



November, 2016

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

© Canadian Life and Health Insurance Association Inc., 2016

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

Introduction

Background

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

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

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

Purpose

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

General Principle

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

Principle and Supporting Elements

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

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

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

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

Explanatory Notes

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

GENERAL BACKGROUND ABOUT THE APPROACH

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

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

2. Why was *The Approach* developed?

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

3. What are the three principles?

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

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

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

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

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

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

6. Are the practices required?

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

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

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

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

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

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

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

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

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

SUPPORTING ELEMENTS IN THE APPROACH

Disclosure to Client

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

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

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

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

Client Expectations

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

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

14. Are there other ways of documenting client expectations?

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

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

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

Fact Finding

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

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

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

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

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

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

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

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

Needs Assessment

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

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

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

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

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

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

Recommendations and Advice

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

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

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

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

Reason Why Letter

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

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

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

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

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

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

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

The letter should address the following:

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

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

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

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

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

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

Product Information

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

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

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

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

Appendix 1

Sample Reason Why Letter

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

Scenario 1: Recommendations Fully Implemented

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

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

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

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

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

Scenario 2: Recommendations Partially Implemented

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

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

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

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

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

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

Scenario 3: Wealth Product with Fee Options

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

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

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

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

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

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

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

Scenario 4: Order Execution

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

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

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

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

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

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