agent because there will be one less revenue stream for them. The general public would suffer from the loss of protection that segregated funds and

IVCs could bring to them. In the long run, nobody will enter the industry as an insurance agent, as segregated funds and IVICs will slowly become obsolete due to decrease in sales. I should point out here that the insurance industry is shrinking dramatically. The average age is high with little or no new agent entering because of the no DSC and no upfront commission. I am lucky that I entered the industry earlier but I am deeply concerned about how a new agent can survive without embedded commission. The regulator needs to look after the fact that the insurance field basically is dying.

It also needs to understand it has dire consequences with the independent channel slowly vanishing from the marketplace. Without proper guidance, there possibly will be an inflow of money to other areas such as passive investments: cryptocurrencies, ETFs or self-direct platforms like stock trading. A lot of Canadian investors will not be able to meet their financial goal due to the lack of advice they are getting and this means they will have more financial burden down the road which ultimately make the country progress slower than expected.

I often have this question in my mind: What is the number of DSC plans or policies sold in Canada and the number of complaints/victims among the pool of DSC plans sold? Is the actual percentage very high?

At the end of the day, its about maintaining the balance. I understand no matter what I say, it will not change the banning of DSC/upfront commission tide. I already see that the Canadian investing space is shrinking. It is no longer attractive because investors are being pushed to the banks where no continued service will be provided. This is how we say the rich get richer and the poor get poorer. This is exactly how monopolies are created. We all need to carefully assess the pros and cons of DSCs here. We have a saying in Chinese, “to sever one’s toes to avoid having them being bitten by worms.” I can see our toes are slowly being chopped off but I cannot concur we will not be bitten by the worms. Below is an article published by CFA Institute in 2019. It talks about the banning of upfront commission and I believe it is good material for the regulator to consider. I will also try to attach to the email. Thanks for your time.

<https://www.cfainstitute.org/-/media/documents/article/position-paper/sales-inducements-in-asia-pacific.pdf>

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All Mutual funds and approved OM securities are sold through Portfolio Strategies Corporation, all other products and services are provided through Plantax Pacific Financial Inc.

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Hugh Moncrieff
Executive Vice-President, Advisory Network &
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Canadian Council of Insurance Regulators
Canadian Insurance Services Regulatory Organizations

Via email: ccir-ccra@fsrao.ca

November 7, 2022

RE: Discussion Paper on Upfront Compensation in Segregated Funds

Thank you for the opportunity to comment on your *Discussion Paper on Upfront Compensation in Segregated Funds* (the Discussion Paper).

Canada Life is a leading insurance, wealth management and benefits provider focused on improving the financial, physical and mental well-being of Canadians. For more than 175 years, individuals, families and business owners across Canada have trusted us to provide sound guidance and deliver on the promises we've made. In 2021, we employed more than 11,000 Canadians, paying \$2.9 billion in salaries, commissions and taxes. In the same year, \$8.9 billion in benefits were paid to our customers. We proudly serve more than 13 million customer relationships from coast to coast to coast.

Distinction in Segregated Funds and Mutual Funds Require Different Regulatory Treatment

The Discussion Paper describes the process of research and consultation followed by the Canadian Securities Administrators (CSA) in advance of the prohibition on investment fund companies paying upfront sales commissions to mutual fund dealers as of June 1, 2022. While we agree that mutual fund and segregated fund investors are entitled to similar levels of investor protection, material differences between the products and how they are distributed should be recognized.

Segregated funds are a life insurance product and are by definition long-term investments. A segregated funds holder who desires to redeem their fund during the chargeback period may have been sold the wrong product regardless of how their advisor was compensated. The CCIR's Fair Treatment of Customers Guidance and upcoming Incentive Management Guidance require controls to minimize the probability of such inappropriate sales.

While there is some variation among segregated fund products, there is a much wider universe of mutual funds available to Canadian investors, numbering in the thousands. Many of these are suitable for and designed for customers with short or medium-term investment horizons.

The Detrimental Impact of an Upfront Commission Ban on Younger and Middle-Income Canadians

Segregated funds are almost exclusively accessed through an advisor. Mutual funds on the other hand are more widely available, online and in retail branches of financial institutions. Therefore, to a much greater extent than the ban on upfront commissions on mutual funds, the banning of upfront commission would likely have a greater impact on the ability of Canadians to access segregated funds. Those most impacted by a ban could be those with modest savings and younger Canadians. For instance, Canada Life customers who have a high proportion (more than 75%) of their assets in segregated funds sold under the chargeback option, are five years younger on average than those with a lower proportion in chargeback and tend to have smaller account balances.

Canadians need access to advice and counsel. High-net worth clients will find a way to get advice and will pay for it. The average Canadian who is just starting their financial planning journey does not have the same resources. Allowing advisors to use the chargeback option provides investors with fewer assets access to advisors and advice under an economic model that is sustainable for both consumer and advisor.

Potential Consumer Harms

The Discussion Paper acknowledges that there are other life insurance products with higher upfront commissions than segregated funds, but that the upcoming Incentive Management Guidance will help reduce unsuitable sales in those other products. It is difficult to see why the Incentive Management Guideline would be sufficient for these other insurance products but lacking in the case of segregated funds. Concerns about arbitrage with mutual funds assumes segregated funds to be interchangeable with the securities product. This is not always the case; the guarantee, estate planning and creditor protection aspects associated with a segregated fund makes it a more suitable product for some consumers. Arbitrage concerns also assume that all advisors are dual licenced, mutual funds and insurance; many are, many are not. While both segregated funds and mutual funds are undoubtedly considered for recommendation to a client by a dual licenced advisor from time-to-time, this is not exclusively the case.

The Discussion Paper notes that, “mutual fund and segregated fund Fund Facts documents include different information relating to upfront commission rates and may make it more difficult for investors to compare the products.” Canada Life discloses the existence of an upfront commission and the potential for a chargeback in its Fund Facts. Many peer companies provide similar disclosure, but practices are inconsistent across the industry. Requiring such disclosure, in Fund Facts and/or client statements could be an appropriate regulatory response. There are two ongoing regulatory initiatives, the joint CCIR-CSA initiative on total cost disclosure, and the project to modernize Canadian Life and Health Insurance Association (CLHIA) Guideline G-2, that could be appropriate avenues to address this concern.

The Discussion Paper states that, “Upfront Compensation may incentivize an Intermediary to sell an IVIC even where a Customer does not have a need for an IVIC” and “may influence an Intermediary to recommend a Customer buy a new IVIC to replace a pre- existing IVIC which already satisfies the Customer’s long-term needs.” The concern that upfront commissions may incent the sale of a product the customer does not need is not unique to segregated funds. Again, if the Incentive Management Guidance is sufficient to address these concerns for other life insurance products, we do not see that a case has been made that segregated funds require differential treatment. Canada Life has been using an advisor chargeback compensation model as an option on segregated funds since 2019. In that time, we have received zero complaints on these sales.

The sale of a product to replace an existing product, commonly referred to as churn, is a concern across the life and health industry with no evidence segregated funds are any more susceptible. We would also point out that within an IVIC a client can change their exposure to a different basket of investments without redeeming and reinvesting and consequently triggering a chargeback. This reduces the need to sell out of a segregated fund if investment needs change.

The Discussion Paper goes on to state that, “An intermediary may benefit financially if the customer stays invested to the end of the chargeback period, even if staying invested is not aligned with the Customer’s Interests.” We submit that the existence of a potential chargeback in fact aligns an advisor’s interests with their clients’. Advisors will want to be confident that the investment horizon is beyond the chargeback period, otherwise the Advisor risks a financial loss. It is incorrect to think that advisors sell the product cavalierly with little regard for suitability or horizon, to do so is not in their interest and would see them doing considerable upfront work for no compensation net of amounts charged back. In practice, at Canada Life the average holding period for an IVIC is seven years compared with five years for a mutual fund, this is consistent with industry-wide experience as documented by the Canadian Life and Health Insurance Association (CLHIA). This is beyond the typical chargeback period in the industry.

While every investor’s circumstances will be different, and there will be situations where early redemption is appropriate, for most investors most of the time, remaining invested is the best advice and most beneficial to their long-term interest. The guarantee features of segregated funds make this even more so the case than with other investments.

Importance of Insurance Distribution Structures

Perhaps the most significant structural difference in insurance and mutual fund distribution is related to the mutual fund single dealer model. The single dealer model allows Mutual Fund Dealer Association dealers to open nominee accounts holding all of a client’s assets thus facilitating fee-based accounts. These accounts became more common when up-front commissions were banned on mutual funds. With no equivalent dealer model, it will be more difficult to implement fee-based segregated funds in the insurance sector.

There is an important acknowledgement on page 11 of the Discussion Paper that highlights another aspect of this key distinction in mutual fund and segregated funds distribution channels: “The ability to contract with multiple Insurers and Intermediaries creates oversight difficulties for Insurers or, in some cases, Intermediaries responsible for supervising Licensed Individuals. The Insurer or Intermediary may only be able to review and address the conflicts of interest resulting from the compensation arrangements of some of the products a Licensed Individual can sell. This appears to leave a potential FTC gap, as Insurers and Intermediaries overseeing Licensed Individuals may not know what IVICs the Licensed Individual could have sold to the Customer at the time of sale nor whether a product’s upfront compensation influenced the sale.”

We agree with this sentiment and note that this reality impacts many aspects of oversight and FTC beyond the sale of segregated funds with upfront commissions. We encourage regulators to think seriously about this issue as in the absence of regulatory action, full realization of fair treatment of customers goals may be compromised. The release of the *CCIR Cooperative MGA-focused thematic review – Consolidated observations report* on September 28, 2022, provides an opportunity to consider regulatory approaches to this challenge.

Alternatives To A Ban On Upfront Commissions

For the reasons stated above, we remain of the view that a total ban on upfront commission in segregated funds is unnecessary. Given the differences between mutual funds and segregated funds, both in their features and channels of distribution, and the inherent nature of a segregated fund as an insurance product, we do not feel that a sufficient case had been made that the compensation model should align with the securities sector in preference to that of the insurance sector.

However, we appreciate the opportunity provided in the Discussion Paper to offer alternative approaches to meeting the regulatory concerns expressed. Elements of an alternative approach could include:

- A maximum chargeback schedule: A three-year limit could be reasonable. This mirrors Ontario’s proposed rule 81-502, *Restrictions on the use of the Deferred Sales Charge Option for Mutual Funds*.
- Greater transparency: Add information about the existence of a chargeback and the chargeback schedule to Fund Facts and client statements.

We feel that these measures would address the regulatory concerns expressed while preserving the chargeback option that makes it possible for certain Canadians to access advice and segregated funds.

Thank you once again for this opportunity to participate in this important discussion. We would be happy to discuss any of the matters raised herein.



Sincerely,

A handwritten signature in black ink that reads "Hugh Moncrieff". The signature is written in a cursive style with a large, prominent "H" and "M".

Hugh Moncrieff
Executive Vice-President, Advisory Network and Industry Affairs



November 1, 2022

Canadian Council of Insurance Regulators
CCIR Secretariat
5160 Yonge Street, 16th Floor
North York, Ontario
M2N 6L9

Sent via e-mail to: ccir-ccra@fsrao.ca

RE: CCIR & CISRO Discussion Paper on Upfront Compensation in Segregated Funds

Dear Mesdames / Sirs:

HUB thanks the Canadian Council of Insurance Regulators (CCIR) and the Canadian Insurance Services Regulatory Organizations ("CISRO") for the opportunity to participate and respond to its discussion paper on upfront compensation in segregated funds. It is important we take steps to review and make sure compensation structures are reasonable, reduce financial harm to consumers but remain appropriate and in line with the industry needs of today.

HUB Financial Inc. ('HUB') is one of Canada's largest MGAs, with offices across the country and licensed in all jurisdictions, which assists the majority of Canadian Insurers in the distribution of life insurance products, including segregated funds. HUB represents approximately 3,500 active independent brokers and Agencies ('Intermediaries') across Canada. Our brokers are independent licensees operating in their local communities and others on a larger scale, whose Agencies are licensed in multiple jurisdictions with a larger number of employed licensees and administrative support systems. Regardless of size or length of time in the industry, each has a place in the distribution of insurance products. As such, HUB's response is representative of a large constituency of the insurance industry.

Insurance Intermediaries play an important role in helping Canadians put appropriate insurance and financial products in place to protect their assets and families. Like any other business or person who assists a consumer in acquiring new products or services, it should be reasonable to conclude intermediaries are appropriately compensated for the services they provide and does not necessarily represent a detriment to FTC outcomes. As is the case with any business or industry, compensation needs to be fair and adequate to ensure the interest of new Intermediaries to this industry and to facilitate the on-going advice and service to Canadian consumers.

The CCIR and CISRO are of the view that there is a high risk of poor consumer outcomes associated with DSCs in segregated fund sales and this form of sales charge is not consistent with treating customers fairly. This discussion paper also contemplates all upfront compensation models represent similar risks to consumers and seeks a better alignment of compensation arrangements for segregated fund products with



FTC principles. CCIR and CISRO concerns include the potential for conflicts of interest, lack of disclosure and resulting consumer understanding as well as the alignment in consumer costs and services received. HUB is concerned that an industry immediate shift to banning all upfront commission models may not alleviate the FTC concerns outlined in CCIR's paper. Instead of immediately moving to ban all upfront compensation, simply to be in line with recent CSA actions where benefits or detriments have yet to be verified and quantified for customers, it may be worth observing for a period of time to ensure positive customer outcomes are recognized.

HUB is supportive of a regulatory approach which balances access to quality, affordable advice and ongoing service; enhancing consumer awareness, understanding and control of Intermediary compensation; while reducing the risk of mis-selling segregated funds due to compensation rather than product features and performance. In considering outcomes to achieve these goals, it is important to avoid negative impact to consumer diversity in access to advice and services as well as the potential harmful economic impact to those entities involved with the distribution of product and service to consumers.

HUB agrees potential risk of unfair outcomes to customers exist where DSC fund options are inappropriately sold. However, upfront compensation options allow for compensation to the Intermediaries for the services provided to consumers who are interested in the product for long-term planning and cannot afford the immediate outlay of funds associated with Front-End Load or Fee For Service options.

The Chargeback compensation model is familiar to the insurance industry and is consistent with how Intermediaries are compensated for the sale of other life insurance products. Consumers would experience no financial impact upon redeeming all or a portion of their investment. The intermediaries would be compensated upfront for the long-term planning and explanation of the Segregated Fund contract, guarantees, lifetime income structure and any other features which make it a more complex product than traditional Mutual Funds.

Should there be a ban on all upfront compensation, this may result in Intermediaries charging a flat fee to cover the cost of their services. For the average consumer, this may not be affordable, making it necessary for them to elect options which do not provide advice, or not invest in their future retirement savings at all. In addition, upfront fees to the consumer means consumer buying potential is not fully realized from day one and compounding growth is impacted. We need to ensure Canadian consumers have access to the advice they need regardless of their net worth or investable assets.

Perhaps, in conjunction with significant improvements in disclosure of the fee options available and selected at time of sale, consistent upfront fee models could be considered that allow for upfront compensation.

- Point of sale applications and disclosures could be improved upon to assist consumer understanding and acknowledgement of associated compensation and redemption fees.
- Mandatory distribution between upfront compensation and no-load options could be implemented to allow for prudent access to funds with no costs to consumers.
- Reduced sales charge time frames could be implemented with reduced upfront compensation paid in line with existing Low Load options which exist in the market today.
- Insurers would have the same compensation and time models associated with their chargeback options.



As described earlier, HUB believes Intermediaries must be compensated to perform the upfront work required to assess customer objectives and explain the features, guarantees, and benefits of segregated fund options to consumers. Without the compensation “incentive” for Intermediaries to complete the work, many Canadians may not have benefited from the advice provided and financial protection and guarantees awarded by segregated funds. It is also important to note that Intermediaries, like all other businesses, have expenses associated with the just being in business; administrative support, record keeping, technology, privacy and cyber security costs. Removal of all forms of upfront compensation would have significant impact to the cost of doing business and drive many to close up shop.

Insurer payment of upfront compensation does incentivize the Intermediary to provide service and advice to Customers at point of sale but does not necessarily adequately compensate the Intermediary to provide the on-going service which customers are entitled to and is described in FTC principles. There would definitely be an up-side to consumer outcomes should the compensation model provide for reasonable compensation for both point of sale and the on-going services required by customers.

With respect to Insurer payment of compensation, this model should be consistent across all Insurers and segregated fund products. Insurers should not incentivize their contracted Intermediaries to sell their funds over another Insurer simply based on a higher compensation rate rather than offering those funds that represent a more suitable investment option for the customer need or risk appetite.

This is a good opportunity for the industry to review segregated fund compensation, consumer education and awareness along with the full cost disclosure efforts as a whole to ensure both sales and service compensation is reasonable for the work involved in the sale and servicing of segregated fund products. This work could result in prudent and fair guidance for developing reasonable compensation, when it is paid, managing associated risks and consumer outcomes.

HUB Financial Inc. is committed to improve upon the insurance distribution network and the resulting customer experience and outcomes. HUB welcomes the opportunity to participate in this process.

Yours truly,

HUB Financial Inc.

A handwritten signature in black ink, appearing to read "A. Fink".

Andrew Fink
President

HUB Capital Inc.

A handwritten signature in black ink, appearing to read "Aly Damji".

Aly Damji
President



Québec, November 7, 2022

Robert Bradley
Chair
Canadian Council of Insurance Regulators
25 Sheppard Avenue West
Box 21 - Suite 100
Toronto, ON M2N 6S6

Sent by email to: ccir-ccrra@fsrao.ca

Dear Mr Bradley,

On behalf of iA Financial Group, please find below our feedback in response to the CCIR/CISRO Discussion Paper on Upfront Compensation in Segregated Funds.

First and foremost, we would like to express our support for and alignment with the response submitted by the Canadian Life & Health Insurance Association (CLHIA) in the context of this consultation.

Similarly to our industry peers, we firmly believe in the importance of the advisor chargeback's sales charge option to ensure segregated fund product access in the mass market. The next pages present our reasoning supporting this position.

About iA Financial Group

iA Financial Group is headquartered in Quebec City and is one of the largest insurance and wealth management groups in Canada, with operations in the United States. Founded in 1892, it is listed on the Toronto Stock Exchange and has a market capitalization of \$7.8 Billion. Today, we serve over 4 million clients and are supported by more than 8,600 employees in Quebec and across North America, as well as 50,000 representatives across our distribution network.

At iA Financial Group, customer experience and fair treatment is a fundamental pillar of our business and we strive to give customers peace of mind with respect to their financial future. We will continue to work with the industry and regulators to help advance the interests of our customers and we welcome the opportunity that this consultation provides us to do so.

iA Financial Group Submission Overview

Our submission focuses on our own observations as industry leaders in the segregated fund market, not just in Quebec but throughout Canada. More specifically our experience of 25 years with the advisor chargeback sales charge option within our segregated fund products favours the importance of preserving this option.

Segregated fund products provide critical support and important benefits to consumers seeking lower risk, long-term investments with strong guarantees. We strongly believe that maintaining the upfront



commissions with advisor chargeback option is essential to ensuring that we can continue to meet the needs of the hundreds of thousands of Canadian families who benefit from these products and rely on them as part of their long-term financial and estate plans.

iA Financial Group experience with segregated funds in Canada

As of December 2021, iA manages over 750,000 segregated fund contracts across Canada, valued at over \$24 billion. Within iA's Pan-Canadian distribution network, our dedicated distribution network serves families through 56 agencies established across the province of Quebec. Over 2,400 financial advisors in the iA network have sold our segregated funds in 2021. Our statistics show that 55% of segregated fund assets are invested through the advisor chargeback sales charge option. In short, a large proportion of our clients have experienced the purchase of segregated funds through this sales charge option.

In 2021, 48% of our segregated fund clients had less than \$10,000 invested, with an average account value per contract of \$3,600 per contract and 93% had less than \$100,000. This is in stark contrast to mutual funds, which have a much richer scope.

The table below further demonstrates the lower average account value of iA segregated fund contracts versus mutual funds.

Type of Product	Average Account Value
2021 iA Segregated Funds (Quebec)	\$28,000
2021 iA Segregated Funds (Canada)	\$34,000
MFDA, Mutual Funds (Canada) ¹	\$75,000
Licensed Advisors (other than big 6 banks) ²	\$124,000
Licensed Advisors (big 6 banks) ²	\$334,000

¹ MFDA - Client research report 2020 from MFDA

² Investor Economics - Retail brokerage and distribution report – Canada (Fall 2021)

The iA experience and the data in the table above illustrate the unique role that segregated funds play in the financial plans and security of Canadian mass market households (i.e., families with an asset threshold from \$0 to \$100,000). They provide Canadian households in the mass market with longer term investment options, various levels of guarantees and registration types, and potential creditor protection. Significantly, segregated fund products are only available on the product shelf of insurance product distributors. Insurance advisors play a critical role within these distribution channels to give consumers important access and advice that they would not otherwise have through the banks or other types of advisors.



The greatest strength of the current system is the balance it achieves: It provides an appropriate level of compensation to advisors while ensuring that consumers continue to have access to investment options, advice and service even when they do not have much to invest. Any potential regulatory measures that would alter this current equilibrium should be carefully considered because they could result in unintended impacts for consumers and the distribution networks that serve them. We elaborate on these in the next section.

Impact of a potential total ban of upfront commissions with advisor chargeback

We are concerned that the potential ban on upfront commissions will have an unfavourable downstream impact on many families by creating a gap in access to savings products and services available in the mass market that only insurance advisors are providing. As shown above, mutual fund distribution networks do not serve this specific market and banks or other financial institutions will not fill this gap. The reasoning behind these concerns, based on our experience with segregated fund products, is as follows:

- As outlined in the CLHIA submission, unlike mutual funds, segregated funds are insurance products that require comprehensive advice to clients. As a result they should be treated differently by regulators. The complexity and guarantee features of these products as well as compliance activities require insurance advisors to spend more time with customers at the point-of-sale compared to other financial products like mutual funds and ETFs. The compensation structure of the advisor chargeback sales charge serves to appropriately recognize this important role that advisors play in the early stages.
- Insurance financial advisors also perform a key role supporting the mass market as they provide financial education, encourage clients to start saving, help them build a financial plan and understand their savings objectives over the long run.
- If there is a ban on the advisor chargeback sales charge option, we believe there will be an immediate impact on the capacity of both independent and dedicated distribution channels to hire and retain new advisors from diverse backgrounds in the segregated fund space. Since these advisors are generally younger, and often must build their business from scratch, it will be more difficult for them to generate sufficient income to stay in the business. Younger advisors tend to serve their natural market which represents younger Canadians. Helping these younger Canadians to have a financial plan and start saving early is essential to improve their financial health. In other words, insurers will lose a tool to support careers in the business and consumers will lose reliable access to advisory services and segregated funds because there will be fewer advisors in this market.
- Our dedicated distribution channel statistics demonstrate that advisors with less than 2 years of experience make on average between \$40,000 and \$41,000 annually, with a substantial source of income stemming from savings products. A ban on advisor chargeback sales charge option will reduce their savings product compensation by 75%. Assuming they will serve the same clientele



following a ban, their average annual compensation will drop to \$30,000. Furthermore, our data shows that a new onboarded advisor who doesn't generate \$40,000 in income annually will leave the industry within the first two years. If they stay, we could very well see these advisors choosing to only take-on and service clients who meet minimum investment thresholds.

- A ban of the advisor chargeback sales charge option would effectively leave only two sales charge options available for consumers: the front-end load (FEL) and fee-based sales charge options. There is a risk that to obtain sufficient compensation to adequately serve mass market clients, advisors will either decline to serve these clients or negotiate higher fees as allowed by these two options. For the FEL option, as soon as fees are negotiated, other than FEL Zero, consumers will suffer investment performances that are lower than what could have been obtained by using the advisor chargeback sales charge option. For the fee-based option, if the negotiated fee rate exceeds 1% there is strong a chance that consumers would experience the same less-favourable outcome.

According to Investor Economics (Investor Economics Household Balance Sheet 2021 report) over three in four Canadian households have on average \$15,000 worth of assets to put in investments. We urge the CCIR to carefully consider these families and how their access to segregated funds and segregated fund advisors may be impacted in the event of a ban of the advisor chargeback sales charge option.

Fair treatment of customers: Potential conflict of interest

The Discussion Paper makes several statements to the effect that there are conflict of interest risks inherent in the advisor chargeback sales charge option. We support the CLHIA position that there is no strong evidence of the prevalence of such risks. As an example, the Discussion Paper makes the point that an advisor can influence a client's decision to withdraw their funds when advisor chargebacks apply. Our experience demonstrates that withdrawal rates during the advisor chargeback period is greater or equal to that of all sales charge options combined. Moreover, our experience shows no significant spikes in withdrawal rates after the advisor chargeback schedule expires.

Moreover, any theoretical inherent risk that an advisor might dissuade a client from making a redemption is not unique to the advisor chargeback sales charge option. Using the same reasoning it could be argued that the FEL and fee-based options also present this same risk because they are based on the market value of the client account. In both cases withdrawals would reduce an advisor's service commission. However, unlike the FEL and fee-based option, there is a much more limited period of time – the chargeback period – when this theoretical risk could materialize in the advisor chargeback sales charge option.

Ultimately, we do not believe that the advisor chargeback sales charge option creates any greater conflict risks and we agree with the CLHIA that any concern of conflicted advice can be mitigated by monitoring redemptions after the chargeback schedule expires.



Alternative measures & controls

While we strongly believe in the current compensation model in segregated funds, we welcome the opportunity to discuss ways to improve the customer experience and outcomes.

If the regulators decide to move ahead with a reduction in the chargeback period, we would support a reduction to 3 years as noted in the CLHIA response.

Although compensation disclosure is always included in the Fund Facts and Information Folder provided to customers, we think there may be an opportunity to structure the information so that the type of sales charge option attached to investments becomes clearer for the customers. In other words, making sure that the explanations are presented in clear, plain language will go a long way towards improving customer outcomes. There may also be an opportunity to ensure the advisor verbally explains the meaning of the advisor chargeback sales charge option at point of sale.

Conclusion

Our experience with sales charge options in segregated funds demonstrates that upfront commissions with advisor chargebacks provide an appropriate level of compensation to advisors selling segregated fund products, allowing them to provide the necessary advice to the consumers who need it most.

A ban on upfront commissions would have a negative downstream impact for both insurance advisors and, most significantly, the Canadian mass market family. Facing substantially reduced compensation in their early years, insurance advisors will be harder to recruit and retain. This in turn will create a gap in consumer access to segregated funds. Ultimately, Canadian households will have fewer options for their savings and for getting the financial advice and service they need.

Working to improve customer outcomes is critical and regulatory efforts should focus on a reduced chargeback period and point of sale disclosure adjustments which would strengthen the fair treatment of customers.

Thank you for the opportunity to comment on the content of the Discussion Paper. Please do not hesitate to contact us if you have any additional questions regarding this document.

A handwritten signature in black ink, appearing to read 'Renée Laflamme', written in a cursive style.

Renée Laflamme
Executive Vice president, Individual Insurance, Savings and Retirement
Industrial Alliance Insurance and Financial Services Inc.



Québec, le 7 novembre 2022

Robert Bradley
Président
Conseil canadien des responsables de la réglementation d'assurance
25, avenue Sheppard Ouest
Boîte 21 - Suite 100
Toronto, ON M2N 6S6

Envoyé par courriel à : ccir-ccrra@fsrao.ca

Cher Monsieur Bradley,

Au nom de iA Groupe financier, veuillez trouver ci-dessous nos commentaires en réponse au document de discussion sur la rémunération prélevée à la souscription de contrats de fonds distincts publié par le CCRRA et l'OCRA.

Avant toute chose, nous tenons à exprimer notre soutien ainsi que notre alignement avec la réponse soumise par l'Association canadienne des compagnies d'assurances de personnes (ACCAP) dans le cadre de cette consultation.

À l'instar de nos pairs de l'industrie, nous croyons fermement à l'importance de l'option de frais d'acquisition avec rétrofacturation du conseiller pour assurer l'accès aux produits de fonds distincts dans le marché de masse. Les pages suivantes présentent notre raisonnement en appui de cette position.

À propos de iA Groupe financier

iA Groupe financier, dont le siège social est situé dans la ville de Québec, est un groupement de sociétés d'assurance et de gestion de patrimoine des plus importants au Canada. Il mène aussi des activités aux États-Unis. Fondé en 1892, ses titres sont inscrits à la Bourse de Toronto et sa capitalisation boursière s'élève à 7,8 milliards de dollars. Aujourd'hui, nous servons plus de 4 millions de clients grâce à la contribution de nos quelques 8 600 employés au Québec et en Amérique du Nord ainsi qu'à notre vaste réseau de distribution comptant plus de 50 000 représentants.

Chez iA Groupe financier, l'expérience client et le traitement équitable des consommateurs forment un des piliers fondamentaux sur lesquels s'appuient nos activités. Nous aspirons à ce que nos clients se sentent en confiance et sécurisés par rapport à leur avenir financier. Ainsi, nous vous remercions de l'opportunité que nous offre cette consultation de collaborer avec l'industrie et les autorités réglementaires pour faire avancer les intérêts de nos consommateurs.

Aperçu du mémoire d'iA Groupe financier

Notre mémoire est basé sur nos propres observations à titre de chef de file de l'industrie du marché des fonds distincts, non seulement au Québec mais partout au Canada. Plus précisément, l'expérience que

nous avons acquise pendant 25 ans avec l'option de frais d'acquisition avec rétrofacturation du conseiller dans nos produits de fonds distincts pointe vers l'importance du maintien de cette option.

Les produits de fonds distincts offrent un soutien essentiel et des avantages importants aux consommateurs qui recherchent des placements à faible risque, axés sur le long terme et assortis de solides garanties. Nous croyons fermement que le maintien des commissions initiales assorties de rétrofacturation du conseiller est essentiel afin de continuer à répondre aux besoins des centaines de milliers de familles canadiennes. Ce modèle leur permet de bénéficier de ces produits et de s'appuyer sur ces derniers pour leur planification financière et successorale.

Expérience de iA Groupe financier en matière de fonds distincts au Canada

En décembre 2021, iA gérait plus de 750 000 contrats de fonds distincts au Canada, évalués à plus de 24 milliards de dollars. Au sein du vaste réseau de distribution pancanadien de iA, notre réseau dédié desservait les familles québécoises par l'intermédiaire de 56 agences réparties dans les différentes régions de la province de Québec. Plus de 2 400 conseillers financiers du réseau dédié iA ont vendu de nos fonds distincts en 2021. Nos statistiques démontrent que 55 % de l'actif investi dans les fonds distincts l'est par l'entremise de l'option de rétrofacturation du conseiller. En bref, une grande partie de nos clients ont fait l'expérience de l'achat de fonds distincts par le biais de cette option de rémunération.

En 2021, 48 % de nos clients de fonds distincts avaient un investissement de moins de 10 000 \$, avec une valeur moyenne de 3 600 \$ par contrat, et 93 % de nos clients avaient un investissement de moins de 100 000 \$. Le contraste est frappant avec les fonds communs de placement, qui ont une portée beaucoup plus étendue.

Le tableau ci-dessous illustre que la valeur moyenne des contrats de fonds distincts de iA est en effet inférieure à celle des fonds communs de placement.

Type de produit	Valeur moyenne du compte
2021 iA Fonds distincts (Québec)	28 000 \$
2021 iA Fonds distincts (Canada)	34 000 \$
MFDA, Fonds communs de placement (Canada) ¹	75 000 \$
Représentants autorisé (autres que les 6 grandes banques) ²	124 000 \$
Représentants autorisés (6 grandes banques) ²	334 000 \$

¹ MFDA - Client research report 2020 from MFDA

² Investor Economics - Retail brokerage and distribution report – Canada (Fall 2021)

L'expérience de iA et les données du tableau ci-dessus mettent en évidence le rôle unique que jouent les fonds distincts dans la planification financières et la sécurité des ménages canadiens du marché de masse (c'est-à-dire les familles dont l'actif se situe entre 0 et 100 000 \$). Ils offrent notamment aux ménages canadiens faisant partie du marché de masse des options de placement sécuritaires basées sur le long terme, plusieurs niveaux de garantie et types d'enregistrement, ainsi qu'une protection potentielle contre les créanciers.

Il est important de noter que les produits de fonds distincts, à la différence des fonds mutuels, ne sont disponibles qu'auprès des distributeurs de produits d'assurance. Les représentants en assurance jouent donc un rôle essentiel dans ces canaux de distribution en donnant aux consommateurs un accès important et des conseils qu'ils n'auraient pas autrement par l'intermédiaire des banques ou d'autres types de conseillers.

La plus grande force du système actuel est l'équilibre qu'il atteint : il fournit un niveau approprié de rémunération aux conseillers tout en assurant que les consommateurs aient accès à des options d'investissement, des conseils et des services de qualité même lorsqu'ils ont une capacité d'investissement limitée. Toute mesure réglementaire potentielle qui modifierait cet équilibre doit être examinée avec soin, car elle pourrait avoir des répercussions inattendues sur les consommateurs et les réseaux de distribution qui les desservent. Nous les détaillons dans la section suivante.

Impact d'une éventuelle interdiction totale des commissions initiales avec rétrofacturation du conseiller

Nous craignons que l'interdiction potentielle des commissions initiales avec rétrofacturation du conseiller ait un impact défavorable sur de nombreuses familles. Ultimement, une telle interdiction pourrait entraîner une diminution drastique de l'accès aux produits d'épargne et aux conseils disponibles sur le marché de masse que seuls les représentants en assurance fournissent. Comme il a été énoncé plus haut, les réseaux de distribution de fonds communs de placement ne desservent pas ce marché spécifique et les banques ou autres institutions financières ne combleront pas ce vide. Le raisonnement qui sous-tend ces préoccupations, fondé sur notre expérience des produits de fonds distincts, est le suivant :

- Tel que souligné dans le mémoire de l'ACCAP, contrairement aux fonds communs de placement, les fonds distincts sont des produits d'assurance qui nécessitent des conseils plus sophistiqués aux clients. Ils doivent nécessairement être considérés différemment par les autorités réglementaires. La complexité et les caractéristiques de garantie de ces produits ainsi que les activités de conformité exigent que les représentants en assurance passent plus de temps avec les clients lors de la vente de ces produits contrairement aux autres produits financiers tels que les fonds communs de placement et les Fonds négociés en bourse. La structure de rémunération de l'option de frais d'acquisition avec rétrofacturation du conseiller permet de reconnaître de façon appropriée l'importance du rôle que les conseillers jouent auprès des clients.
- Les représentants en assurance jouent un rôle clé dans le soutien du marché de masse, car ils dispensent une éducation financière, encouragent les clients à commencer à épargner, les aident à établir un plan financier et à comprendre leurs objectifs d'épargne à long terme.

- Nous croyons qu'une interdiction de l'option de rétrofacturation du conseiller aurait un impact immédiat sur la capacité des réseaux de distribution de fonds distincts, tant indépendants que spécialisés, à embaucher et à retenir de nouveaux conseillers, provenant de différents milieux. Comme ces conseillers sont généralement plus jeunes et qu'ils partent souvent de zéro, il leur serait plus difficile de générer un revenu suffisant pour qu'il soit viable pour eux de demeurer dans ce domaine. Les conseillers plus jeunes ont tendance à servir leur marché naturel que représente les jeunes Canadiens. Aider ces jeunes Canadiens à avoir un plan financier et à commencer à épargner tôt est essentiel pour améliorer leur santé financière. En d'autres termes, les assureurs perdraient un outil d'accompagnement de la relève et les consommateurs seraient privés d'un accès fiable aux services-conseils et aux fonds distincts parce qu'il y aura moins de conseillers dans ce marché.
- Les statistiques de notre réseau de distribution dédié démontrent que les conseillers ayant moins de 2 ans d'expérience gagnent en moyenne entre 40 000 et 41 000 \$ par an, avec une portion importante de leurs revenus provenant des produits d'épargne. Une interdiction de l'option de rétrofacturation du conseiller réduira de 75 % leur rémunération pour les produits d'épargne. En supposant qu'ils serviront la même clientèle après l'interdiction, leur rémunération annuelle moyenne chutera à 30 000 \$. En outre, nos données montrent qu'un nouveau conseiller qui ne génère pas 40 000 \$ de revenu annuel quittera le métier au cours des deux premières années. S'ils restent, ces conseillers pourraient ultérieurement décider de ne servir que les clients qui atteignent des seuils d'investissement minimums.
- L'interdiction de l'option de rétrofacturation du conseiller ne laisserait en fait que deux options de frais d'acquisition à la disposition des consommateurs : l'option des frais prélevés à l'acquisition et l'option de frais pour services rendus. Il y a un risque que, pour obtenir une rémunération suffisante pour servir adéquatement les clients du marché de masse, les conseillers refusent de servir ces clients ou négocient des frais plus élevés comme le permettent ces deux options. Pour l'option avec frais prélevés à l'acquisition, dès qu'un taux de frais supérieur à 0 % est négocié, les consommateurs obtiendront des performances d'investissement inférieures à celles qui auraient pu être obtenues en utilisant l'option de rétrofacturation du conseiller. Pour l'option avec frais pour services rendus, si le taux de frais négocié dépasse 1 %, il y a de fortes chances que les consommateurs obtiennent le même résultat défavorable.

Selon Investor Economics (rapport *Investor Economics Household Balance Sheet 2021*), plus de trois ménages canadiens sur quatre disposent en moyenne de 15 000 \$ d'actifs à placer. Nous demandons instamment au CRRRA de prendre en considération ces familles et la façon dont leur accès aux fonds distincts et aux services-conseils des représentants en fonds distincts pourraient être affectés en cas d'interdiction de l'option de rétrofacturation du conseiller.

Traitement équitable des clients : Conflit d'intérêt potentiel

Le document de discussion contient plusieurs énoncés au sujet du risque de conflit d'intérêts inhérent à l'option de rétrofacturation du conseiller. Nous appuyons la position de l'ACCAP selon laquelle il n'existe aucune preuve solide de la survenance de tels risques. À titre d'exemple, le document de discussion fait valoir qu'un conseiller pourrait influencer la décision d'un client de retirer ses fonds lorsque la rétrofacturation du conseiller s'applique. Or, notre expérience démontre plutôt que le taux de retrait pendant la période de rétrofacturation du conseiller est supérieur ou égal à celui de toutes les options de frais d'acquisition combinées. De plus, notre expérience ne démontre pas une augmentation significative dans les taux de retrait après la fin de la période de rétrofacturation du conseiller.

En outre, tout risque théorique inhérent au fait qu'un conseiller puisse dissuader un client d'effectuer un rachat n'est pas propre à l'option de frais d'acquisition avec rétrofacturation du conseiller. En utilisant le même raisonnement, on pourrait faire valoir que l'option de frais prélevés à l'acquisition et l'option de frais pour services rendus présentent également ce même risque parce qu'elles sont basées sur la valeur marchande du compte du client. Dans les deux cas, les retraits réduisent la commission de service du conseiller. Toutefois, contrairement à l'option de frais prélevés à l'acquisition et à l'option pour services rendus, il y a une période beaucoup plus limitée - la période de rétrofacturation - pendant laquelle ce risque théorique pourrait se matérialiser dans l'option de rétrofacturation du conseiller.

Pour ces raisons, nous croyons que l'option de rétrofacturation du conseiller ne crée pas de plus grands risques de conflit d'intérêts. Nous sommes en accord avec l'argument mis de l'avant par l'ACCAP à l'effet que toute préoccupation concernant l'influence potentielle de ce mode de rémunération sur les conseils prodigués peut être efficacement mitigée par la surveillance des rachats effectués après l'expiration de la période de rétrofacturation du conseiller.

Mesures et contrôles alternatifs

Bien que nous croyions fermement au modèle de rémunération actuel des fonds distincts, nous accueillons favorablement l'opportunité d'échanger au sujet de moyens d'améliorer l'expérience des clients et les résultats qu'ils obtiennent.

À cet égard, si les autorités réglementaires décident d'aller de l'avant avec une réduction de la période de rétrofacturation du conseiller, nous supporterions une période de trois (3) ans, tel que le mentionne l'ACCAP dans sa lettre de réponse.

Bien que l'information sur la rémunération soit toujours incluse dans l'Aperçu des fonds et la Notice explicative remis aux clients, nous pensons qu'il serait possible de structurer l'information de manière que le fonctionnement de chacune des options de frais d'acquisition attachés aux investissements soit plus clair pour les clients. En d'autres termes, s'assurer que les explications sont présentées dans un langage clair et simple contribuera grandement à améliorer les résultats pour les clients. Il pourrait également être possible de s'assurer que le conseiller explique verbalement au client le fonctionnement de l'option de rétrofacturation du conseiller au point de vente.

Conclusion

Notre expérience avec les options de frais d'acquisition dans les fonds distincts démontre que les commissions initiales assorties de rétrofacturation du conseiller constituent un niveau de rémunération approprié pour les conseillers qui vendent des produits de fonds distincts. Ce modèle leur permet de fournir les services -conseils nécessaires aux consommateurs qui en ont le plus besoin.

L'interdiction des commissions initiales avec rétrofacturation aurait ultimement un impact négatif tant pour les représentants en assurance que pour les familles canadiennes. Confrontés à une réduction substantielle de leur rémunération au cours de leurs premières années de travail, les représentants en assurance seront plus difficiles à recruter et à retenir. Cela créera un effritement de l'accès des consommateurs aux fonds distincts. Au terme de cet exercice, les ménages canadiens auront moins d'options pour leur épargne et pour obtenir les conseils et services financiers dont ils ont besoin.

Il est essentiel de travailler à l'amélioration des résultats pour les clients. Nous pensons que les efforts de réglementation devraient se concentrer sur une réduction de la période de rétrofacturation et sur des ajustements de la divulgation au point de vente qui renforceraient le traitement équitable des consommateurs.

Nous vous remercions de nous avoir donné l'occasion de commenter le contenu du document de discussion. N'hésitez pas à nous contacter si vous avez des questions supplémentaires concernant ce document.



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November 7, 2022

CCIR Secretariat
25 Sheppard St. W., Suite 100
Toronto ON M2N 6S6

Submitted by email: ccir-ccra@fsrao.ca

Dear Sirs/Mesdames:

Subject: Discussion Paper on Upfront Compensation in Segregated Funds

Independent Financial Brokers of Canada (IFB) appreciates the opportunity to comment on the *CCIR/CISRO Discussion Paper on Upfront Compensation in Segregated Funds* (Discussion paper).

About IFB

IFB is a national, not for profit association representing approximately 3,000+ licensed professionals across Canada. IFB members must agree to adhere to IFB's Code of Ethics and Standards of Professional Conduct¹, as an ongoing condition of membership.

IFB advocates for the value of professional, tailored financial advice from independent practitioners, that we believe should be accessible to consumers of all financial means. In support of these goals, IFB regularly engages with legislators, regulators, industry stakeholders and other interested stakeholders.

IFB members are self-employed individuals who typically own small to medium-sized financial practices in communities across Canada. Many have acquired additional licenses or accreditations to address the broader financial needs of today's client. These can include securities/investments (IIROC), mortgages, P&C insurance, deposit instruments, estate/tax services, and financial planning.

IFB members have typically spent 20+ years as an independent advisor. They tend to establish long-term relationships with clients (whether individuals, families, or businesses) spanning many years – even generations. Indeed, they often advocate on behalf of their clients to ensure the promises made by product manufacturers are fulfilled over the many years a client may own or be invested in a life insurance product. These local professionals offer an important, community-based alternative to the advisory services provided by larger retail financial institutions, and firms which are restricted to offering proprietary products.

General comments

Since 2016, IFB has actively participated in the various consultations regarding the distribution of segregated funds undertaken by the CCIR/CISRO and its Segregated Funds Working Group. We commend the CCIR/CISRO for its comprehensive review of the issues related to the distribution of IVICs and segregated funds to retail customers, as well as its ongoing discussions with various industry and consumer groups that have led to the development of this Discussion Paper.

¹ Independent Financial Brokers of Canada: <https://ifbc.ca/code-ethics/>



IFB was also actively involved in the consultations and discussion papers issued by the CSA, dating back to 2012, on the issue of discontinuing embedded commissions for mutual fund sales. In our responses then, as in this response, IFB seeks to balance the potential consumer protection issues, with the need to ensure that proposed regulatory changes do not inadvertently undermine choice or competition in the marketplace. Such a result is not a desirable outcome for consumers or for those who provide services to these consumers.

In our view, the overarching goal of this review by the CCIR/CISRO should be to consider what, if any, action is needed to align the desired consumer protection outcomes related to upfront compensation paid for sales of segregated funds and mutual funds, while recognizing that they are different investment products. In other words, is there a higher level of consumer protection afforded to consumers investing in mutual funds, as opposed to segregated funds.

Comments on the Discussion Paper

Research: In the development of this Discussion Paper, the CCIR/CISRO states that it conducted significant background research and provides links to this research in Appendix 2. IFB appreciates the depth of its review and the insights it provided. However, we note that much of the research has been conducted in international jurisdictions, some of which have implemented regulatory approaches that differ from Canada's.

The Canadian research cited in the Discussion Paper relies heavily on that conducted by the CSA in relation to mutual fund products. While there may be parallels at a high level, we wish to point to some fundamental market differences, the most of important of which is that the investment industry is dominated by bank-owned dealers, and proprietary mutual fund products.

Ontario's Task Force on Securities Modernization estimated that 80% of investment products are distributed through bank-owned shelf distributors. The Task Force indicated its concern that this limits investor choice largely to incentivized proprietary products and restricts access to independent product manufacturers. This was supported by the [MFDA Client Research Report](#) which found: *the majority of the distribution of investment products to investors is through bank-owned shelf distribution channels. Bank-owned shelf distribution channels are generally sold by deposit-takers and approximately 95 per cent of deposit-takers' mutual fund assets under administration are comprised of proprietary mutual funds.*

Conversely, the life insurance industry is characterized by independent sales distribution, which provides consumers with access to a wider choice of products (and providers), in a competitive environment.

IFB encourages the CCIR/CISRO to conduct empirical research specific to the sale of segregated funds to retail consumers, so it can be confident that any policy decisions support the reasons for aligning with mutual funds.

As you read through our response, you will find references to data we collected from IFB members on some of the questions posed in this Paper. While it represents only a small sample of views, we hope it will encourage insurance regulators to undertake broader research into the validity of some of the observations posited in this Paper.



Other guidance: Life insurance regulators have issued numerous policy positions, guidance documents and Principles, since 2016. Some have been adopted by various jurisdictions, while others are still in draft form. While IFB appreciates that the approach of these documents has been principles and risk based, we suggest that it may be opportune time for regulators to consider the impact of these proposals, before introducing more in the short time frame, the Paper is suggesting (page 13 – Comment Process and Next Steps).

As an example, we agree with the Discussion Paper’s observation that it expects the *Proposed Incentive Management Guidance* will set an important baseline for aligning insurance incentives with FTC principles. This Guidance has not yet been implemented, and IFB looks forward to reviewing the final guidance when available. This along with the discontinuance of the DSC sales option may well address many of the issues raised in the Discussion Paper. There have also been significant changes in the oversight of distribution of life insurance products in recent years, stemming from the FTC guidance, and focused on promoting equivalent consumer outcomes. Consumers of securities and life insurance investment products should expect to receive an equivalent standard of care, and we believe these policy documents have better aligned the securities industry’s Client Focused Reforms (CFRs), with those in the life insurance industry. **However, as these are new requirements, some of which are in transition periods, IFB suggests regulators should permit these to take hold.**

As a separate consideration, IFB encourages regulators to consider this in both the time provided to stakeholders to respond to these important consultations, and to those in the life insurance business, who must be informed, trained, and understand the changing expectations on them and their client relationships.

Targeted Outcomes

IFB generally supports the 7 Targeted Outcomes set out in the Paper. As mentioned at the outset of this response, IFB is concerned about any regulatory action which may create an unintended consequence, such as reducing access to advice for consumers. We suggest adding an Outcome that a regulatory approach:

Should not impose barriers to providing access to advice and products for consumers of different demographics, including less affluent or rural consumers.

Current environment: Various factors of influence

Fintech: The “current” environment is constantly evolving. Fintech, and its rising influence on the insurance industry is one example, as are changing consumer behaviours which demand more immediate access to products and their advisors. Developing policies which are principles-based and risk-based will be better positioned to adapt to these changes.

Better disclosure for segregated fund policyholders: The move to Total Cost Disclosure for investment funds and segregated funds will provide important information for clients and better equip them to evaluate the cost-benefits of their investments, at point of purchase and as an ongoing investment. By disclosing the embedded fees, as well as new cost and performance reporting, clients of both mutual funds and segregated funds should receive equivalent disclosures. As well, the *Proposed IVIC Contracts Ongoing Disclosure Guidance* is aimed at improving clients’ understanding of the guarantees and how their actions might affect these guarantees.



Sales process for mutual funds and segregated funds: The sales recommendation process is different for mutual funds and segregated funds. One major difference is that mutual funds can be sold without advice, through order execution only brokers and direct with the mutual fund company. These options make them more accessible to consumers, including first-time or DIY investors, and arguably, in some cases, cheaper. Segregated funds cannot be sold without the advice of a licensed life insurance agent or the insurance company, has certain guarantees and a cost for advice and servicing built in.

IFB member: *Segregated funds are complex products, completely unlike mutual funds. Seg funds require a level of technical knowledge and greater explanation, which makes them more complicated to explain to clients. Also, most segregated funds do not have the option to de-couple the trailer fee from the product, so these advisors cannot charge their higher “fee-for-service” without double-dipping on the seg fund trailer and their blanket fee.*

Most mutual funds have a fee option where the trailer fee is set to zero. These advisors build their client portfolios using these funds under a “nominee account” and then charge a “fee-for-service” fee on the whole account (charged at the dealer level) with the result usually being that they charge 1.25%-1.50%, instead of just getting the traditional 1.00% trailer fee. It is my understanding that only one or two segregated fund companies have this as an option. Since the MF advisor cannot deposit any other segregated funds into nominee accounts, they cannot extract their higher fee so they simply do not offer these products, even to the detriment of the client. Since some of the segregated funds have fees which are on-par and, in a few cases, lower than underlying mutual funds, the old argument of “I don’t offer them because they are expensive” is really just an excuse for “I don’t offer them because I don’t understand them, and I cannot get paid as much on them.”

The cost of advice: As a life insurance product, there are also differences in the time it takes to assess the suitability of the segregated fund for the client, requiring agents to spend more time with a prospective client, upfront to assess their needs and conduct a risk analysis. Purchasing a segregated fund requires more detailed needs and risk assessments, regarding options that are not available to mutual fund investors, such as assessing the need for estate planning, beneficiary designation, creditor protection, capital preservation, etc.

IFB asked members to provide us with insight into the time they spend with a prospective segregated fund client. Note that we used an average time. Some advisors suggested much higher time frames.

Advisor perspective on time spent with a prospective segregated fund client²

Initial meeting: On average, 2-3 hours with a client in an initial meeting collecting the information they need to understand the client’s needs for a segregated fund.

Needs analysis/recommendation: Based on client’s information, advisor conducts a needs analysis, evaluates suitable product choices, and prepares a recommendation. Many advisors told us this can take 15-20 hours. Some spent considerably more time.

² Based on sample of IFB members who actively sell segregated funds



Follow up client meeting: The next stage is the client meeting where the advisor explains their research and explains and documents the choice of fund. 2-4 hours, often with one or two other team members.

Client decision: At this point the client decides to proceed, delay the investment, or decline. Hours spent with no compensation = minimum 19-27 hours. If sale proceeds, paperwork submitted to life insurance company, and commission earned.

Ongoing service/ plus preparation for client meeting: Ranges in frequency, often depending on client, from annual, 2X/year, quarterly, or as needed/on call. Average per client = 30 hours/year.

Approximate total hours per client who invests = 49 -57 hours year one.

Different business models: Integrated financial institutions, like banks, benefit from ongoing contact with individuals and businesses who deal with them on a regular basis. This provides them with the opportunity to continually up-sell and cross-sell. Independent advisors, on the other hand, build their own book of business and fund their own business expenses. These advisors must reach out to potential clients and be persistent to attract and retain them as clients. They spend a great deal of time – often unpaid – before this happens. Commissions and trailers help compensate for this. We question how reducing their income, while not affecting those who receive salaries or bonuses, will lead to better investor outcomes or a better industry.

Business owners: The insurance component of segregated funds makes it attractive for business owners or other professionals seeking creditor protection.

Demographics: As the population continues to age and near retirement, or are already in retirement, there is an increased focus for clients on estate planning and capital preservation, making segregated funds an attractive alternative to traditional mutual funds.

Advice is being repriced/the role of Advisors is changing: The rise of robo advice, ETFs, etc., is putting pressure on those aspects of the advisor value proposition that can be performed by automation, such as asset allocation, portfolio maintenance and what some coin “light financial planning”. Consumers of investment products are increasingly aware of the costs of investing and the impact of those costs on their investment returns.

Incentive guidance and upfront compensation: The life insurance industry has been built on competition and rewards more successful performers, over those with low performance. The CCIR/CISRO working group acknowledged in its incentive guidance that insurers and intermediaries need to compensate those involved in the sale and servicing of their products.

IFB considers that with proper risk management systems in place, sales-related conflicts or risks to consumers can be effectively managed. We also note that the traditional sales role has transitioned into a more advisory role. There are certainly opportunities for insurers to incorporate a variety of metrics, other than compensation, to reward positive behaviours and that encourage the fair treatment of customers. These could include successfully completing enhanced product education and training, training on FTC expectations, monitoring client retention and persistency rates and client complaints



timely processing of claims and complaints and encouraging advisor succession and business continuity planning.

Regulatory arbitrage

Several times in the paper, the CCIR/CISRO raised regulatory arbitrage as a risk of mis-selling segregated funds, if there are different approaches taken to address upfront compensation in the securities and life insurance sectors. IFB notes that the CCIR and the CSA have previously stated that they have no evidence to support claims that dual-licensed advisors have stopped selling mutual funds or moved clients into segregated funds to get higher compensation or, more recently, in advance of the DSC ban for segregated funds.

Recent research conducted by [Investor Economics](#) examined data regarding the increase in segregated fund sales since 2020. The report noted that there was also a large spike in mutual fund and ETF sales as consumers looked to participate in the strong investment markets. Investment Executive [reported](#) that the research results showed that the increase in segregated fund sales, post the announcement of the ban on upfront commissions in mutual funds, was not due to dually-licensed advisors selling segregated funds over mutual funds. In fact, Investor Economics' research showed that most segregated fund sales were from insurance licenced only advisors who wanted their clients to get market exposure, along with the protection, and estate planning advantages segregated funds provide. *The largest volume of seg fund gross sales last year came from advisors who were insurance-licensed only, said Guy Armstrong, executive director with Investor Economics in Toronto.*

Similarly, the data showed there was no evidence of advisors selling mutual funds to reinvest client funds in segregated funds. The report said: *While a substitution of flows to ETFs from mutual funds has been identified, no such effect has been identified with seg funds versus other funds.* In fact, the report pointed out that many large securities dealers discontinued sales of new DSC and low-load segregated funds at the same time they stopped those sales for mutual funds.

IFB member: *Commission arbitrage would be visible if it existed. For example, annuities pay much higher upfront commissions and there has not been a mass migration of advisors moving assets to annuities.*

IFB urges regulators to be cautious in responding to allegations of regulatory arbitrage, particularly as there is no empirical evidence to support such claims, and it may drive policy decisions that lack substance in fact.

Distribution: Advisor use of multiple MGAs creates oversight risk

IFB was surprised that this section on Distribution was included in this Paper, since the purpose is to examine upfront compensation in segregated funds. Specifically, the Discussion Paper seems to suggest that the restriction on securities registrants that require them to place business through a single dealer firm in the securities sector is preferable to the existing insurance approach where licensees can have multiple contracts with insurers and MGAs.



We understand that insurers have argued that they can only review the suitability of sales of their own products and that the advisor may be placing business with other insurers or MGAs. The CCIR/CISRO paper suggests that this may create a potential FTC gap.

We are also aware that some insurers, and MGAs, have reduced the number of agents authorized to conduct business through them in response to growing compliance pressure. We understand that FSRA collects information on the specific insurers an agent is contracted with and may have noticed this trend.

As we pointed out earlier in this response, insurance regulators have introduced a number of significant guidance and compliance documents in recent years, aimed at enhancing the protection of consumers dealing in the life insurance market. We urge regulators to allow time for these processes and principles to take hold in the industry, while monitoring for poor uptake or systemic issues which may need to be addressed.

The CSA has also put many consumer protection and enhanced oversight requirements in place for the securities sector. We support consumer protection initiatives, like the CFRs and the FTC; however, the business of investing and the giving of investment advice is not bullet-proof. Investing is by its nature a risk-based activity and consumers benefit by being able to access professional financial advice. The securities dealer model is not without its challenges, as evidenced by the number of complaints the MFDA and IIROC deal with every year against securities registrants and their firms.

A major difference between MGAs and securities dealers is that MGAs are not client-facing. They provide administrative services - acting as a conduit between the insurer and licensed agents. As the role of the MGA has grown over the years, insurance regulators continue to consider how best to integrate them into the overall supervisory system of insurance oversight. There may be merit in requiring some of the oversight obligations that securities dealers have, but this would need to be the subject of considerable study and consultation. Insurance regulators must be assured that there is a need for this level of intervention given the differences in distribution between the securities and life insurance sectors.

The life insurance industry embraced, indeed encouraged, the move to independent sales distribution in the 1980's. Many advisors, who began in the career channel, have made successful careers as independent advisors, and are dedicated to the clients they serve. Despite this, we have not identified a trend of IFB advisors spreading their business around, between insurers or MGAs, other than for business reasons set out in the following excerpts from IFB members. We encourage the CCIR/CISRO to conduct its own review.



IFB advisor perspective on use of MGAs

In response to the concerns identified in the Discussion Paper, we asked IFB members about their MGA relationships:

Most place all their business through one MGA (62%) Reasons include that it is less complicated, their MGA provides good compliance support, and the need to consolidate FYC so they meet minimum contracting requirements, bonus rates may vary

Only 22% use 2 MGAs

9% use an MGA and place insurance direct with the insurer

When asked, if there should there be a requirement to use one MGA?

60% said No

25% said Yes.

Despite most using only 1 MGA, respondents would not support this becoming a requirement. Reasons included: not all MGAs offer wide access to the same products, better product choice of providers is better for clients, MGAs have different levels of competence, makes MGAs compete for business, advisor can be left at risk if use single MGA and it loses an insurance contract or becomes bankrupt, some MGAs offer specialty products an advisor may need for a specific client. Diversifying MGAs allows the advisor some flexibility as well, particular during high volume times of the year (i.e., Christmas/yearend, RRSP's in Jan/Feb, RESPs in August/September)

IFB advisor perspective on use of insurer segregated funds

We asked IFB members how many insurers they typically would use when recommending a segregated fund?

60% said they use the seg funds of 2 or 3 insurers

31% place most clients in a seg fund with a single insurer.

Reasons include:

Advisor gets better service if places more product with a single insurer, insurers give better MER discounts depending on amount invested, freedom to pick best fund for client, too complicated to understand all products available so I keep my shelf smaller.

Intermediaries' Product Offerings

In this section, the Paper addresses an advisor's ability to access multiple products which the Paper suggests may increase the risk for them to choose those which pay the highest compensation. Advisors are, of course, limited to the products of the insurers or MGAs they are contracted with. Mutual fund dealers are permitted to offer a variety of products from various product manufacturers, subject to them meeting their KYP requirements under CFRs.

As insurance regulators consider this, IFB notes that these KYP requirements have led to consequences for consumers. Industry stakeholders, including IFB, pointed to the likelihood that securities firms would reduce the number of products on their shelves in response to the strict product approvals that the CSA put in place, and the CCIR/CISRO have referred to in this Discussion Paper.



The unintended outcome has been that Canada's banks, along with at least one large career investment firm, have removed investment products from independent product manufacturers from their shelves, and only offer investors access to their proprietary products. This, in turn, has led to criticisms from investor advocates, the CSA, the Ontario Taskforce on Securities Modernization and the Ontario government which launched an investigation through the OSC. These are serious considerations for insurance regulators as they consider any next steps.

The Distribution and Product Offerings sections in this Paper make comparisons between securities dealers and independent distribution. We note that there is no consideration of other the forms of insurance distribution, such as career sales (captive), national accounts or direct to insurer contracts. IFB draws attention to the observations by the Ontario Taskforce on Securities Modernization, in which it expressed concerns related to restricted product shelves and proprietary only shelves:

The Taskforce recommended that all dealers that sell proprietary products be required, by OSC rule, to document, in detail, their rationale when independent products are refused access to their product shelves and, by OSC rule, that dealers that sell proprietary products report to the OSC, on a quarterly basis, the percentage of proprietary versus independent products on their product shelves, segmented by channel and product category, and the percentage of proprietary versus independent products sold to clients in the same format.

In September 2022, [the CSA announced](#) it would review the distribution of proprietary mutual fund sales and consider whether it needs to make changes to ensure investors are treated fairly when they are sold proprietary funds.

We recognize that independent distribution is the largest for life insurance sales, however, we urge insurance regulators to consider regulatory policies that are distribution neutral, except where there is a compelling reason to do otherwise. In this case, we believe the topic of upfront compensation in segregated funds applies equally to all distribution channels.

Advisor chargeback option

Many IFB members who responded to our survey said the advisor chargeback sales option is good for clients:

- It allows clients to exit early or if unexpected circumstances arise with no penalty.
- Advisors who explain the chargeback series and can also offer fee for service, find clients prefer chargeback.
- Offers the advisor the opportunity to do a better job for the client by being paid for the time and effort spent with the client upfront.
- If advisor chargeback is taken away, it will encourage asset gathering, rather than advice
- Holds the advisor accountable, and
- Allows advisor to earn a living and service the client while client incurs no penalty. Win-win.

To help address some of the concerns expressed in the Paper, we saw support for:

- lowering the chargeback period to 2-3 years and capping the upfront charge. Up to 7% is currently available in the market, which was considered to be too high.
- Level chargebacks @ 2%. Some suggested paying no trailer for 2 years.
- 5-year LL should be discontinued.



IFB member perspectives on the Discussion Paper’s suggested changes:

The Paper proposes the following potential changes, which we asked members to respond to (they could check all that they agreed with):

- (i) a total ban on upfront commissions, (19%)
- (ii) a cap on the amount of the commission, (27%)
- (iii) limits on the duration of chargeback periods, (46%)
- (iv) enhanced disclosure of potential costs or negative effects, (43%)
- (v) requiring upfront commissions to be reasonably proportionate to the value of the product and the amount of service provided to the investor (15%)
- (vi) increased monitoring of intermediaries with chargeback debt owing to an insurer or a managing general agent (29%)

Concluding remarks

We approached our response to the Discussion Paper with the question, “what is different about segregated funds, as compared to mutual funds, that might lead to different considerations in the treatment of upfront commissions?”. At its most basic, segregated funds are life insurance products which are intended to be long-term investments, and provide guarantees backed by the life insurance company. Mutual funds are more transaction-based and easily traded, even without advice, and offer no protection of downside market risk. Beyond these observations, we hope we have added some additional thoughts to help flush out this question to a deeper level.

It is our hope that we have not only provided insights into the questions the CCIR/CISRO have identified but have helped regulators better understand the perspectives of our members, who operate as self-employed, independent life insurance licensees. It is evident to us, as it often is, that our members care deeply about their clients and the industry they work in.

Lastly, as regulators review the various responses submitted to the Discussion Paper, we trust that the insights we have shared will help create conversation around whether issues like regulatory arbitrage or the perception that advisors use many MGAs to skirt oversight are endemic. Of course, our sample is small, and we encourage insurance regulators to undertake their own research to be assured that the same, or similar, considerations regarding the potential client harms that arise from upfront compensation exist for segregated funds.

IFB appreciates the opportunity to comment. Please contact the undersigned, or Susan Allemang, Director Policy & Regulatory Affairs (email: sallemang@ifbc.ca), should you have questions or wish to discuss our response in greater detail.

Yours truly,

Nancy Allan

Nancy Allan
Executive Director
905.279.2727 Ext. 102
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November 7, 2022

Robert Bradley
Chair
Canadian Council of Insurance Regulators
25 Sheppard Avenue West
Box 21 - Suite 100
Toronto, ON M2N 6S6

Sent by email: ccir-ccrra@fsrao.ca

Re: **Discussion Paper on Upfront Compensation in Segregated Funds**

I am writing in response to CCIR's consultation on upfront commissions in segregated funds (segfunds). This submission compliments the industry views expressed by the Canadian Life and Health Insurance Association (CLHIA), which Manulife supports.

We understand that the starting point of this consultation is to promote fair treatment of customers and to align the outcomes experienced by owners of segfunds with those who own mutual funds where appropriate. Seg funds are insurance products, sold by insurance agents within the distribution and regulatory regime governing insurance. The insurance regulatory and distribution system has systems and structures designed to promote fair outcomes for customers and it is important to ensure that seg funds distribution fits well within the insurance distribution model.

We believe that seg funds should be aligned with the two-year chargeback period that applies to sales of traditional individual life insurance products (term life, UL, whole life). We expect that chargebacks would mostly be used by insurance focused advisors while customers working more closely with wealth management firm or investment dealers may prefer other compensation models that align with how the customer pays fees to their investment or mutual fund dealer.

Segfunds and Mutual Funds are Complementary Products, Not Substitutes

Seg funds are almost exclusively purchased by customers working with an advisor. These customers are likely to have a broader financial plan with a portion of their overall portfolio in liquid investments to meet expected and unexpected immediate needs. Deposits, stocks and mutual funds would be held for wealth accumulation and growth but would also be available for sale if the customer needed funds immediately.

Seg funds are typically purchased and held by older customers and used as part of their financial plan for retirement or arranging their estate. In the event that a customer needed to access money from their savings, we expect that seg funds would only be redeemed following the redemption of more liquid or growth focused assets. Seg fund customers are unlikely to cancel their contract as part of rebalancing their portfolio and are also unlikely to redeem their funds for liquidity reasons, especially within the first two years of purchase.

Mutual funds are frequently purchased for growth and wealth accumulation. As such, changes in the economy, financial markets or interest rates will often result in a need to review and adjust the customer's



portfolio with some mutual funds being sold and replaced with other funds or with other growth assets such as stocks, bonds or ETFs. Seg fund contracts allow for switching between various investment options within the contract without the need to remove money from the contract. Segs funds are primarily protection-focused rather than growth assets having performance guarantees and other features (e.g. resets). Many of these features would be negatively impacted by redeeming and purchasing a new seg fund and result in fewer consumer moving between seg fund contracts.

Alignment With Insurance Compensation Structures

Different chargeback rules for mutual funds and seg funds are appropriate as the products are not substitutes of each other but are complementary to each other.

Regulators have expressed concern that there may be ‘arbitrage’ between seg funds and mutual funds if compensation structures are not aligned. Advisors selling seg funds are life licenced agents. We believe that it is more important for customer protection that the chargeback rules (2 years) are aligned between life insurance products. Aligning compensation practices with mutual funds (which many life licensed advisors cannot sell) makes less sense than aligning with other insurance products that advisors can sell.

We understand that regulators are concerned that chargebacks cause a conflict of interest where advisors may advise customers against redeeming during the chargeback period. We believe that this is rare but can be mitigated by monitoring redemptions after the chargeback expires. We also believe that a short, two-year chargeback period significantly reduces the risk that this will occur for seg fund customers.

Limiting chargebacks

We believe that regulators should set parameters around chargebacks for seg funds that are aligned with the two-year chargeback period for other life products. Having a two-year chargeback inherently limits the amount of up-front compensation that will be paid to the advisor upfront, but we also believe that fees paid by the customer should be identical no matter how the advisor is paid. Similarly, the advisor should receive the same compensation over the expected life of the contract no matter the fee structure selected by the customer (except the advisor should receive no compensation if there is a redemption within the two-year chargeback).

Insurers do not currently receive a significant number of complaints related to DSCs or advisor chargebacks due in part to customers holding seg funds for a much longer time than customers hold mutual funds. Manulife customers on average own their seg funds for between 7 and 8 years. Limiting the chargeback period to two years is likely to result in very few instances of contracts being cancelled in the first two years making the chargeback a relative non-issue.

Chargebacks Can Protect Customers

Chargebacks are a well-established structure in the insurance industry with most individual life insurance products such as term life, universal life and whole life policies. Seg funds and traditional life products provide security and protection and are meant to be owned for a long time. Having a two-year chargeback period helps to ensure that the advisor is recommending the product to customers as part of a longer-term plan. Unlike mutual funds, seg funds are not intended or designed for short-term investment needs and are not used by customers this way.



A seg fund should rarely, if ever, be sold to a customer who will need the money for any reason within the next two years. Having a two-year chargeback ensures that advisors are thinking about the long-term objectives of their client and removing compensation from advisors who do not sell the product appropriately. Aligning chargebacks across individual insurance products reduces the likelihood of selling one type of insurance product due to differences in compensation structures.

Maintaining Consumer Choice & Market Competition

Business models for insurance distribution are more numerous than for mutual funds. Consumers can access seg funds through insurance advisors at small independent firms as well as advisors affiliated with large organizations. Working with the customer to understand their needs and at time of purchase takes time and resources. Large organizations have the ability to absorb the cost of providing upfront services and receiving payment over time. However, independent insurance advisors working with smaller firms are less able to do so and frequently require compensation structures that better align the timing of compensation with the cost of providing service. This is true both for seg funds and traditional insurance products.

We are concerned that level compensation structures could significantly negatively impact smaller, independent distributors and insurance focused advisors reducing competition and choice for consumers.

In Closing

We strongly believe that it is in the customer interest to retain a two-year chargeback period for seg funds. We believe that chargebacks can help advisors focus discussions on the long-term and are aligned with incentive structures across the life insurance products more generally. We also strongly believe that chargebacks ensure fair market competition and consumer choice in how seg funds are accessed. Seg funds are not mutual funds and are not used by customers for the same purposes. Seg fund customers buy and hold their contract and we have very low levels of complaints.

We thank you for the opportunity to discuss our comments and we would be pleased to discuss them in further detail with you.

Yours very truly,

A handwritten signature in black ink that reads "Chris Donnelly". The signature is written in a cursive style with a prominent loop at the end of the last name.

Chris Donnelly
Vice President & Counsel
Regulatory & Public Affairs
Manulife Canada



PRIMERICA FINANCIAL SERVICES
RESPONSE CCIR CONSULTATION ON UPFRONT COMPENSATION

NOVEMBER 7, 2022

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November 7, 2022

Robert Bradley, Chair
Canadian Council of Insurance Regulators
25 Sheppard Avenue West
Box 21 - Suite 100
Toronto, ON M2N 6S6
Sent by email to: ccir-ccrra@fsrao.ca

Dear Mr. Bradley,

We are pleased to provide our response to the CCIR Discussion Paper on Upfront Compensation for the Sale of Segregated Funds. Segregated Funds play an important role in Canadians' savings and protection needs and provide a path to financial security for many middle-income families. It is, therefore, crucial to consider any unintended consequences of sweeping reforms to traditional compensation methods.

About Primerica

Primerica is a leading distributor of basic savings and protection products to middle-income households throughout Canada. Our Canadian corporate group includes a mutual fund dealer (PFSL Investments Canada Ltd.), a mutual fund manager (PFSL Fund Management Ltd.) and a life insurance company (Primerica Life Insurance Company of Canada). Primerica has been serving Canadians since 1986 and has the largest exclusive sales force both as a life insurance company and an independent mutual fund dealer.

Over 85% of our assets under management are in registered accounts, and more than 90% of our accounts are registered. Our products and personal advice help middle-income Canadians establish a long-term savings plan for retirement, education, and other financial goals. Our representatives¹ guide their clients at life's critical points, helping them avoid common pitfalls to gaining financial independence: higher cost and lower face value insurance that does not protect adequately, starting to save too late, not saving enough, neglecting tax-advantaged opportunities, and buying and selling at the wrong times.

We offer savings programs with contributions as little as \$25 per month or as low as \$500 for a lump sum investment. This approach allows Canadians to participate in the capital markets and set and achieve their financial goals, no matter how small their budget. Our monthly contribution plans establish a savings discipline and better prepare our clients for retirement and other life events. We often do this with our representatives conducting face-to-face meetings with clients at their kitchen table. Our representatives take a holistic approach with their clients and offer our digital FNA (Financial Needs Assessment), which provides them with a snapshot of their financial situation and a road map to achieve their goals.

We have an exclusive sales force of representatives, which allows us to put supervision, monitoring, controls and restrictions in place based on trends we observe, similar to a mutual fund dealer. In a snapshot:

¹ We have used the terms "representative" (which is how we refer to our exclusive sales force of life insurance licensed advisors, roughly 75% of whom are also licensed as mutual funds representatives) and "advisor" (which is how the industry and the public refer to life insurance agents and mutual funds representatives) interchangeably throughout the document

- Our current series of segregated funds, Common Sense Funds (CSF), have over \$3.1 billion in assets across 211,000 accounts
 - Our average account is \$14,900
 - 93% of those accounts / 87.8% of the assets are in registered accounts for long-term savings, such as RRSPs, RESPs, RRIFs, TFSAs
 - CSF is a life cycle product, managed to the client's savings horizon, such as their retirement
- Our CSF client profile
 - Average account is over 8 years old
 - Average client age is 48 years old
- Initial and subsequent deposits
 - Minimum \$500 with a lump-sum purchase or \$25 with a monthly PAC plan

General Comments

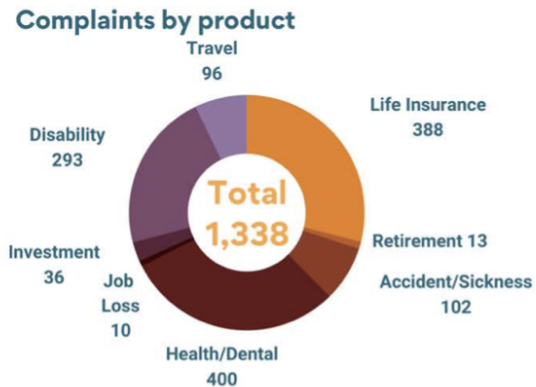
Primerica shares the CCIR's goals of protecting investors, conducting sales in keeping with FTC principles and increasing transparency in fees and costs. We are therefore participating in the CCIR's efforts to bring full cost disclosure to segregated funds as well as providing input on a new conduct guideline for the sale of segregated funds. Our response to the Discussion Paper will primarily focus on the investors we have served well for over 35 years – middle-income families who need the advice and coaching of our representatives. Based on our experience as well as industry data, the wholesale ban on all upfront commissions is not warranted and would result in unintended but predictable consequences, harming the very people the CCIR seeks to protect. The following facts have guided our comments and recommendations in our response:

- Our clients typically start by investing small amounts in registered accounts, without paying an upfront sales fee. We provide a small upfront commission to our representative (the advisor). The fee is recuperated through a reduced trailer fee for a period of time. This model enables our clients to put all their investment to work immediately versus reducing that amount by a front-end fee. It is important to note that the cost of owning a segregated fund for the client is not impacted by the sales charge option, unless it is a front-end load fee paid upfront by the client in which case the cost is higher at the outset. Regardless, the ongoing cost continues to be the same in terms of the MER.
- Our representatives spend significant time and effort identifying their clients' needs and establishing their financial objectives, contributing to their personal financial knowledge in the process. We believe that an upfront fee serves as recognition of these efforts and helps alleviate some of the upfront costs of onboarding a client.
- Most of our clients never incur a sales charge – deferred or otherwise – as they are, by and large, long-term investors. As we are working towards removing the DSC option for segregated funds, we believe that we will have a similar experience with the advance and chargeback option and that our advisors will rarely face a chargeback.
- We finance the advisor compensation through the MER and disclose this to our clients. An advance and chargeback sales charge does not increase the cost to our clients but rather gets recuperated through reduced trailer fees for a period of time.

Segregated Funds and Advisors Serve Canadians Well

Complaints related to segregated funds are rare, and those related to fees, and those related to fees and compensation are even rarer. In its 2022 Annual Report, OLHI reported that they received only 36 complaints related to life insurance investments in the previous year. Those were all resolved without meriting further investigation or action.ⁱ

This is similar to our experience with our segregated funds, where complaints are rare. We have a robust complaint-handling systemⁱⁱ, and we are proud of our compliance record and our client outcomes.



Numerous research reports continue to show that Canadians trust their advisors and rate their experience with their advisors highly. Recent Abacus data shows that 92% were satisfied with the advice and service they received when they purchased segregated funds, and 82% are satisfied that the fees are comparable to other investments.ⁱⁱⁱ While our customer satisfaction survey was not specific to segregated funds, our customer satisfaction ratings of our representatives were equally strong, with 9 out of 10 believing they get the best possible advice.^{iv}

There is a well-established correlation between financial well-being and access to advice. Advisors assist clients by applying their technical expertise, guiding clients away from common behavioural biases and encouraging the development of positive financial behaviours. In turn, effective bias management and healthy financial habits translate into superior asset accumulation. A longitudinal study of Canadian households by the Cirano Institute in Montreal found that after four years, advised households' assets are 190% greater than those of unadvised households. This gap rises to 390% after fifteen years. Moreover, households that began to work with an advisor over the course of the study did significantly better than households that did not.^v

The most recent Canadian Financial Security Monitor commissioned by Primerica found again that Canadians with an advisor have better financial habits than those who don't have an advisor. Reducing access to a human advisor for the mass market will create broader public policy problems.^{vi}



Segregated Funds' Role in Meeting Canadian Families' Financial Goals

Segregated funds offer a combination of growth potential and principal protection (a minimum of 75% of initial investment is guaranteed) that is useful for meeting the goals of modest investors, entrepreneurs, farmers, small business owners and more. They offer the protections of an insurance product with unique tax, creditor and estate planning features. The payout can be to a beneficiary outside of an estate and therefore, free of probate or estate taxes.

Segregated Funds are sold exclusively through licensed life insurance agents and not do-it-yourself platforms. Limiting compensation to life insurance agents will impact access to an important product and the advice that comes along with it. Receiving advice on the purchase of segregated funds is critical to customers understanding the unique benefits they offer and ensuring they are suited to the customers' circumstances.

Advisors and Clients Have Aligned Interests

Advisors strive to gain long term client relationships and are attentive and attuned to their clients' needs. While the Discussion Paper specifically focuses on segregated funds sales, advisors don't just sell a product but rather provide financial guidance to their clients. Banning compensation on a product sale will have broader implications on financial advice that is often bundled into a product sale. In our case, our representatives offer a complimentary Financial Needs Analysis (FNA)^{vii} which provides our clients with a snapshot of their financial situation and a roadmap to achieve their financial goals.

While segregated funds are meant to be long term investment vehicles, and in most cases clients are better served staying invested in their segregated fund contracts, neither industry data nor complaints records support the notion that advisors try to keep clients invested in their segregated funds against their interest.

- Industry data collected by the CLHIA shows no evidence of longer or shorter account holding periods for segregated funds sold under the Advance and Chargeback option versus under other fee models such as FEL
- The average account age is around 8 years, regardless of what compensation model is used
- There is no evidence that advisors are incentivized to keep clients invested longer than they should

Role of Upfront Compensation in Serving Families of Modest Means

Compensating advisors on a chargeback basis provides several advantages:

- The upfront compensation is provided by the life insurer in recognition of the important work that an advisor performs
- This saves the consumer from having to provide compensation to their advisor out of their pocket or out of their investable assets
- The chargeback model recognizes the long-term nature of saving through segregated funds (average account age of over 8 years versus under 5 years of chargeback period) – it encourages advisors to sell appropriately and based on the needs of their clients
- The CCIR Incentive Management Guidance states that incentive arrangements should include, if necessary, the recovery of compensation after it has been paid. We agree with the CCIR and the CLHIA that it is appropriate to recover commissions when a sale has been made improperly
- Chargebacks are a well-established structure in the insurance sector. Segregated funds are designed to be long-term investments and well-suited to a chargeback regimen

- Chargebacks discourage churning, as advisors would be required to repay the commission from the initial purchase before receiving a commission from the subsequent investment.
- Industry experience is that advisors are rarely subject to a chargeback. The average holding term for a segregated fund is around eight years, whereas the typical chargeback period of 5 years or less.

The elimination of chargebacks would shift the burden of compensating advisors from companies to consumers, significantly impacting average investors' access to advice and products. A loss of advice for average families will impact their long-term financial well-being, excluding those with low investable assets from financial advice. Lastly, a ban on upfront commissions will create an uneven business advantage for banks with salaried employees and high-end boutique firms that serve wealth clients.

There is significant time and effort that goes into an advisor/client relationship, particularly up-front when an advisor is getting to know a new client and their personal and financial situation. An advisor must explain their services to clients, educate the client on financial concepts, understand the client's circumstances and needs, make recommendations for their financial path ahead, and complete a plethora of documentation required by insurers and regulators.

The benefit of an upfront commission model funded by insurers is that it provides some up-front compensation to advisors without reducing the amount available for clients to invest. It allows modest investors to invest 100% of their allocated funds. By contrast, with a front-end load, the commission comes out of their initial investment, meaning less money is actually invested at the outset.

The up-front commission is financed by the life insurance company and is recovered through a reduced trailer fee paid to the advisor.

- As an example, on a \$10,000 initial trade, if the commission from the life insurance company is 3% (or \$300) to cover the advisor's upfront costs and effort, there would be a chargeback period of 5 years for the life insurance company to recoup their upfront cost through reduced trailer fees to the advisor. Without up-front compensation, there is generally a 1% trailer fee which, on a \$10,000 account, provides a total of \$100 of compensation per year. It is not economical to take on this client without the up-front compensation piece. If the investment were \$100,000, on the other hand, the trailer fee of 1% would be \$1,000 per year, which could cover the advisor's costs.
- The economics of serving small accounts relies on economies of scale, and some upfront relief and reward for the service is part and parcel of our successful model.

Renewing and Expanding the Number of Advisors

Bringing in new advisors, including younger demographics and diverse backgrounds to the industry is very important in serving broader segment of society and not just the older established population with lucrative pocketbooks. New advisors have more enthusiasm to onboard new clients regardless of the size of the account as there is a desire to establish long-term relationships and develop a solid book of business. They are also more likely to connect better with their peers who may not be served by established advisors. However, being new to the business, they rely on some upfront compensation to help defray their costs and get rewarded for their services. This approach helps renew an ageing financial advisor force in Canada with an average age in the 50s^{viii} and it helps Canadians of all backgrounds and demographics access much-needed financial advice and products. The report from PWC highlights that "more than two out of every five financial advisors have been in the industry for over 20 years, potentially suggesting challenging conditions for newcomers".

Unintended Consequences of Compensation Reforms

- Serving clients in remote and rural communities can be jeopardized without upfront commissions. The travel distances, the requirement to have a car and pay for gas, all add to the challenge of serving small investors in rural and remote communities. A ban on upfront commissions would disproportionately disadvantage middle-income Canadians in these communities.
- In Canada, the anticipation of banning DSC and restricting upfront commissions for mutual funds resulted in the exodus of 17% of mutual funds advisors by 2020, mostly those with smaller book sizes and serving account averages of \$23,000.^{ix} We anticipate that more losses were incurred since then as many firms have restricted advice to high net-worth accounts since 2020.

(C.5) Advisors by Book Size – Financial Advisory Firms

BOOK SIZE	2018 ASSETS (MILLIONS)	2018 HOUSEHOLDS*	2018 ADVISORS**	2016 ADVISORS**	CHANGE IN ADVISORS
<\$500K	\$1,388	60,630	8,816	11,959	-3,143
\$500K-\$2M	\$5,933	152,956	5,385	7,064	-1,679
\$2M-\$10M	\$35,450	570,385	7,123	8,238	-1,115
\$10M-\$20M	\$42,115	452,845	2,945	3,099	-154
\$20M-\$50M	\$90,070	755,917	2,888	2,706	182
\$50M+	\$93,975	593,078	1,131	903	228
TOTAL	\$268,930	2,585,811	28,288	33,969	-5,681

*excludes households with no advisor code.

**based on advisor codes submitted to MFDA.

- Internationally there is ample qualitative and quantitative evidence of the cumulative effect of rapid regulatory changes, including bans on embedded fees, leading to swaths of abandoned investors. In the UK and Australia, minimum account sizes are well in excess of affordability for the average family. Mass market clients have to rely on informal advice through internet searches, conversations with family and friends and social influencers, or shun investing altogether.
- While both the UK and Australian regulators have had their hopes pinned on more technology-based solutions such as robo-advice, both sets of regulators report that uptake of such services is negligible over a decade into their commission bans. ASIC's Consultation *Promoting access to affordable advice for consumers*^x in 2021 identified the issue with digital advice head on: "Key issues identified with the provision of digital advice: lack of demand, consumer preference for human advisor and compliance concerns."
- To quote from the UK FCA's (Financial Conduct Authority) Evaluation of the impact of the Retail Distribution Review and the Financial Advice Market Review 2020^{xi}:
 - "The average advised customer has over £150,000 of assets under advice. Robo-advice services, offering automated digital or online advice, are becoming more common but remain only a small fraction of the overall market."
 - "There are many mass-market consumers holding money in cash that could be invested but who have not received support from financial services firms. We [FSA] believe that accessing support could help them decide to invest at

least some of their cash. However, the services on offer from the market are not always the ideal fit for all mass-market consumer needs. This leads to potential harm, which is that many consumers are missing out on the opportunity to invest their money and make it work better for them in the longer term."

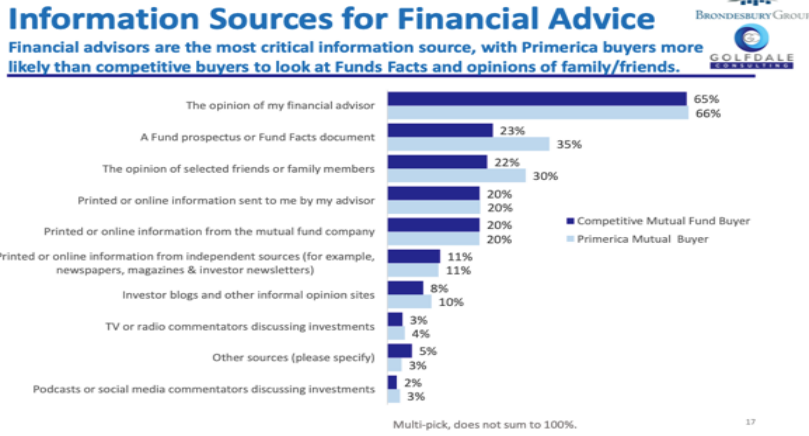
- To quote from the ASIC's (Australian Securities and Investment Commission) Retail investor research of August 2022^{xii} (multi-pick survey question – results do not add to 100%):

"Some of the commonly cited 'main' types of information sources included:

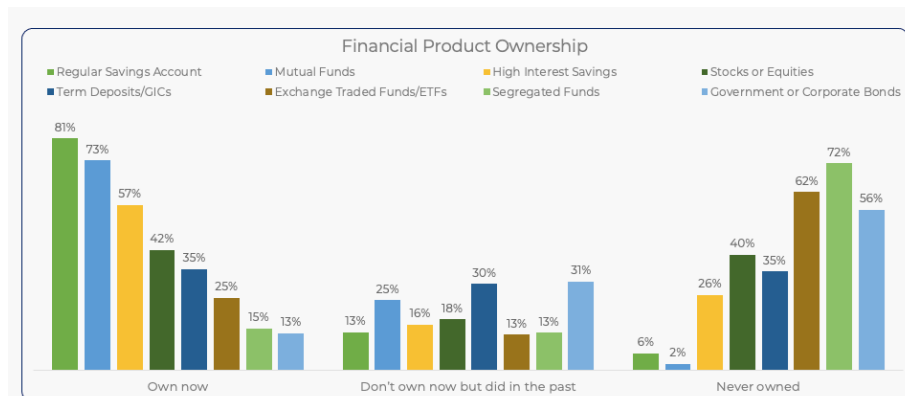
- 'Google searches' (34%);
- investors' personal networks, such as 'family or friends', 'my spouse / partner' and 'work colleagues' (36% collectively);
- social media and networking platforms (i.e. Facebook, Reddit, TikTok, Instagram, YouTube, podcasts and/or blogs) (38% collectively). This figure rose to 41% if also including financial influencers.
- financial-focused sources such as 'financial institutions' (21%), 'ASX' (20%), 'company websites' (18%), 'financial planner / advisor / broker' (13%), 'company financial statements' (12%), 'annual/quarterly company reports' (12%);..."

- Taken together with ASIC's findings^{xiii} that recent investors (55%) and moderately experienced investors (52%) were more than twice as likely to report holding at least one type of cryptocurrency in their portfolio, compared to the most experienced investors (22%), it gives one reason to reflect on whether the speed with which Australia implemented their conduct and compensation reforms over a decade ago should have been undertaken without removing access to regulated advice.

- By contrast, a 2018 study commissioned by Primerica found that Canadians mostly relied on their advisors for information.^{xiv}



Perhaps as a result of professional advice, Canadians were invested in diversified products such as mutual funds and to a lesser degree segregated funds.^{xv}



Creating a regulatory environment where the cost of acquiring and servicing modest investors becomes prohibitive, or where these investors cannot find an advisor to service their needs, will marginalize many who need and deserve personal financial advice. Investors of modest means — those without a large amount to invest - rely on commissioned advice without an upfront fee.

There are many targeted ways to address the concerns that regulators expressed about upfront commissions without banning the practice outright. A ban will impact almost half of segregated fund investors – or 1.5 Million Canadians and the advisors who serve them. In the case of Primerica, the vast majority of our clients and future clients, and the representatives who serve them, would be impacted.

Guidelines on the Use of Upfront Commissions and Chargebacks

The upfront commission and advance chargeback model for segregated funds works particularly well for investors with lower amounts to invest and supports new advisors into the industry. Following the principles of FTC, there are several considerations to ensure that clients' and advisors' interests remain aligned:

Rather than ban the model, investor protection can be enhanced, and the negative aspects can be largely eliminated through the implementation of certain controls and disclosures. Following are some suggestions:

- Enhanced disclosure. While there is already significant disclosure of fees in Fund Facts and other documents, given the perception of conflict of interest, it may be warranted to provide a separate disclosure of the chargeback schedule at the point of sale. This would also align advisors and clients on what they understand to be their target investment horizon and on the fee structure they agree to.
- At least 20% of the investment being free of chargebacks (no advance commission on 20% of the investment) to allow for withdrawals that are not subject to a chargeback.
- Policies and procedures in place at the insurer level to assist in identifying and managing conflicts of interest.
- Monitoring redemptions, the chargeback load of an advisor and customer feedback to allow for risk-based monitoring of advisors.

We believe these additional controls and procedures would significantly reduce perceived conflicts of interest and manage negative outcomes.

Conclusion

Segregated Funds play an important role in meeting the financial goals of everyday Canadians and advisors are key players in providing access and ongoing advice for segregated funds clients. We take our responsibilities to our clients very seriously and put Fair Treatment of Customers at the centre of our business practices. Compensation to our representatives is no exception to this rule and we carefully monitor to ensure that our clients' and representatives' interests are aligned. Upfront commissions play an important role in ensuring that even our most modest investors are served and that our representatives receive at least a modest upfront compensation to defray the costs of setting up a client in their segregated funds, while their goal is always to establish a long-term relationship that is a win-win for both parties. While we acknowledge the concerns raised in the Discussion Paper, we also firmly believe that the concerns can be best addressed through targeted controls that will continue to make segregated funds an accessible investment option for main street Canadians.

We appreciate the opportunity to comment on this important issue and look forward to participating in any further public discussion on this topic. Should you have any questions or wish to discuss these comments, please feel free to contact us.

Sincerely,

[Original Signed by]

John A. Adams, CPA, CA
Chief Executive Officer

APPENDIX I – Responses to Consultation Questions

Please comment on whether the topics and details covered in this discussion paper accurately describe the current environment in which Customers are offered IVICs and segregated funds and provide any necessary factual corrections or additional information.

Under the heading 'Potential Customer Harms' the Consultation Paper suggests that lower trailing commission rates may also create a risk of unserved customers or orphaned clients where the trailing commission rate is so low as to disincentivize a new advisor to take over the servicing of customers. It is important to note that upfront compensation is in recognition of the heavy lifting that goes into onboarding a new segregated fund client and the trailing fees are in support of ongoing service. Trailing commissions revert to regular 1% trailing commissions after the end of the chargeback period so there would be no disincentive for a new advisor to refuse taking on an existing client with long term potential, even if it were within the chargeback period with a lower trailer fee in place for a few years.

Under the same heading, the Discussion Paper notes that commission rates may vary to as high as 7%. While we cannot rule this out, our experience and understanding is that upfront sales charges are under 5% and significantly lower for investments over \$25,000.

We would also like to address the Paper's following statements:

(Upfront commission) "maintains a potential compensation-based conflict of interest which can misalign the interests of Insurers, Intermediaries and Customers":

Our experience is that advisors strive to gain long term client relationships and have aligned interests in their customers' financial success. The same holds true for life insurance companies.

"provides little customer control over costs and may not align with the ongoing services expected to be provided to Customers":

Clients have a discussion with their advisors on the different sales charge options and do have control over their options. They are aware of the percentage commission their financial representative receives through discussions at the point of sale. They are also provided with disclosure at the point of sale through Fund Facts and the Information Folder. Once implemented, the new Total Cost Reporting will provide customers fulsome disclosure about the costs they are paying. The 1% trailer fee reflects the ongoing service the advisor provides to their client.

"provides Customers with some information to enhance their awareness and understanding of Upfront Commission at point of sale, but does not provide details on other upfront Compensation or ongoing disclosure of the remaining chargeback period":

This can be remedied by adding a chargeback schedule to the disclosures.

"has the potential for Insurers to rely more on compensation over IVIC features and fund performance to generate sales":

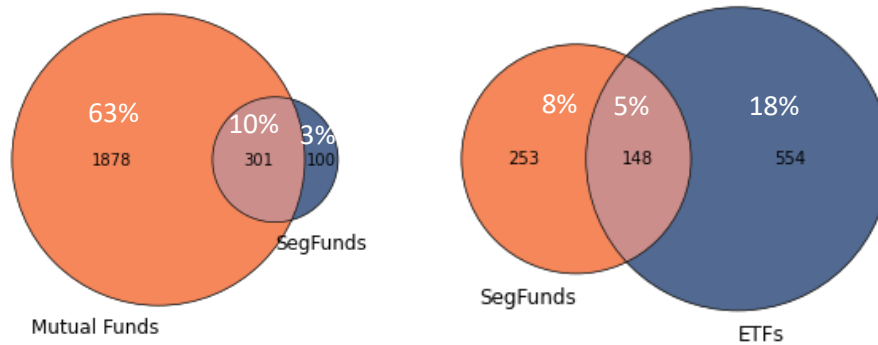
Upfront compensation is provided in recognition of the effort and cost that goes into onboarding a segregated funds client. In a competitive marketplace, the quality of funds and the features that an IVIC offers heavily influence the sale of the product versus the relatively small compensation advisors receive for their services.

"may increase the incentive, and potential, for Licensed Individuals to mis-sell IVICs over mutual funds."

IVICs and mutual funds should not be viewed as a substitute for each other. IVICs are sold on a needs-based approach and often bought for different reasons than mutual funds.

Recent market research we commissioned shows that segregated funds are often bought

along with other investment products.^{xvi}



We have also not observed this much feared product arbitrage scenario play out despite warnings of this risk with many regulatory reforms. Most recently, even though almost all of our mutual funds' representatives are also life insurance licensed, when the DSC was banned on mutual funds, we did not see a shift to segregated funds sales away from our mutual funds.

Investor Economics research, based on detailed product data plus ongoing conversations with multiple industry stakeholders, including dealers, insurers, asset managers, heads of sales, wholesalers and advisors, found no evidence of product arbitrage. To quote Carlos Cardone, of Investor Economics, "There has never been anything in the data to indicate that [regulatory arbitrage] is happening in any way, shape or form." While a substitution of flows to ETFs from mutual funds has been identified, no such effect has been identified with seg funds versus other funds.^{xvii}

Should Insurance Regulators consider other Targeted Customer Outcomes?

While we don't disagree with the CCIR's targeted customer outcomes, we want to emphasize that in our experience these outcomes are achieved in today's environment in the production, marketing and sale of segregated funds.

We are in agreement with additional important customer outcomes that the CLHIA has identified through their research project with Abacus. It is important to note that these objectives are ones identified by consumers and therefore ones we need to prioritize:

- Providing consumers with long-term financial security
- Ensuring segregated fund products are available to the mass market
- Paying segregated fund proceeds to named beneficiaries
- Assisting consumers with saving for retirement, education or buying a house
- Providing protection against market volatility in the circumstances of unexpected death

For each Sales Charge Option in Appendix 1,

How prevalent is the Sales Charge Option?

We have participated in and reviewed the data collection by the CLHIA on this topic and believe that the numbers shared with the CCIR is reflective of the current marketplace.

Where a Sales Charge Option has a range of possible compensation rates, such as Front-End Load, how do Insurers or Intermediaries determine the amount to charge a customer? Are

there common rates charged?

We have reviewed and agree with the CLHIA analysis of the current practices. We would like to note that there is a base cost of servicing an account regardless of account size. While this cost may increase based on the complexity of a portfolio for high net worth accounts, in many cases the asset-based fee (trailer) may suffice to service the account. Therefore, it is a fair assumption that larger accounts may charge 0% and very small accounts up to 5%.

Please describe in detail how current Insurer and Intermediary processes and controls align with Targeted Customer Outcomes, including, but not limited to, outcomes 1 to 3. Are there different processes and controls for different Sales Charge Options, such as between the Advisor Chargeback and Front-End Load options?

We have reviewed and agree with the CLHIA analysis of the current industry practices and obligations, including managing conflicts of interest.

Monitoring for unusual redemptions resulting in charges, not permitting leveraged sales, not permitting an advance where the client's time horizon is not long term, are practices we use in our current DSC sales and we believe they are equally applicable and effective for the advance and chargeback compensation model.

Please describe how Insurers and Intermediaries can encourage innovation and flexibility in ways Customers can pay for advice.

Choice in fee structures and a competitive marketplace encourage innovation and flexibility. To reduce cost but also serve clients more flexibly, we have undertaken a number of data-driven initiatives and introduced technological support to enhance compliance and enhance the customer experience, while reducing the amount of paperwork our representatives have to complete manually.

Please comment on the extent to which Insurers and Intermediaries provide payments or benefits for the sale of segregated funds or IVICs other than the commission rates set out in Information Folders and Fund Facts and how the payments or benefits align with the Targeted Customer Outcomes, including, but not limited to, outcomes 1 to 3.

As we have an exclusive sales force of licensed life insurance agents, with roughly 70% also licensed as mutual funds representatives, we offer occasional sales incentives above and beyond the fee or commission tied to a particular product sale. Our incentives are designed to encourage positive outcomes and client growth. We do not impose sales targets or quotas but rather encourage growth through rewards. We use a risk based and client centric approach as we develop these incentives to expand and serve our client base, in keeping with FTC principles.

If Insurance Regulators were to implement a regulatory ban on Upfront Commission or Upfront Compensation, what would be the insurance sector considerations to take into

Many Targeted Customer Outcomes (TCO) will be jeopardized by a ban but in particular TCO 5 "Balances the need for quality advice and personal recommendations for IVICs while enabling access to affordable advice and ongoing service". The CLHIA conservatively estimates segregated accounts at \$50,000 and below are at serious risk of being uneconomic for advisors to serve in a trailer commission only (FEL Zero) model. Currently, approximately half of segregated funds investors, have less than \$50,000 as their account/ policy value, which would equate to over 1.5 million Canadians.

Specifically, the following negative impacts should be considered in the context of the Targeted Customer Outcomes:

1. "Effectively addresses conflicts of interest created by Upfront Compensation, which can misalign the interests of Insurers, Intermediaries and Customers":
An upfront compensation ban would misalign the interests of Insurers, Intermediaries and mass market Customers, by dis-incentivizing service and advice to small accounts that may not be economical to service through a Trailer only compensation model.
2. "Enhances Customer awareness, understanding and control of Intermediary compensation":
The customer would lose choice and therefore control of intermediary compensation.
3. "Fosters alignment of any Upfront Compensation with the services provided to Customers at point of sale and ongoing":
A ban would create misalignment of compensation for advisors (or lack thereof) for upfront advisory services received by a customer versus fees paid.
4. "Avoids Insurers and Intermediaries relying more on compensation than fund performance and IVIC features to sell their products:"
This may be more of a concern in the mutual funds world where individual funds are sold versus a contract with fund options inside the contract in the case of IVICs
5. "Balances the need for quality advice and personal recommendations for IVICs while enabling access to affordable advice and ongoing service":
If there is a ban, this outcome will be the most negatively impacted with personal and affordable advice for the mass market becoming inaccessible.
6. "Reduces the risk of mis-selling of segregated funds and IVICs over securities products by dually licensed Intermediaries due to differing upfront compensation arrangements":
The reverse impact will be true if a ban is implemented as mutual funds are easier sold through DIY platforms, robo channels and bank channels and don't require the same level of advice. Further, a shift of sales through salaried employees is less likely to be aligned with a client's interest as their job is not dependent on a long-term relationship with a satisfied client nor to the outcomes of the client's' investments.

How could any ban for segregated funds be worded to achieve the Target Customer Outcomes?

We recommend specific controls for the use of advance chargebacks and upfront compensation that would achieve the CCIR's goals around managing conflicts of interest and misuse and mis-selling, rather than an outright ban which would harm the CCIR's goals in achieving the TCO. Specifically, we recommend consideration of the following controls

- The advisor chargeback should not exceed the time horizon for investment,
- A minimum 20% free of any chargeback withdrawal amount
- A maximum account threshold for using the advance chargeback model
- Enhanced disclosure on client target investment horizon and on the fee structure they agree to
- Policies and procedures to assist in identifying and managing conflicts of interest
- Monitoring redemptions, chargeback load of an advisor and customer feedback to allow for risk-based monitoring of advisors

What would be the minimum transition time needed to implement an applicable ban and arrange for the use of different compensation and fee structures?

Removing upfront compensation will upend decades of compensation practices for the industry and will require significant amount of time in re-considering target markets, reducing number of accounts in a manner that is consistent with FTC, reducing the number of advisors, introducing more technology to manage orphaned clients or onboarding smaller accounts, would be some of the steps

that industry will have to undertake to introduce and adopt a new compensation structure. This will take significant amount of time and cannot be a short-term undertaking.

What are the estimated qualitative and quantitative costs and benefits of a ban to Insurers and Intermediaries?

What are the estimated qualitative and quantitative costs and benefits of a ban to Customers?

While we don't have sufficient experience with the advance-chargeback model within our segregated funds offering, based on our experience servicing small accounts and modest investors, we offer the following perspective for preserving this model of upfront compensation after the ban of DSCs:

Investor Economics estimated in 2015 that the cost of servicing a client account is between \$750-\$1,000. The cost since then has increased substantially but even taking this conservative cost estimate of servicing an account, and taking into account the significant effort and cost involved in onboarding a new client, you can see how small accounts will become uneconomical for advisors to serve, absent upfront compensation. CLHIA data from its members lead us to a conservative estimate of segregated accounts under \$50,000 becoming uneconomic for advisors to serve in a trailer commission only (Front End Load (FEL) Zero or No-load) model. Currently, approximately half of segregated funds investors in Canada, have less than \$50,000 as their account/ policy value, which could mean that over 1.5 million Canadians could be impacted.

From an investor perspective, the advisor chargeback does not change the cost to the client, and investment performance over the expected life of the contract is the same no matter which sales charge option is agreed upon between the customer and the advisor.

Qualitatively, a ban will harm new advisors and advisors serving modest investors and reduce or eliminate service to a large number of investors. *Quantitatively* it will not offer a benefit to either the advisor, the insurer or the investor. It will however harm the number of new advisors coming into the industry, reduce the number of advisors servicing small accounts and reduce the market share for insurers. As well, it will impact the long-term financial well-being of mass market clients who will be deprived of advice and access to an important product.

If Insurance Regulators were to implement alternative or complementary regulatory measures to a ban, which regulatory measures would help achieve the Targeted Customer Outcomes? Throughout Insurance Regulators' discussions with industry, the following measures were proposed as examples to foster stakeholders reflections on this matter:

- a cap on amount of Upfront Commission,
- limits on the duration of chargeback schedules,
- increased monitoring of Licensed Individuals with chargeback debt,
- enhancing disclosure of potential costs or negative effects to the Customer of
- available Sales Charge Options, and
- requiring Upfront Compensation paid to Intermediaries be reasonably proportionate to value of the product and amount of service provided to the Customer.

We always value the opportunity to work with our regulators on developing measures to enhance customer outcomes. All the options above have their own challenges but also opportunities for enhancing consumer protection, while preserving advice and access for the mass market. The

current work under way on CCIR's Market Conduct Guidance for Segregated Funds should also be considered in the context of reforms that will assist with the Targeted Customer Outcomes.

Other best practices we recommend considering are as follows:

- Only allow advisor chargebacks where the investment time horizon is long term and exceeds the chargeback period,
- A minimum 20% free of any chargeback withdrawal amount
- A maximum account threshold for using the advance chargeback model

APPENDIX II – ENDNOTES

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- ⁱ OLHI, [2022 Annual Report](#)
- ⁱⁱ Primerica Canada, [Complaints Handling](#)
- ⁱⁱⁱ ABACUS Data, Public Opinion Research On Mutual Funds And Segregated Funds
- ^{iv} BRONDESBURY-GOLFDALE RESEARCH, 2018, Mutual Fund Investment Survey Among Primerica Canada Clients
- ^v CIRANO, Montmarquette and Viennot-Briot, 2016, [The Gamma Factor and the Value of Financial Advice.](#)
- ^{vi} CHANGE RESEARCH, 2022, Canadian Financial Security Monitor
- ^{vii} Primerica Canada, [FNA](#)
- ^{viii} PWC, 2014, [Sound Advice: Insight into Canada’s Financial Advice Industry.](#)
- ^{ix} MFDA, 2020, [MFDA Client Research Report](#)
- ^x ASIC, 2020, [CP 332 Promoting access to affordable advice for consumers](#)
- ^{xi} FCA, 2020, [Retail Distribution Review and the Financial Advice Market Review](#)
- ^{xii} ASIC, 2022, [ASIC research about investment behaviour](#)
- ^{xiii} *ibid*
- ^{xiv} BRONDESBURY-GOLFDALE RESEARCH, 2018, Mutual Fund Investments Among Modest Income Canadians
- ^{xv} BRONDESBURY-GOLFDALE RESEARCH, 2022, Mutual Fund and Segregated Fund Owners in Canada
- ^{xvi} *ibid*
- ^{xvii} ADVISOR’S EDGE, 2022, [The data behind soaring seg fund sales](#)