

# Fair Treatment of Customers: Regulatory Update

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March 2019

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# Regulatory Activity

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The following actions have recently been undertaken in relation to Fair Treatment of Customers:

- CCIR/CISRO: released Guidance on Conduct of Insurance Business and Fair Treatment of Customers in September 2018
- Ontario, FSCO: released a Treating Financial Services Consumers Fairly Guideline on September 28, 2018
- Nova Scotia: Legislation tabled in January 2019 to adopt CCIR/CISRO Guideline
- Other provinces have expressed interest in adopting the CCIR/CISRO guideline

# Harmonization

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- There is a desire to have interpretation of the principles be harmonized across the country.
- While many provinces are likely to adopt the CCIR/CISRO guideline, some may not. The risk that interpretation of the guideline may differ is possible.
- An industry taskforce to deal with uniformity has been established.
- FSCO has communicated that the variations in wording present between their guideline and the CCIR/CISRO guideline are not intended to create a different standard. It has also communicated to insurers that during an audit they may use either guideline to demonstrate compliance.

# Fair Treatment of Customer: Principles

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## Corporate Culture

- This is about work place environments and decision making.
- There should be a mentality of making customer centric decisions that will encourage consumer confidence and long-term customer relationships.
- It is expected that everyone in your office understand the importance of placing clients at the center of strategic decisions, daily conduct and results.
- If you train or oversee employees, work towards fostering customer centered environments and values.

# Corporate culture - examples

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- Strong NBS process following The Approach
- Feedback surveys to assess your practices and how you could better meet client's needs
- Commitment to regular servicing of all clients

# Fair Treatment of Customer: Principles

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## Conflicts of Interest

- It is expected that “any potential or actual conflicts of interest be avoided or properly managed and not affect the fair treatment of customers.”
- Properly disclose conflicts of interest, if not avoided, without putting an unreasonable onus on the customer (especially if they do not fully appreciate the conflict or its implications).
- Decline to act when the conflict cannot be avoided or managed satisfactorily.

# COI - examples

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- Outside business activities (OBAs)
- Compensation (disclosure)
- Disclose, by using disclosure template –
  - not new, but understand this is a critical part of FTC, which you should already have been doing for a while!
  - Commissions and referrals
- Avoid – executorships, Power of Attorney

# Fair Treatment of Customer: Principles

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## Product Development

- It is expected that, if requested, you assist insurers by providing information on the types of customers to whom a product is sold and whether the product meets the needs of the target market.
- For example, an opportunity to provide feedback to an insurer through participation in a focus group, or an advisory council



# Fair Treatment of Customer: Principles

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## Disclosure to Customer

- Provide sufficient information to enable customers to understand the characteristics of the product they are buying and help them understand whether and how it may meet their needs.
- Highlight key features of the product, including potential adverse effects.
- Identify rights and obligations of the customer, including the rights to cancel, claim benefits and complain.
- Provide the above information in a written format.
- Provide your personal information, including the types of business you are authorized for, the service you are providing (from whom do you offer products) and your relationship with the insurer that the client contracts with.

# Examples - disclosure to customers

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Advisors should already be doing -

- policy delivery receipt
- for seg funds, fee structures, and esp. for DSC fees)
- Leverage risk
- Privacy consent, CASL consent
- LIRD

# Fair Treatment of Customer: Principles

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## Product Promotion

- All promotional material must be accurate, clear and not misleading.
- The content should:
  - be easy to understand;
  - be consistent with what is offered;
  - identify the insurer;
  - state prominently the basis for any claimed benefits and any significant limitations; and
  - not hide, diminish or obscure important statements or warnings.

# Fair Treatment of Customer: Principles

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## Advice

- High quality advice should be clearly and accurately provided to all customers with consideration of the customer's:
  - financial knowledge and experience;
  - needs, priorities and circumstances;
  - ability to afford the product; and
  - risk profile.
- Recommendations made should be fully explained and documented in writing to the client.
- This principle reinforces the practices already required of you with emphasis on KYC and reason why letters.

# The Approach

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1. Disclosures to client
2. Define, document expectations
3. Fact finding
4. Needs assessment
5. Recommendations and advice
6. Reason why
7. Product information

# Fair Treatment of Customer: Principles

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## Complaints Handling and Dispute Resolution

- All complaints are expected to be examined diligently and fairly, using a simple and accessible procedure.
- You should be aware of the complaints process both within the MGA and the various insurers.
- Ensure that you are directing client appropriately with any complaints.

# Fair Treatment of Customer: Principles

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## Protection of Personal Information

- Theft, loss or inappropriate use of personal information obtained from Customers represents a risk to Customers.
- Protection of personal information is a key issue required for public confidence.
- Ensure you are protecting information in compliance with the PIPEDA, including staying informed of changes in that regard.

# Protection of Personal Information Update

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As of **November 1, 2018**, there are new rules related to the handling of privacy breaches including:

- Notifying individuals about privacy breaches,
- Reporting privacy breaches to the Office of the Privacy Commissioner of Canada and other in certain circumstances, and
- Keep records of all breaches.

A breach is the loss of, unauthorized access to or unauthorized disclosure of personal information.



# Protection of Personal Information Update

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The trigger events for reporting are breaches that cause “**real risk of significant harm to the individual**”.

- **Significant harm** includes bodily harm, humiliation, damage to reputation or relationships, loss of employment, business or professional opportunities, financial loss, identity theft, negative effects on the credit record and damage to or loss of property.
- Factors that are relevant to determining whether a breach of security safeguards creates a real risk of significant harm include the sensitivity of the personal information involved in the breach of security safeguards and the probability the personal information has been/is/will be misused.

# Protection of Personal Information Reminder

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A recent Supreme Court of Canada decision has emphasized the importance of meaningful consent for the use and disclosure of personal information.

This includes when:

- carriers share client info with the MGA through feeds,
- orphan clients, and
- buy-/sell situations

# Meaningful, express consent

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- Effective January 1, 2019, PIPEDA requires organizations to obtain “meaningful *consent*” from individuals
- Means that it is reasonable to expect that an individual providing consent understands the *nature, purpose* and *consequences* of consenting to the collection, use or disclosure of Personal information.
- There are certain new exemptions from consent requirements, subject to conditions.

# To sum up/key take away points

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- Continue to ensure that your KYC, KYP and recommendations for products meet the client's needs.
- Continue to disclose all conflicts of interests to the client.
- Listen carefully to Tom Warren this afternoon
- Use your compliance resources when unsure – BFG, carriers, CLHIA

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# Questions?