CCIR and CISRO Notice and Request for Comment

Proposed Consolidated Segregated Funds Guidance

January 2025

Introduction

The Canadian Council of Insurance Regulators (**CCIR**) and the Canadian Insurance Services Regulatory Organizations (**CISRO**) are publishing, for a 90-day comment period, proposed guidance (**Guidance**) aimed at enhancing expectations on insurers and intermediaries for the design, distribution, issuance, sale and servicing of individual variable insurance contracts or IVICs, also commonly referred to as segregated funds.

The Guidance creates a national standard for all insurers offering IVICs, and all intermediaries selling and servicing IVICs, in Canada. Once finalized, the Guidance is expected to be implemented by insurance regulators in each Canadian jurisdiction in line with their legal framework and culture.

What is an IVIC?

An IVIC is a life insurance contract between an investor and an insurer that allows for investments in segregated funds. Segregated funds are similar to mutual funds but differ in that the insurance elements included in an IVIC offer certain protections including:

a. Guaranteed protection against some or all of the investment risk associated with the segregated fund. The insurer guarantees it will repay at least 75% of the owner's investments when the last remaining annuitant dies and/or the contract matures.
b. Guaranteed death benefits for beneficiaries of the contract which are not subject to probate.

IVIC owners are allocated notional units of a segregated fund based on the amount invested in the segregated fund and the notional unit price at the time the investment is made. It is the insurer that owns the segregated fund. The net asset value (**NAV**) of the notional segregated fund units fluctuates with the fair value of the fund's assets and liabilities, in the same way as mutual fund units.

CCIR and CISRO work on IVICs

CCIR established a Segregated Funds Working Group in 2015, with a mandate to:

1. Review regulatory changes made in the mutual funds industry in relation to the regulatory framework for IVICs and identify existing and potential gaps.
2. Assess the potential risk of regulatory arbitrage by dually licensed (insurance and mutual funds) intermediaries.
3. Assess a harmonized approach to regulatory issues affecting IVICs and mutual funds.
4. Use studies and research in behavioural economics to analyze investment behaviour to determine the impact of information disclosed to investors at and after point of sale, and implications for fair treatment of customers.

Since establishing the Segregated Funds Working Group[1], several stakeholder consultations were held in the course of work on segregated funds and the fair treatment of customers and the following publications were made:

1. CCIR Segregated Funds Working Group Issues Paper (**Seg Funds Issues Paper**) (May 2016). The Seg Funds Issues Paper sets out the CCIR's understanding of the comparative regulatory frameworks for segregated funds and mutual funds, including existing and potential gaps that may need to be addressed in order to protect consumers. Stakeholder feedback was requested in several areas including
    i. Disclosure of fees/cost, account and product performance
    ii. Risk classification of segregated funds
    iii. Oversight of segregated fund sales
    iv. Standard of care for intermediaries.
2. CCIR Segregated Funds Working Group Position Paper (**Seg Funds Position Paper**) (Dec 2017). The Seg Funds Position Paper communicated learnings from the feedback on the Seg Funds Issues Paper and set out recommendations regarding the issues discussed. The Seg Funds Position Paper was followed by the publication in 2018 of a final version of the proposed minimum required content for the client account statement, along with a prototype client account statement.
3. CCIR and CISRO Guidance: Conduct of Insurance Business and Fair Treatment of Customers (**FTC Guidance**) (Sept 2018). The FTC Guidance sets out expectations for how insurers and intermediaries conduct insurance business and ensure the fair treatment of customers.

[1] CISRO has participated in much of the ongoing work relating to fair treatment of customers and segregated funds since CCIR established the Segregated Funds Working Group.

4. CCIR and CISRO Statement on Deferred Sales Charges (**DSCs**) and upfront commissions in segregated fund sales (Feb 2022). In this statement, CCIR and CISRO set out their position on the use of DSCs in segregated fund contract sales, and their intention to consult on other upfront commissions in IVICs.[2]
5. CCIR and CISRO Incentive Management Guidance (**IM Guidance**) (Nov 2022). This guidance sets an important baseline for better aligning incentive arrangements paid for insurance products with the principles in the FTC Guidance.
6. CSA and CCIR Individual Variable Insurance Contracts Ongoing Disclosure Guidance (commonly referred to as **Total Cost Reporting** or **TCR Guidance**) (April 2023). This guidance relates to annual report to clients showing the ongoing costs of owning segregated funds.
7. CCIR-CISRO Position on the Discussion Paper on Upfront Compensation in Segregated Funds (May 2023). This paper announced the actions CCIR and CISRO intended to pursue following the public consultation held in 2022.

Substance and Purpose of the Guidance

The Guidance is intended to provide similar consumer protection regimes for segregated funds and mutual funds given their similarity as investment vehicles, taking into account the differences in the products. It is also intended to align and support the principles and expectations set out in the FTC Guidance and IM Guidance.

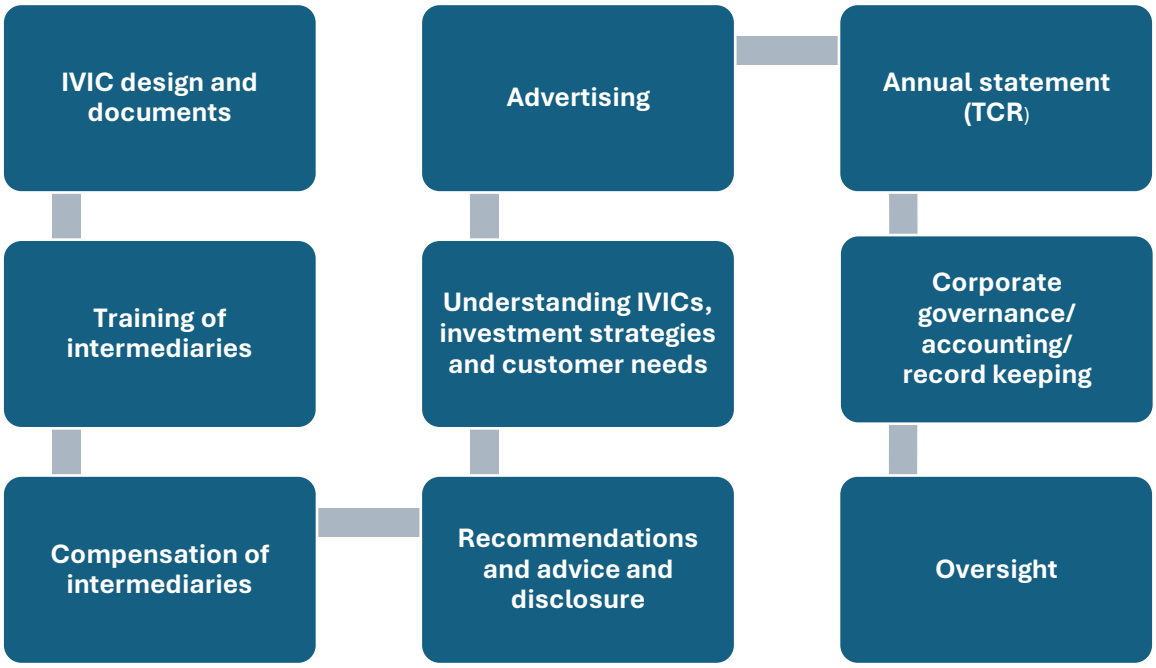
The Guidance builds on CCIR and CISRO's work on segregated funds and consolidates into one comprehensive guidance document CCIR and CISRO's expectations for insurers and intermediaries relating to the design, distribution, issuance, sale and servicing of IVICS.

Content Overview

The Guidance includes expectations for both insurers and intermediaries. It is primarily principles-based but also includes detailed provisions where appropriate to assist in applying the principles. It is laid out in a way that is designed to help stakeholders focus on what is applicable to them.

At a high level, the Guidance covers the following topics:

[2] Some CCIR and CISRO member jurisdictions have brought local rules or regulations into force restricting the use of DSCs in the sale of IVICs. See FSRA's rule and the AMF's rule.



These topics are based on:

- Current regulatory requirements and expectations, and industry practices including:
  - TCR, DSCs, disclosure documents (e.g. information folder and fund facts), corporate governance matters, and auditing and accounting expectations
- New and enhanced expectations and practices including:
  - Know Your Customer, Know Your Product, needs analysis; advisor chargeback sales charge option; understanding and advising on leveraging strategies; and oversight

Transition Period

In light of the consumer protection objective of this Guidance, CCIR and CISRO expect insurers and intermediaries to be proactive in implementing the Guidance once finalized. Where the Guidance reflects current regulatory requirements and expectations and industry practices, CCIR and CISRO would expect there to be no transition challenges.

With respect to new enhanced expectations set out in the Guidance, CCIR and CISRO invite stakeholders to comment on the operational enhancements required for implementation.

Request for Comments

We welcome your comments on the Guidance, other than content that is greyed-out. The greyed-out content relates to TCR and is not open for comment as it has been the subject of prior consultation and has been finalized.

We encourage all interested parties to review and comment on the Guidance, which is available on CCIR's website and CISRO's website. We hope to receive comments from a wide array of stakeholders, from consumer advocates to participants in the insurance industry, and from other financial sectors.

We will carefully review and consider all comments before issuing our final guidance. Please note that CCIR and CISRO may publish on their respective websites all submissions received pursuant to this consultation process. If you would like to request confidentiality for any part of your submission, please contact ccir-ccrra@fsrao.ca.

Deadline for Comments

Please submit your comments in writing on or before April 8, 2025.

Address and deliver your comments to:

Sarah O'Connor, Senior Policy Manager
Canadian Council of Insurance Regulators
and
Peter Chung, Policy Manager
Canadian Insurance Services Regulatory Organizations
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Your comments will be delivered to member jurisdictions of CCIR and of CISRO.

Questions

If you have any questions, please contact ccir-ccrra@fsrao.ca.

About CCIR

The Canadian Council of Insurance Regulators is a national association of insurance regulators that traces its roots back to 1914. The mandate of CCIR is to enhance insurance supervision and regulation to serve the public interest and to foster increased cooperative supervision and information sharing among regulatory authorities.

About CISRO

The Canadian Insurance Services Regulatory Organizations is a forum of Canadian regulatory authorities who are dedicated to consistent qualifications and conduct of business standards for insurance intermediaries. CISRO members collaborate on initiatives that support a consistent approach to consumer protection through the regulation of insurance intermediaries.