

### Principles and Practices for the Sale of Products and Services in the Financial Sector

#### Companion Piece - Examples for Deposit Agents

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This document is a companion piece to the *Principles and Practices for the sale of Products and Services in the Financial Sector* and sets out examples of business practices for each principle.

#### 1. Interests of the Client

The client's interests take priority over the intermediary's interests and should not be sacrificed to the interests of others.

*Commentary: This principle is paramount. All remaining principles and practices expand upon this fundamental principle.*

**Example:** The interests of the client would not be taken under consideration if a deposit agent mishandled an investor's funds in cases where the agent is engaged in a tied-selling agreement with only one financial institution. In this case, the investor would not be offered other options that would better suit his/her investment objectives.

#### 2. Needs of the Client

In order to understand the client's interests, the intermediary must obtain or confirm information about the needs of the client and, when making a recommendation, must reasonably ensure that any product or service offered is suitable to fulfill those needs.

*Commentary: In assessing the needs of the client, the intermediary should take into account the financial significance and complexity of the product or service being sold.*

**Example:** According to Business Practice Rule #3 for deposit agents (Saskatchewan Securities Commission), a copy of the application must be given and signed by the investor. Also, an explanation of the investment process, if separate from the application, must also be signed by the investor and deposit agent.

### 3. Legitimate Business Interests

The intermediary must collect enough information about the client and the transaction to reasonably determine the identity of the client and that the transaction is lawful. The intermediary must not act on behalf of a client when there are reasonable grounds to believe that the transaction is of an unlawful nature.

*Commentary:* When obtaining information about the client and his/her business, the intermediary must not continue to act for the client if it is known or should be known that the transaction is unlawful. In some circumstances, the intermediary will be required to report the transaction to regulatory authorities.

### 4. Professionalism

Intermediaries must act in good faith at all times. They must acquire an appropriate level of knowledge relating to their particular business and meet high standards of professional ethics, including acting with honesty, integrity, fairness, due diligence and skill. The concept of professionalism includes but is not limited to the following:

- a. **Education:** In a rapidly changing financial marketplace, intermediaries must keep abreast of changes in products, regulations and other factors that will affect their ability to provide high standards of service to clients. Education, including continuing education, is a necessary component of professional skill.
- b. **Holding Out:** An intermediary must inform the client of the business licenses and registrations held, as well as the business name(s) of firm(s) under which he or she is licensed to operate.

**Example:** A deposit agent that does not disclose all of the financial institutions that the agent represents may limit the options for a client.

- c. **Advertising and all other Client Communications:** Intermediaries must ensure that all references to their business activities, services and products are clear, descriptive and not misleading.
- d. **Business Operations:** Intermediaries must ensure that their financial records are properly maintained and that they follow sound business practices.

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**Example:** According to rule #9 (c) of the Business Practice Rules for Deposit Agents in Saskatchewan, an agent must file a report with the Saskatchewan Securities Commission within three months after the financial year-end.

- e. **Fair Practices:** Intermediaries must not engage in practices that intentionally mislead the client or place the interests of others ahead of the client's interests. Unfair practices are contrary to the underlying spirit of the principles and practices set out in this document. The intermediary must refrain from practices that contravene, directly or indirectly, the spirit or intent of any of the requirements of these principles and practices.

**Example:** Abuses of client's money can occur if a deposit agent invests client's funds in a GIC offered by a financial institution where a contract between the deposit agent and the financial institution does not exist. Rule #2 of the Business Practice rules regarding deposit agents in Saskatchewan states that the deposit agent can not receive funds from a client for investment unless a written contractual agreement exists between the deposit agent and the financial institution where the funds will be invested.

- f. **Financial Accountability:** Intermediaries should have appropriate resources in place to compensate clients who suffer a loss as a result of an error, omission or fraudulent activity that is caused by the intermediary or someone for whom he or she is responsible. The intermediary must ensure that all financial obligations are met and should strive to exceed all existing requirements for professional liability insurance, errors and omissions insurance, trust accounts, deposits or other fiduciary measures.

**Example:** According to rule #9 (g) of the Business Practices Rules for deposit agents, if a deposit agent uses a trust account for temporarily holding a client's funds before being transferred to a financial institution for investment, a report of an accountant must exist that is acceptable to the Saskatchewan Securities Commission. The report must indicate that the accountant has inspected the books and records of the deposit agent and is satisfied that the deposit agent has operated in accordance with the rules set out for trust accounts.

*Commentary: Professionalism means that intermediaries will strive to adhere to best practices and will not be limited to standards required under law or regulation.*

#### 5. Confidentiality

Intermediaries must protect clients' personal information and take all reasonable steps to ensure that personal information is not divulged and is only used for the purpose for which it was collected, unless the client provides proper authorization, as required by applicable laws or regulations, to divulge personal information to others for reasonable purposes. Intermediaries must not use personal information to the detriment of the client. However, personal information may be divulged without client consent to, for example, law enforcement agencies when required or authorized by law.

*Commentary: The requirement of confidentiality extends to participants in group plans. A basic requirement for intermediaries is to ensure that proper care is taken when handling documents that contain personal information provided by clients/group plan participants. The damage to the client is the same regardless of whether personal information is divulged to someone willfully or as a result of careless handling of files.*

#### 6. Conflicts of Interest

The intermediary must avoid situations where the underlying circumstances could tend to prejudice or bias the direction of advice he or she provides. In the case of a conflict of interest, the client must be made aware of the nature of the conflict before the transaction takes place.

*Commentary: If a situation arises where a conflict exists and cannot be avoided, the condition can only be mitigated by objective, plain-language disclosure to the client of the nature and impact of the conflict. The client must then be given an opportunity to halt the transaction, to seek other professional advice, or to knowingly proceed with the transaction.*

**Example:** According to rule #8 (a) of the Business Practice Rules for deposit agents, if a client gives cash to a deposit agent for investment purposes, the deposit agent must place the funds in a trust clearing account before it is forwarded to the a financial institution. The deposit agent cannot operate the trust account and must make the trust account separate from any of the deposit agent's own funds. If the funds were placed in an account with the deposit agent's funds, a conflict of interest may exist.

#### 7. General Information Disclosure

The intermediary has the responsibility to ensure that the client is fully informed of all relevant information before the client makes a decision. The client is entitled to disclosure of the risks and benefits of the financial products being considered and information about the intermediary's business relationships as they pertain to the transaction.

*Commentary: There are two aspects to disclosure and both must be satisfactorily taken into account under these principles and practices: (1) "product information" regarding product or service features, as well as the main risks and benefits inherent in the transaction or purchase; and (2) "intermediary information" regarding relationship issues which are important to the consumer.*

- a. **Product Information:** In addition to clearly describing the product or service for the client and the ways in which the transaction will fulfil the needs of the client, product information includes disclosure of important assumptions underlying any illustrations or examples that have been provided to the client, as well as the fact that actual results may differ significantly from those shown. The intermediary should avoid using examples or illustrations which he or she knows, or ought to know, are based on unusual results or a period that generated much better than normally anticipated performance.

**Example:** This does not directly apply to deposit agents since client's funds are invested in GICs that feature a fixed interest rate along with the term of the investment.

- b. **Intermediary/Business Relationship Information:** The intermediary must include the names of organizations or persons that are, to his or her knowledge, directly or indirectly, providing remuneration to the intermediary; the relationship between the intermediary and the firm whose product is being considered; and any relationship(s) among the firms involved in a transaction. Any other direct or indirect relationships that are relevant to the transaction should also be disclosed by the intermediary. In cases where this information has not been disclosed because the intermediary is unaware of it, it is expected that he or she will have first made a reasonable effort at due diligence. The intermediary must also disclose all fees payable by the client, the method of the intermediary's remuneration (disclosure of specific amount is not required, but disclosure of the type of compensation is, i.e. fixed and percentage commission, salary, or other) and must disclose the existence of any other benefits from sales incentive

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programs related to the transaction (note: as with compensation, this disclosure only applies to the type of compensation the intermediary receives, not the specific amount).

### 8. Client Redress

The intermediary must deal directly with all formal and informal complaints or disputes, or refer them to the appropriate person or process, in a timely and forthright manner.

The intermediary must be fully aware of all applicable processes for dealing with complaints and must disclose to all clients the channels available for pursuing different types of complaints (e.g., regarding conduct, service, or product performance). In the case of an individual authorized to do business in more than one sector, it is particularly important that the client be made aware of the different lines of accountability for complaint handling that are associated with each transaction. In situations where a dispute cannot be resolved intermediaries should provide to clients, preferably in writing, the redress mechanisms that can be pursued, depending on the product and type of complaint involved.

### 9. Compliance

If a financial industry association purports to set standards for its members, it is expected that such standards would be set out in a code of conduct which would incorporate the principles and practices set out in this document. The association is also expected to have a system to promote compliance and develop systems to resolve complaints against their members. Intermediaries who are not members of an association are expected to follow the principles and practices on the basis of adhering to industry best practices.

### 10. Definitions

“**Client**” means any customer or potential customer with whom an intermediary interacts in the course of his or her business.

“**Intermediary**” means a participant in the financial services industry who markets products or provides financial advice or services to clients. In a particular instance this could be a person, firm and/or a financial institution.

“**Personal Information**” means information that the client would expect to remain confidential because it was conveyed for the purpose of the financial transaction.

### Principles and Practices for the Sale of Products and Services in the Financial Sector

#### Companion Piece - Examples for Financial Planners

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This document is a companion piece to the *Principles and Practices for the sale of Products and Services in the Financial Sector* and sets out examples of business practices for each principle.

#### 1. Interests of the Client

The client's interests take priority over the intermediary's interests and should not be sacrificed to the interests of others.

*Commentary: This principle is paramount. All remaining principles and practices expand upon this fundamental principle.*

#### 2. Needs of the Client

In order to understand the client's interests, the intermediary must obtain or confirm information about the needs of the client and, when making a recommendation, must reasonably ensure that any product or service offered is suitable to fulfill those needs.

*Commentary: In assessing the needs of the client, the intermediary should take into account the financial significance and complexity of the product or service being sold.*

#### Examples:

- The nature and scope of the engagement shall be mutually defined by the financial planner and the client prior to providing any financial services.
- In carrying out a financial planning engagement, the financial planner shall follow the six-step financial planning process.
- A client's personal and financial goals, needs and priorities that are relevant to the scope of the engagement and the service(s) being provided shall be mutually defined by the financial planning practitioner and the client prior to making and/or implementing any recommendations.

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- The process of “mutually defining” is essential in determining what activities may be necessary to proceed with the client engagement. The role of the practitioner is to facilitate the goal setting process in order to clarify, with the clients, goals and objectives, and, when appropriate, the practitioner must try to assist clients in recognizing the implication of unrealistic goals and objectives. This Practice Standard shall not be considered alone, but in conjunction with all other Practice Standards.

### 3. Legitimate Business Interests

The intermediary must collect enough information about the client and the transaction to reasonably determine the identity of the client and that the transaction is lawful. The intermediary must not act on behalf of a client when there are reasonable grounds to believe that the transaction is of an unlawful nature.

*Commentary: When obtaining information about the client and his/her business, the intermediary must not continue to act for the client if it is known or should be known that the transaction is unlawful. In some circumstances, the intermediary will be required to report the transaction to regulatory authorities.*

### 4. Professionalism

Intermediaries must act in good faith at all times. They must acquire an appropriate level of knowledge relating to their particular business and meet high standards of professional ethics, including acting with honesty, integrity, fairness, due diligence and skill. The concept of professionalism includes but is not limited to the following:

- Education:** In a rapidly changing financial marketplace, intermediaries must keep abreast of changes in products, regulations and other factors that will affect their ability to provide high standards of service to clients. Education, including continuing education, is a necessary component of professional skill.
- Holding Out:** An intermediary must inform the client of the business licenses and registrations held, as well as the business name(s) of firm(s) under which he or she is licensed to operate.

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#### Examples:

- A representative should neither represent that he/she is a lawyer, accountant or investment counselor, nor leave uncorrected a misapprehension that he/she is a lawyer, accountant or investment counselor, unless the representative is so qualified.
  - A representative will offer advice only in the areas where he/she has competence. In areas where the representative is not professionally competent, the representative shall seek the counsel of qualified individuals and /or refer clients to such parties.
  - In rendering services (such as taking an order for securities or insurance coverage) that do not encompass the representative functioning as a financial planning practitioner, the representative shall inform the client of the scope of the services that shall be rendered and that the representative is not taking on the responsibilities of a financial planning practitioner. Such understanding obtained at the start of a relationship need be updated only when the nature of the services to be performed changes.
- c. **Advertising and all other Client Communications:** Intermediaries must ensure that all references to their business activities, services and products are clear, descriptive and not misleading.
- d. **Business Operations:** Intermediaries must ensure that their financial records are properly maintained and that they follow sound business practices.
- e. **Fair Practices:** Intermediaries must not engage in practices that intentionally mislead the client or place the interests of others ahead of the client's interests. Unfair practices are contrary to the underlying spirit of the principles and practices set out in this document. The intermediary must refrain from practices that contravene, directly or indirectly, the spirit or intent of any of the requirements of these principles and practices.
- f. **Financial Accountability:** Intermediaries should have appropriate resources in place to compensate clients who suffer a loss as a result of an error, omission or fraudulent activity that is caused by the intermediary or someone for whom he or she is responsible. The intermediary must ensure that all financial obligations are met and should strive to exceed all existing requirements for professional liability insurance, errors and omissions insurance, trust accounts, deposits or other fiduciary measures.

*Commentary: Professionalism means that intermediaries will strive to adhere to best practices and will not be limited to standards required under law or regulation.*

#### **5. Confidentiality**

Intermediaries must protect clients' personal information and take all reasonable steps to ensure that personal information is not divulged and is only used for the purpose for which it was collected, unless the client provides proper authorization, as required by applicable laws or regulations, to divulge personal information to others for reasonable purposes. Intermediaries must not use personal information to the detriment of the client. However, personal information may be divulged without client consent to, for example, law enforcement agencies when required or authorized by law.

*Commentary: The requirement of confidentiality extends to participants in group plans. A basic requirement for intermediaries is to ensure that proper care is taken when handling documents that contain personal information provided by clients/group plan participants. The damage to the client is the same regardless of whether personal information is divulged to someone willfully or as a result of careless handling of files.*

#### **6. Conflicts of Interest**

The intermediary must avoid situations where the underlying circumstances could tend to prejudice or bias the direction of advice he or she provides. In the case of a conflict of interest, the client must be made aware of the nature of the conflict before the transaction takes place.

*Commentary: If a situation arises where a conflict exists and cannot be avoided, the condition can only be mitigated by objective, plain-language disclosure to the client of the nature and impact of the conflict. The client must then be given an opportunity to halt the transaction, to seek other professional advice, or to knowingly proceed with the transaction.*

#### **7. General Information Disclosure**

The intermediary has the responsibility to ensure that the client is fully informed of all relevant information before the client makes a decision. The client is entitled to disclosure of the risks and benefits of the financial products being considered and information about the intermediary's business relationships as they pertain to the transaction.

*Commentary: There are two aspects to disclosure and both must be satisfactorily taken into account under these principles and practices: (1) "product information" regarding product or service features, as well as the main risks and benefits inherent in the*

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*transaction or purchase; and (2) "intermediary information" regarding relationship issues which are important to the consumer.*

- a. **Product Information:** In addition to clearly describing the product or service for the client and the ways in which the transaction will fulfil the needs of the client, product information includes disclosure of important assumptions underlying any illustrations or examples that have been provided to the client, as well as the fact that actual results may differ significantly from those shown. The intermediary should avoid using examples or illustrations which he or she knows, or ought to know, are based on unusual results or a period that generated much better than normally anticipated performance.
- b. **Intermediary/Business Relationship Information:** The intermediary must include the names of organizations or persons that are, to his or her knowledge, directly or indirectly, providing remuneration to the intermediary; the relationship between the intermediary and the firm whose product is being considered; and any relationship(s) among the firms involved in a transaction. Any other direct or indirect relationships that are relevant to the transaction should also be disclosed by the intermediary. In cases where this information has not been disclosed because the intermediary is unaware of it, it is expected that he or she will have first made a reasonable effort at due diligence. The intermediary must also disclose all fees payable by the client, the method of the intermediary's remuneration (disclosure of specific amount is not required, but disclosure of the type of compensation is, i.e. fixed and percentage commission, salary, or other) and must disclose the existence of any other benefits from sales incentive programs related to the transaction (note: as with compensation, this disclosure only applies to the type of compensation the intermediary receives, not the specific amount).

**Example:** A financial planner shall make timely written disclosure of all material information relative to the professional relationship including:

- A statement indicating whether the representative's compensation arrangements involve fee-only, commission-only, salary, fee and commission, or other forms of economic benefits from parties other than the client.
- Where financial products are used in implementing the planning strategy, the client must be informed of the basis on which the representative is compensated. To this end, the representative is governed by the accepted sales disclosure guidelines and regulations covering securities, mutual funds, real estate, insurance, and other financial products used in fulfilling the plan.

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- A statement describing material agency or employment relationships a representative (or firm) has with third parties, including the nature of the compensation arrangements.

### 8. Client Redress

The intermediary must deal directly with all formal and informal complaints or disputes, or refer them to the appropriate person or process, in a timely and forthright manner.

The intermediary must be fully aware of all applicable processes for dealing with complaints and must disclose to all clients the channels available for pursuing different types of complaints (e.g., regarding conduct, service, or product performance). In the case of an individual authorized to do business in more than one sector, it is particularly important that the client be made aware of the different lines of accountability for complaint handling that are associated with each transaction. In situations where a dispute cannot be resolved intermediaries should provide to clients, preferably in writing, the redress mechanisms that can be pursued, depending on the product and type of complaint involved.

### 9. Compliance

If a financial industry association purports to set standards for its members, it is expected that such standards would be set out in a code of conduct which would incorporate the principles and practices set out in this document. The association is also expected to have a system to promote compliance and develop systems to resolve complaints against their members. Intermediaries who are not members of an association are expected to follow the principles and practices on the basis of adhering to industry best practices.

### 10. Definitions

“**Client**” means any customer or potential customer with whom an intermediary interacts in the course of his or her business.

“**Intermediary**” means a participant in the financial services industry who markets products or provides financial advice or services to clients. In a particular instance this could be a person, firm and/or a financial institution.

“**Personal Information**” means information that the client would expect to remain confidential because it was conveyed for the purpose of the financial transaction.

### Principles and Practices for the Sale of Products and Services in the Financial Sector

#### Companion Piece - Examples for Life Insurance Agents

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This document is a companion piece to the *Principles and Practices for the sale of Products and Services in the Financial Sector* and sets out examples of business practices for each principle.

#### 1. Interests of the Client

The client's interests take priority over the intermediary's interests and should not be sacrificed to the interests of others.

*Commentary: This principle is paramount. All remaining principles and practices expand upon this fundamental principle.*

**Example:** There are various regulatory bylaws or codes of conduct that require that licensees carry on business in utmost good faith. The Insurance Council of British Columbia's Code of Conduct for Insurance Agents, Salespersons & Adjusters goes on to say that "good faith is honesty and decency of purpose and a sincere intention on your part to act in a manner which is consistent with your client's or principal's best interests, remaining faithful to your duties and obligations as an insurance licensee".

The interests of the client would not be taken under consideration if:

- the licensee misrepresented or failed to disclose material information where required;
- the licensee made improper use of confidential information.

#### 2. Needs of the Client

In order to understand the client's interests, the intermediary must obtain or confirm information about the needs of the client and, when making a recommendation, must reasonably ensure that any product or service offered is suitable to fulfill those needs.

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*Commentary:* In assessing the needs of the client, the intermediary should take into account the financial significance and complexity of the product or service being sold.

**Example:** The sort of information that agents obtain through a needs analysis done prior to making an insurance recommendation includes:

- family and financial situation (dependents, income, personal and family obligations);
- other life insurance coverage (individual and group);
- objectives that client wishes to meet through insurance;
- other financial resources available to meet those objectives.

### 3. Legitimate Business Interests

The intermediary must collect enough information about the client and the transaction to reasonably determine the identity of the client and that the transaction is lawful. The intermediary must not act on behalf of a client when there are reasonable grounds to believe that the transaction is of an unlawful nature.

*Commentary:* When obtaining information about the client and his/her business, the intermediary must not continue to act for the client if it is known or should be known that the transaction is unlawful. In some circumstances, the intermediary will be required to report the transaction to regulatory authorities.

### 4. Professionalism

Intermediaries must act in good faith at all times. They must acquire an appropriate level of knowledge relating to their particular business and meet high standards of professional ethics, including acting with honesty, integrity, fairness, due diligence and skill. The concept of professionalism includes but is not limited to the following:

- a. **Education:** In a rapidly changing financial marketplace, intermediaries must keep abreast of changes in products, regulations and other factors that will affect their ability to provide high standards of service to clients. Education, including continuing education, is a necessary component of professional skill.

**Example:** Agents are required to pass a licensing examination demonstrating basic knowledge of the life insurance industry and its products. Regulators are proposing the introduction of mandatory pre-license training to enhance “entry-level” knowledge. Many provinces require continuing education as a condition of

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licence renewal. Those agents with professional designations are also required to meet continuing education requirements as a condition of maintaining their designations.

- b. **Holding Out:** An intermediary must inform the client of the business licenses and registrations held, as well as the business name(s) of firm(s) under which he or she is licensed to operate.
- c. **Advertising and all other Client Communications:** Intermediaries must ensure that all references to their business activities, services and products are clear, descriptive and not misleading.

**Example:** Provincial regulations stipulate that agents may not make “a false or misleading statement, representation or advertisement”. (See, for instance, Ontario’s Regulation on Unfair and Deceptive Acts and Practices (O. Reg. 7/00) especially paragraphs 4 to 6.)

- d. **Business Operations:** Intermediaries must ensure that their financial records are properly maintained and that they follow sound business practices.
- e. **Fair Practices:** Intermediaries must not engage in practices that intentionally mislead the client or place the interests of others ahead of the client’s interests. Unfair practices are contrary to the underlying spirit of the principles and practices set out in this document. The intermediary must refrain from practices that contravene, directly or indirectly, the spirit or intent of any of the requirements of these principles and practices.

**Example:** Provincial regulations stipulate that agents shall not engage in unfair or deceptive practices. In some cases (i.e., Ontario Insurance Act, s.438, unfair and deceptive acts are defined.)

- f. **Financial Accountability:** Intermediaries should have appropriate resources in place to compensate clients who suffer a loss as a result of an error, omission or fraudulent activity that is caused by the intermediary or someone for whom he or she is responsible. The intermediary must ensure that all financial obligations are met and should strive to exceed all existing requirements for professional liability insurance, errors and omissions insurance, trust accounts, deposits or other fiduciary measures.

**Example:** In most provinces, agents are required to carry errors & omissions insurance, as a condition of licensing.

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*Commentary: Professionalism means that intermediaries will strive to adhere to best practices and will not be limited to standards required under law or regulation.*

#### 5. Confidentiality

Intermediaries must protect clients' personal information and take all reasonable steps to ensure that personal information is not divulged and is only used for the purpose for which it was collected, unless the client provides proper authorization, as required by applicable laws or regulations, to divulge personal information to others for reasonable purposes. Intermediaries must not use personal information to the detriment of the client. However, personal information may be divulged without client consent to, for example, law enforcement agencies when required or authorized by law.

*Commentary: The requirement of confidentiality extends to participants in group plans. A basic requirement for intermediaries is to ensure that proper care is taken when handling documents that contain personal information provided by clients/group plan participants. The damage to the client is the same regardless of whether personal information is divulged to someone willfully or as a result of careless handling of files.*

**Example:** Provincial regulations specifically deal with the handling of medical and other confidential information, as does CLHIA's Right to Privacy Guideline. These deal with the collection, use and disclosure of personal information. They require the consent of the individual in both the collection and use of the information, and set out requirements for complaint resolution. Federal privacy legislation will apply to client information no later than January 2, 2004 where there is no comparable provincial legislation in force.

#### 6. Conflicts of Interest

The intermediary must avoid situations where the underlying circumstances could tend to prejudice or bias the direction of advice he or she provides. In the case of a conflict of interest, the client must be made aware of the nature of the conflict before the transaction takes place.

*Commentary: If a situation arises where a conflict exists and cannot be avoided, the condition can only be mitigated by objective, plain-language disclosure to the client of the nature and impact of the conflict. The client must then be given an opportunity to halt the transaction, to seek other professional advice, or to knowingly proceed with the transaction.*

**Example:** Provincial regulations require that agents disclose actual or potential conflicts of interest. B.C.'s Code of Conduct goes on to state: "where there is an irreconcilable conflict between your duty to a client and your other duties as a licensee, you should decline to act in the transaction. For example, if a client asked you to conceal information from an insurer that was material to the risk, you should decline to act in the transaction."

## 7. General Information Disclosure

The intermediary has the responsibility to ensure that the client is fully informed of all relevant information before the client makes a decision. The client is entitled to disclosure of the risks and benefits of the financial products being considered and information about the intermediary's business relationships as they pertain to the transaction.

*Commentary:* There are two aspects to disclosure and both must be satisfactorily taken into account under these principles and practices: (1) "product information" regarding product or service features, as well as the main risks and benefits inherent in the transaction or purchase; and (2) "intermediary information" regarding relationship issues which are important to the consumer.

- a. **Product Information:** In addition to clearly describing the product or service for the client and the ways in which the transaction will fulfil the needs of the client, product information includes disclosure of important assumptions underlying any illustrations or examples that have been provided to the client, as well as the fact that actual results may differ significantly from those shown. The intermediary should avoid using examples or illustrations which he or she knows, or ought to know, are based on unusual results or a period that generated much better than normally anticipated performance.

**Example:** Ontario's Regulation on Unfair and Deceptive Acts and Practices, para. 4, contains a general prohibition against misrepresentation. The industry has also developed more detailed supplementary guidelines. For instance, the CLHIA's Sales Illustration Guideline underscores the importance of communicating to clients the risks involved and the potential variability of the product for those products not fully guaranteed. For Universal Life policies with an equity component, it requires that any illustrations of non-guaranteed elements prominently specify that actual results will vary from those illustration – upward or downward- depending on future experience. A minimum of two scenarios must be provided – the first within the "primary" scenario range established, on an annual basis, by the insurer; and the second that is less

favourable than the primary scenario. The general basis for each scenario and its key assumptions must also be outlined.

- b. **Intermediary/Business Relationship Information:** The intermediary must include the names of organizations or persons that are, to his or her knowledge, directly or indirectly, providing remuneration to the intermediary; the relationship between the intermediary and the firm whose product is being considered; and any relationship(s) among the firms involved in a transaction. Any other direct or indirect relationships that are relevant to the transaction should also be disclosed by the intermediary. In cases where this information has not been disclosed because the intermediary is unaware of it, it is expected that he or she will have first made a reasonable effort at due diligence. The intermediary must also disclose all fees payable by the client, the method of the intermediary's remuneration (disclosure of specific amount is not required, but disclosure of the type of compensation is, i.e. fixed and percentage commission, salary, or other) and must disclose the existence of any other benefits from sales incentive programs related to the transaction (note: as with compensation, this disclosure only applies to the type of compensation the intermediary receives, not the specific amount).

**Example:** B.C. has an express disclosure requirement. Ontario requires a life agent to disclose all insurers and also all other providers of financial products and services. As for remuneration, it is appropriate that the intermediary disclose the method of remuneration. It is impractical to list other benefits that may result from the sale as they may not be known at the time of the transaction (e.g. volume bonuses).

## 8. Client Redress

The intermediary must deal directly with all formal and informal complaints or disputes, or refer them to the appropriate person or process, in a timely and forthright manner.

The intermediary must be fully aware of all applicable processes for dealing with complaints and must disclose to all clients the channels available for pursuing different types of complaints (e.g., regarding conduct, service, or product performance). In the case of an individual authorized to do business in more than one sector, it is particularly important that the client be made aware of the different lines of accountability for complaint handling that are associated with each transaction. In situations where a dispute cannot be resolved intermediaries should provide to clients, preferably in writing, the redress mechanisms that can be pursued, depending on the product and type of complaint involved.

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**Example:** Insurance companies have established complaint management systems; each company has an appointed “ombudsman” through which consumer complaints can be channelled. In addition, the industry has a Consumer Assistance Centre which handles general queries, and an Ombudservice to assist consumers in resolving complaints. An agent who is insured under a policy of professional liability (E&O) insurance must report any actual or potential claim to the designated claims administrator.

## 9. Compliance

If a financial industry association purports to set standards for its members, it is expected that such standards would be set out in a code of conduct which would incorporate the principles and practices set out in this document. The association is also expected to have a system to promote compliance and develop systems to resolve complaints against their members. Intermediaries who are not members of an association are expected to follow the principles and practices on the basis of adhering to industry best practices.

## 10. Definitions

“**Client**” means any customer or potential customer with whom an intermediary interacts in the course of his or her business.

“**Intermediary**” means a participant in the financial services industry who markets products or provides financial advice or services to clients. In a particular instance this could be a person, firm and/or a financial institution.

“**Personal Information**” means information that the client would expect to remain confidential because it was conveyed for the purpose of the financial transaction.

### Principles and Practices for the Sale of Products and Services in the Financial Sector

#### Companion Piece - Examples for Loan Brokers

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This document is a companion piece to the *Principles and Practices for the sale of Products and Services in the Financial Sector* and sets out examples of business practices for each principle.

#### 1. Interests of the Client

The client's interests take priority over the intermediary's interests and should not be sacrificed to the interests of others.

*Commentary: This principle is paramount. All remaining principles and practices expand upon this fundamental principle.*

**Example:** The interests of the client would not be taken under consideration if a loan broker did not shop the market for the best interest rates.

#### 2. Needs of the Client

In order to understand the client's interests, the intermediary must obtain or confirm information about the needs of the client and, when making a recommendation, must reasonably ensure that any product or service offered is suitable to fulfill those needs.

*Commentary: In assessing the needs of the client, the intermediary should take into account the financial significance and complexity of the product or service being sold.*

**Example:** A loan broker should obtain adequate information from a client in order to be able to refer the client's loan request to the type of financial institution most likely to assist the client.

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### 3. Legitimate Business Interests

The intermediary must collect enough information about the client and the transaction to reasonably determine the identity of the client and that the transaction is lawful. The intermediary must not act on behalf of a client when there are reasonable grounds to believe that the transaction is of an unlawful nature.

*Commentary: When obtaining information about the client and his/her business, the intermediary must not continue to act for the client if it is known or should be known that the transaction is unlawful. In some circumstances, the intermediary will be required to report the transaction to regulatory authorities.*

### 4. Professionalism

Intermediaries must act in good faith at all times. They must acquire an appropriate level of knowledge relating to their particular business and meet high standards of professional ethics, including acting with honesty, integrity, fairness, due diligence and skill. The concept of professionalism includes but is not limited to the following:

- a. **Education:** In a rapidly changing financial marketplace, intermediaries must keep abreast of changes in products, regulations and other factors that will affect their ability to provide high standards of service to clients. Education, including continuing education, is a necessary component of professional skill.

**Example:** Loan brokers should be aware of all sources of available funds in the industry to give the broadest possible choice.

- b. **Holding Out:** An intermediary must inform the client of the business licenses and registrations held, as well as the business name(s) of firm(s) under which he or she is licensed to operate.

**Example:** Loan brokers must make it clear to the client that the loan of funds is not secured by real property.

- c. **Advertising and all other Client Communications:** Intermediaries must ensure that all references to their business activities, services and products are clear, descriptive and not misleading.

**Example:** Loan brokers that advertise must make it clear that the activity is restricted to brokering and not the direct marketing of loans.

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- d. **Business Operations:** Intermediaries must ensure that their financial records are properly maintained and that they follow sound business practices.

**Example:** Loan brokers must keep proper books and records detailing all business transactions.

- e. **Fair Practices:** Intermediaries must not engage in practices that intentionally mislead the client or place the interests of others ahead of the client's interests. Unfair practices are contrary to the underlying spirit of the principles and practices set out in this document. The intermediary must refrain from practices that contravene, directly or indirectly, the spirit or intent of any of the requirements of these principles and practices.

**Example:** Section 48(1) of *The Trust and Loan Corporations Act, 1997* (Saskatchewan) prevents loan brokers from putting undue pressure on clients after a client decides not to complete a loan transaction.

- f. **Financial Accountability:** Intermediaries should have appropriate resources in place to compensate clients who suffer a loss as a result of an error, omission or fraudulent activity that is caused by the intermediary or someone for whom he or she is responsible. The intermediary must ensure that all financial obligations are met and should strive to exceed all existing requirements for professional liability insurance, errors and omissions insurance, trust accounts, deposits or other fiduciary measures.

**Example:** Section 55 of *The Trust and Loan Corporations Act, 1997* (Saskatchewan) requires loan brokers to file a bond with the Superintendent. The value of the bond is determined by the value of the loans to be brokered, although the minimum bond value is \$25,000.

*Commentary: Professionalism means that intermediaries will strive to adhere to best practices and will not be limited to standards required under law or regulation.*

## 5. Confidentiality

Intermediaries must protect clients' personal information and take all reasonable steps to ensure that personal information is not divulged and is only used for the purpose for which it was collected, unless the client provides proper authorization, as required by applicable laws or regulations, to divulge personal information to others for reasonable purposes. Intermediaries must not use personal information to the detriment of the

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client. However, personal information may be divulged without client consent to, for example, law enforcement agencies when required or authorized by law.

*Commentary: The requirement of confidentiality extends to participants in group plans. A basic requirement for intermediaries is to ensure that proper care is taken when handling documents that contain personal information provided by clients/group plan participants. The damage to the client is the same regardless of whether personal information is divulged to someone willfully or as a result of careless handling of files.*

**Example:** There are specific rules that govern loan brokers.

### 6. Conflicts of Interest

The intermediary must avoid situations where the underlying circumstances could tend to prejudice or bias the direction of advice he or she provides. In the case of a conflict of interest, the client must be made aware of the nature of the conflict before the transaction takes place.

*Commentary: If a situation arises where a conflict exists and cannot be avoided, the condition can only be mitigated by objective, plain-language disclosure to the client of the nature and impact of the conflict. The client must then be given an opportunity to halt the transaction, to seek other professional advice, or to knowingly proceed with the transaction.*

**Example:** A loan broker refers clients to a lender that pays the broker a higher commission than what would be received from other lenders.

### 7. General Information Disclosure

The intermediary has the responsibility to ensure that the client is fully informed of all relevant information before the client makes a decision. The client is entitled to disclosure of the risks and benefits of the financial products being considered and information about the intermediary's business relationships as they pertain to the transaction.

*Commentary: There are two aspects to disclosure and both must be satisfactorily taken into account under these principles and practices: (1) "product information" regarding product or service features, as well as the main risks and benefits inherent in the transaction or purchase; and (2) "intermediary information" regarding relationship issues which are important to the consumer.*

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- a. **Product Information:** In addition to clearly describing the product or service for the client and the ways in which the transaction will fulfil the needs of the client, product information includes disclosure of important assumptions underlying any illustrations or examples that have been provided to the client, as well as the fact that actual results may differ significantly from those shown. The intermediary should avoid using examples or illustrations which he or she knows, or ought to know, are based on unusual results or a period that generated much better than normally anticipated performance.

**Example:** According to section 49 (f) of *The Trust and Loan Corporations Act, 1997* (Saskatchewan), a loan broker must disclose all charges for services before providing services or products to a client. Total charges may differ between loan products depending on the loan broker's fee structure.

- b. **Intermediary/Business Relationship Information:** The intermediary must include the names of organizations or persons that are, to his or her knowledge, directly or indirectly, providing remuneration to the intermediary; the relationship between the intermediary and the firm whose product is being considered; and any relationship(s) among the firms involved in a transaction. Any other direct or indirect relationships that are relevant to the transaction should also be disclosed by the intermediary. In cases where this information has not been disclosed because the intermediary is unaware of it, it is expected that he or she will have first made a reasonable effort at due diligence. The intermediary must also disclose all fees payable by the client, the method of the intermediary's remuneration (disclosure of specific amount is not required, but disclosure of the type of compensation is, i.e. fixed and percentage commission, salary, or other) and must disclose the existence of any other benefits from sales incentive programs related to the transaction (note: as with compensation, this disclosure only applies to the type of compensation the intermediary receives, not the specific amount).

**Example:** As stated in the example above, section 49 (f) of *The Trust and Loan Corporations Act, 1997* (Saskatchewan), states that all charges must be disclosed to the client including those charges that relate to relationships between the loan broker and the financial institution.

## 8. Client Redress

The intermediary must deal directly with all formal and informal complaints or disputes, or refer them to the appropriate person or process, in a timely and forthright manner.

The intermediary must be fully aware of all applicable processes for dealing with complaints and must disclose to all clients the channels available for pursuing different types of complaints (e.g., regarding conduct, service, or product performance). In the case of an individual authorized to do business in more than one sector, it is particularly important that the client be made aware of the different lines of accountability for complaint handling that are associated with each transaction. In situations where a dispute cannot be resolved intermediaries should provide to clients, preferably in writing, the redress mechanisms that can be pursued, depending on the product and type of complaint involved.

**Example:** Section 50 of *The Trust and Loan Corporations Act, 1997* (Saskatchewan) provides a remedy for a client who gives security for a payment or an advanced payment to a loan broker for a product or service. In this situation, the Act allows the client or the Superintendent to demand that the advanced payment or security be returned to the client.

## 9. Compliance

If a financial industry association purports to set standards for its members, it is expected that such standards would be set out in a code of conduct which would incorporate the principles and practices set out in this document. The association is also expected to have a system to promote compliance and develop systems to resolve complaints against their members. Intermediaries who are not members of an association are expected to follow the principles and practices on the basis of adhering to industry best practices.

## 10. Definitions

**“Client”** means any customer or potential customer with whom an intermediary interacts in the course of his or her business.

**“Intermediary”** means a participant in the financial services industry who markets products or provides financial advice or services to clients. In a particular instance this could be a person, firm and/or a financial institution.

**“Personal Information”** means information that the client would expect to remain confidential because it was conveyed for the purpose of the financial transaction.

### Principles and Practices for the Sale of Products and Services in the Financial Sector

#### Companion Piece - Examples for Property & Casualty Insurance Agents

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This document is a companion piece to the *Principles and Practices for the sale of Products and Services in the Financial Sector* and sets out examples of business practices for each principle.

#### 1. Interests of the Client

The client's interests take priority over the intermediary's interests and should not be sacrificed to the interests of others.

*Commentary: This principle is paramount. All remaining principles and practices expand upon this fundamental principle.*

**Examples:** The interests of the client would not be taken under consideration if an agent, knowing that he could provide coverage asked for by a client, chose to use an inferior policy from an insurer that did not meet the client's needs. The reason for selecting the particular policy was to satisfy the volume requirements of the insurer.

#### 2. Needs of the Client

In order to understand the client's interests, the intermediary must obtain or confirm information about the needs of the client and, when making a recommendation, must reasonably ensure that any product or service offered is suitable to fulfill those needs.

*Commentary: In assessing the needs of the client, the intermediary should take into account the financial significance and complexity of the product or service being sold.*

**Examples:** The type of information that an insurance agent should obtain and or convey to the client includes:

- Insurance needs of client (seasonal homes, watercraft other special risks etc)
- High personal value items (jewelry, furs antiques etc)

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- Value of property and co-insurance implications if client wants to under insure
- Location of property to be insured
- Special risks client may be exposed to (environmental risks)
- Exclusions to property covered
- Limitations on policy (replacement value vs. actual cash value coverage)

This information must be kept up-to-date so that the agent will know whether the current insurance is meeting the client's needs.

### 3. Legitimate Business Interests

The intermediary must collect enough information about the client and the transaction to reasonably determine the identity of the client and that the transaction is lawful. The intermediary must not act on behalf of a client when there are reasonable grounds to believe that the transaction is of an unlawful nature.

*Commentary: When obtaining information about the client and his/her business, the intermediary must not continue to act for the client if it is known or should be known that the transaction is unlawful. In some circumstances, the intermediary will be required to report the transaction to regulatory authorities.*

### 4. Professionalism

Intermediaries must act in good faith at all times. They must acquire an appropriate level of knowledge relating to their particular business and meet high standards of professional ethics, including acting with honesty, integrity, fairness, due diligence and skill. The concept of professionalism includes but is not limited to the following:

- a. **Education:** In a rapidly changing financial marketplace, intermediaries must keep abreast of changes in products, regulations and other factors that will affect their ability to provide high standards of service to clients. Education, including continuing education, is a necessary component of professional skill.

**Examples:** Agents must be knowledgeable about all of the products they sell, as well as current insurance regulations. This requires ongoing training. Agencies should provide adequate training to sales persons regarding new product information, legislative changes, office procedures and provide the opportunity to attend courses and professional conferences. All agents are required, pursuant

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to Section 16 of the General Insurance Council of Saskatchewan (GICS) Bylaws to attain a minimum number of continuing education hours each year.

- b. **Holding Out:** An intermediary must inform the client of the business licenses and registrations held, as well as the business name(s) of firm(s) under which he or she is licensed to operate.

**Examples:** Salespersons must carry on business only in the name of the agency they represent and may offer only the class of insurance product they are licensed to sell.

- c. **Advertising and all other Client Communications:** Intermediaries must ensure that all references to their business activities, services and products are clear, descriptive and not misleading.

**Example:** Agents are prohibited pursuant to Section 27 of the GICS Bylaws from engaging in any misleading activity, rebating of commissions, inducements to insure or activity that brings discredit on the industry.

- d. **Business Operations:** Intermediaries must ensure that their financial records are properly maintained and that they follow sound business practices.

**Example:** There are no specific guidelines on the form this must take but agencies and salespersons are expected to maintain records of client contact/activity for both the agencies protection and the clients.

- e. **Fair Practices:** Intermediaries must not engage in practices that intentionally mislead the client or place the interests of others ahead of the client's interests. Unfair practices are contrary to the underlying spirit of the principles and practices set out in this document. The intermediary must refrain from practices that contravene, directly or indirectly, the spirit or intent of any of the requirements of these principles and practices.

**Example:** Section 27 of the GICS bylaws prohibits the use of coercion or undue influence in the securing of insurance business, using incomplete comparisons, omitting of essential information needed by either a client or an insurer. Section 445 (c) of the Sask. Insurance act prohibits coercive or undue influence practices.

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- f. **Financial Accountability:** Intermediaries should have appropriate resources in place to compensate clients who suffer a loss as a result of an error, omission or fraudulent activity that is caused by the intermediary or someone for whom he or she is responsible. The intermediary must ensure that all financial obligations are met and should strive to exceed all existing requirements for professional liability insurance, errors and omissions insurance, trust accounts, deposits or other fiduciary measures.

**Example:** All agencies must have adequate insurance, as dictated by rules, to cover loss due to any dishonest or fraudulent act of any of its employees or agents, and due to errors or omissions of the agency or any of its salespersons or employees.

*Commentary: Professionalism means that intermediaries will strive to adhere to best practices and will not be limited to standards required under law or regulation.*

## 5. Confidentiality

Intermediaries must protect clients' personal information and take all reasonable steps to ensure that personal information is not divulged and is only used for the purpose for which it was collected, unless the client provides proper authorization, as required by applicable laws or regulations, to divulge personal information to others for reasonable purposes. Intermediaries must not use personal information to the detriment of the client. However, personal information may be divulged without client consent to, for example, law enforcement agencies when required or authorized by law.

*Commentary: The requirement of confidentiality extends to participants in group plans. A basic requirement for intermediaries is to ensure that proper care is taken when handling documents that contain personal information provided by clients/group plan participants. The damage to the client is the same regardless of whether personal information is divulged to someone willfully or as a result of careless handling of files.*

**Example:** There are specific rules that govern agencies. These rules dictate that information relating to a client, or the business and affairs of a client, must be maintained in confidence. Agencies must have specific written authority from the client before releasing any client information unless required to do so by law or in the normal course of procuring insurance for the client.

#### 6. Conflicts of Interest

The intermediary must avoid situations where the underlying circumstances could tend to prejudice or bias the direction of advice he or she provides. In the case of a conflict of interest, the client must be made aware of the nature of the conflict before the transaction takes place.

*Commentary: If a situation arises where a conflict exists and cannot be avoided, the condition can only be mitigated by objective, plain-language disclosure to the client of the nature and impact of the conflict. The client must then be given an opportunity to halt the transaction, to seek other professional advice, or to knowingly proceed with the transaction.*

**Example:** Conflict situations are not common in the property and casualty insurance market place since compensation margins do not typically differ between policies.

#### 7. General Information Disclosure

The intermediary has the responsibility to ensure that the client is fully informed of all relevant information before the client makes a decision. The client is entitled to disclosure of the risks and benefits of the financial products being considered and information about the intermediary's business relationships as they pertain to the transaction.

*Commentary: There are two aspects to disclosure and both must be satisfactorily taken into account under these principles and practices: (1) "product information" regarding product or service features, as well as the main risks and benefits inherent in the transaction or purchase; and (2) "intermediary information" regarding relationship issues which are important to the consumer.*

- a. **Product Information:** In addition to clearly describing the product or service for the client and the ways in which the transaction will fulfil the needs of the client, product information includes disclosure of important assumptions underlying any illustrations or examples that have been provided to the client, as well as the fact that actual results may differ significantly from those shown. The intermediary should avoid using examples or illustrations which he or she knows, or ought to know, are based on unusual results or a period that generated much better than normally anticipated performance.

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**Example:** Information that should be disclosed includes limitations or exclusions under the policy, and conditions that may void a policy.

- b. **Intermediary/Business Relationship Information:** The intermediary must include the names of organizations or persons that are, to his or her knowledge, directly or indirectly, providing remuneration to the intermediary; the relationship between the intermediary and the firm whose product is being considered; and any relationship(s) among the firms involved in a transaction. Any other direct or indirect relationships that are relevant to the transaction should also be disclosed by the intermediary. In cases where this information has not been disclosed because the intermediary is unaware of it, it is expected that he or she will have first made a reasonable effort at due diligence. The intermediary must also disclose all fees payable by the client, the method of the intermediary's remuneration (disclosure of specific amount is not required, but disclosure of the type of compensation is, i.e. fixed and percentage commission, salary, or other) and must disclose the existence of any other benefits from sales incentive programs related to the transaction (note: as with compensation, this disclosure only applies to the type of compensation the intermediary receives, not the specific amount).

**Example:** This section does not readily apply to property and casualty business since agencies in Saskatchewan are not restricted to specific insurance companies although some agencies may have contractual obligations with specific companies that would be disclosed to consumers.

## 8. Client Redress

The intermediary must deal directly with all formal and informal complaints or disputes, or refer them to the appropriate person or process, in a timely and forthright manner.

The intermediary must be fully aware of all applicable processes for dealing with complaints and must disclose to all clients the channels available for pursuing different types of complaints (e.g., regarding conduct, service, or product performance). In the case of an individual authorized to do business in more than one sector, it is particularly important that the client be made aware of the different lines of accountability for complaint handling that are associated with each transaction. In situations where a dispute cannot be resolved intermediaries should provide to clients, preferably in writing, the redress mechanisms that can be pursued, depending on the product and type of complaint involved.

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**Example:** There is no formal complaint handling procedure beyond the expectation that client's complaints are handled fairly and expeditiously.

#### 9. Compliance

If a financial industry association purports to set standards for its members, it is expected that such standards would be set out in a code of conduct which would incorporate the principles and practices set out in this document. The association is also expected to have a system to promote compliance and develop systems to resolve complaints against their members. Intermediaries who are not members of an association are expected to follow the principles and practices on the basis of adhering to industry best practices.

#### 10. Definitions

**“Client”** means any customer or potential customer with whom an intermediary interacts in the course of his or her business.

**“Intermediary”** means a participant in the financial services industry who markets products or provides financial advice or services to clients. In a particular instance this could be a person, firm and/or a financial institution.

**“Personal Information”** means information that the client would expect to remain confidential because it was conveyed for the purpose of the financial transaction.

### Principles and Practices for the Sale of Products and Services in the Financial Sector

#### Companion Piece - Examples for Securities Representatives

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This document is a companion piece to the *Principles and Practices for the sale of Products and Services in the Financial Sector* and sets out examples of business practices for each principle.

#### 1. Interests of the Client

The client's interests take priority over the intermediary's interests and should not be sacrificed to the interests of others.

*Commentary: This principle is paramount. All remaining principles and practices expand upon this fundamental principle.*

**Example:** The interests of the client would not be taken under consideration if a sales representative, knowing that he would receive a higher commission, sold a high risk investment to a client that was considered very conservative with low risk tolerance.

#### 2. Needs of the Client

A sales representative should obtain information to ensure investments are suitable for the client.

**Example:** The type of information that a sales representative should obtain includes:

- level of investment knowledge of the client (i.e., a sophisticated and knowledgeable investor or a novice investor needing a lot more information);
- risk tolerance;
- investment objectives (e.g., income, capital gains);
- up-to-date know your client information (i.e., to the extent it impacts the client's ability to withstand losses, understand the product).

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### 3. Legitimate Business Interests

The intermediary must collect enough information about the client and the transaction to reasonably determine the identity of the client and that the transaction is lawful. The intermediary must not act on behalf of a client when there are reasonable grounds to believe that the transaction is of an unlawful nature.

*Commentary:* When obtaining information about the client and his/her business, the intermediary must not continue to act for the client if it is known or should be known that the transaction is unlawful. In some circumstances, the intermediary will be required to report the transaction to regulatory authorities.

### 4. Professionalism

Intermediaries must act in good faith at all times. They must acquire an appropriate level of knowledge relating to their particular business and meet high standards of professional ethics, including acting with honesty, integrity, fairness, due diligence and skill. The concept of professionalism includes but is not limited to the following:

- a. **Education:** In a rapidly changing financial marketplace, intermediaries must keep abreast of changes in products, regulations and other factors that will affect their ability to provide high standards of service to clients. Education, including continuing education, is a necessary component of professional skill.

**Example:** Sales representative should be knowledgeable about all of the products he sells, as well as current securities regulations. This requires ongoing training. Dealers should provide adequate training for sales representatives regarding new product information, legislative changes, office procedures and provide the opportunity to attend courses and professional conferences.

- b. **Holding Out:** An intermediary must inform the client of the business licenses and registrations held, as well as the business name(s) of firm(s) under which he or she is licensed to operate.

**Example:** When sales representatives are selling multiple products, some of which the mutual fund dealer is not registered to sell, they fail to provide information to the client about who is providing the product. The client might not be aware whether the mutual fund dealer or insurance broker is selling the product.

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- c. **Advertising and all other Client Communications:** Intermediaries must ensure that all references to their business activities, services and products are clear, descriptive and not misleading.

**Example:** All dealers must comply with National Instrument 81-105 - Sales Practices. The National Instrument (NI) says that a fund company cannot pay money, provide a non-monetary benefit or reimburse expenses to a dealer or a sales representative unless these payments are permitted by the NI. For example, permitted payments include commission (at a rate disclosed in the prospectus) and promotional items such as pens, calendars, T-shirts.

- d. **Business Operations:** Intermediaries must ensure that their financial records are properly maintained and that they follow sound business practices.

**Example:** A dealer must keep proper books and records detailing all business transactions (e.g. purchases and sales of securities) and financial information (e.g. revenue, expenses, commissions, capital).

- e. **Fair Practices:** Intermediaries must not engage in practices that intentionally mislead the client or place the interests of others ahead of the client's interests. Unfair practices are contrary to the underlying spirit of the principles and practices set out in this document. The intermediary must refrain from practices that contravene, directly or indirectly, the spirit or intent of any of the requirements of these principles and practices.

**Example:** Part 7.4 of the National Instrument 81-105 - Sales Practices prohibits anyone from requiring that they invest in or switch investments (e.g. switch to a specific family of mutual funds from another family) as part of another transaction - such as obtaining a mortgage loan. This practice would be considered "tied selling".

- f. **Financial Accountability:** Intermediaries should have appropriate resources in place to compensate clients who suffer a loss as a result of an error, omission or fraudulent activity that is caused by the intermediary or someone for whom he or she is responsible. The intermediary must ensure that all financial obligations are met and should strive to exceed all existing requirements for professional liability insurance, errors and omissions insurance, trust accounts, deposits or other fiduciary measures.

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**Example:** All mutual fund dealers must have adequate insurance, as dictated by rules, to cover loss:

- through any dishonest or fraudulent act of any of its employees or agents;
- of cash and securities or other property through robbery, burglary, theft, hold-up or other fraudulent means;
- of cash and securities or other property through robbery, burglary, theft, hold-up misplacement while in transit or in the mail;
- through forgery or alteration of any cheques, drafts, promissory notes or other written orders.

*Commentary:* Professionalism means that intermediaries will strive to adhere to best practices and will not be limited to standards required under law or regulation.

### 5. Confidentiality

Intermediaries must protect clients' personal information and take all reasonable steps to ensure that personal information is not divulged and is only used for the purpose for which it was collected, unless the client provides proper authorization, as required by applicable laws or regulations, to divulge personal information to others for reasonable purposes. Intermediaries must not use personal information to the detriment of the client. However, personal information may be divulged without client consent to, for example, law enforcement agencies when required or authorized by law.

*Commentary:* The requirement of confidentiality extends to participants in group plans. A basic requirement for intermediaries is to ensure that proper care is taken when handling documents that contain personal information provided by clients/group plan participants. The damage to the client is the same regardless of whether personal information is divulged to someone willfully or as a result of careless handling of files.

**Example:** There are specific rules that govern dealers. These rules dictate that information relating to a client, or the business and affairs of a client must be maintained in confidence and that dealers must have written policies and procedures regarding confidentiality.

### 6. Conflicts of Interest

The intermediary must avoid situations where the underlying circumstances could tend to prejudice or bias the direction of advice he or she provides. In the case of a conflict of interest, the client must be made aware of the nature of the conflict before the transaction takes place.

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*Commentary: If a situation arises where a conflict exists and cannot be avoided, the condition can only be mitigated by objective, plain-language disclosure to the client of the nature and impact of the conflict. The client must then be given an opportunity to halt the transaction, to seek other professional advice, or to knowingly proceed with the transaction.*

**Example:** Specific securities rules dictate that dealers must disclose any conflict of interest to clients. Examples of such conflicts includes:

- sales representatives selling securities in which they hold a significant equity interest;
- promoting leveraging to clients in order to increase sales and commission revenues.

## 7. General Information Disclosure

The intermediary has the responsibility to ensure that the client is fully informed of all relevant information before the client makes a decision. The client is entitled to disclosure of the risks and benefits of the financial products being considered and information about the intermediary's business relationships as they pertain to the transaction.

*Commentary: There are two aspects to disclosure and both must be satisfactorily taken into account under these principles and practices: (1) "product information" regarding product or service features, as well as the main risks and benefits inherent in the transaction or purchase; and (2) "intermediary information" regarding relationship issues which are important to the consumer.*

- a. **Product Information:** In addition to clearly describing the product or service for the client and the ways in which the transaction will fulfil the needs of the client, product information includes disclosure of important assumptions underlying any illustrations or examples that have been provided to the client, as well as the fact that actual results may differ significantly from those shown. The intermediary should avoid using examples or illustrations which he or she knows, or ought to know, are based on unusual results or a period that generated much better than normally anticipated performance.

**Example:** Information that should be disclosed includes:

- risks of leveraged investments;
- referral arrangements or income splitting with other sales representatives;
- commission rate;
- risk associated with certain investments.

- b. **Intermediary/Business Relationship Information:** The intermediary must include the names of organizations or persons that are, to his or her knowledge, directly or indirectly, providing remuneration to the intermediary; the relationship between the intermediary and the firm whose product is being considered; and any relationship(s) among the firms involved in a transaction. Any other direct or indirect relationships that are relevant to the transaction should also be disclosed by the intermediary. In cases where this information has not been disclosed because the intermediary is unaware of it, it is expected that he or she will have first made a reasonable effort at due diligence. The intermediary must also disclose all fees payable by the client, the method of the intermediary's remuneration (disclosure of specific amount is not required, but disclosure of the type of compensation is, i.e. fixed and percentage commission, salary, or other) and must disclose the existence of any other benefits from sales incentive programs related to the transaction (note: as with compensation, this disclosure only applies to the type of compensation the intermediary receives, not the specific amount).

## 8. Client Redress

The intermediary must deal directly with all formal and informal complaints or disputes, or refer them to the appropriate person or process, in a timely and forthright manner.

The intermediary must be fully aware of all applicable processes for dealing with complaints and must disclose to all clients the channels available for pursuing different types of complaints (e.g., regarding conduct, service, or product performance). In the case of an individual authorized to do business in more than one sector, it is particularly important that the client be made aware of the different lines of accountability for complaint handling that are associated with each transaction. In situations where a dispute cannot be resolved intermediaries should provide to clients, preferably in writing, the redress mechanisms that can be pursued, depending on the product and type of complaint involved.

**Example:** Each dealer must establish written procedures to deal effectively with client complaints. These should include:

- acknowledgment of all client complaints;
- a written response to the client conveying the results of the investigation of the complaint;
- complaints should be handled by a qualified individual;
- head office and senior management should be informed about any pending legal actions and serious misconduct;

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- sales representatives and their supervisors should be made aware of all complaints by their clients;
- complaints should be maintained in an orderly manner and readily accessible.

Each complaint should include the date, name of complainant, subject of complaint (name of person), securities/services which are subject of complaint, resolution of complaint (date plus supporting documentation).

### 9. Compliance

If a financial industry association purports to set standards for its members, it is expected that such standards would be set out in a code of conduct which would incorporate the principles and practices set out in this document. The association is also expected to have a system to promote compliance and develop systems to resolve complaints against their members. Intermediaries who are not members of an association are expected to follow the principles and practices on the basis of adhering to industry best practices.

### 10. Definitions

**“Client”** means any customer or potential customer with whom an intermediary interacts in the course of his or her business.

**“Intermediary”** means a participant in the financial services industry who markets products or provides financial advice or services to clients. In a particular instance this could be a person, firm and/or a financial institution.

**“Personal Information”** means information that the client would expect to remain confidential because it was conveyed for the purpose of the financial transaction.