



MARKET CONDUCT
TRAINING FOR
ADVISORS



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What is Market Conduct?

- The activities performed by all stakeholders in the insurance arena.
- This includes regulators, insurers, Advisors, associations, ombud-services and customers.
- Regulation is handled by the provinces through CCIR (superintendents) and CISRO (association of agents councils).

What Does an Advisor Need to Know?

- Compliance is not just about following a set of prescribed provincial rules.
- Insurance market conduct regulation is a mixture of principles-based, risk-based and rules-based approaches.
- Advisors now have to become risk managers.

Why Risk Managers?

- Until the past few years, only provincial market conduct laws and regulations applied to the day-to-day activities of insurance Advisors.
- Now some federal laws and regulations also apply, covering such things as money laundering, privacy, and telecommunications.



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What are the Risks?

Certain federal laws apply directly to Advisors and carry serious consequences for failure to comply:

- The Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the “Act”)
- The Personal Information Protection and Electronic Documents Act (“PIPEDA”)
- The Anti-Spam Law and regulations

Market Conduct Issues CAILBA Will Cover

- Advisor Obligations
- MGA Activities
- Regulatory Hot Topics
- Best Practices



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Advisor Obligations – CAILBA Advisor Code of Conduct

- Touches on many of the market conduct obligations and prohibitions that apply to Advisors.
- Intended to provide Advisors with detailed information.
- Often included in Advisor contracts.
- Failure to comply can lead to serious consequences.
- Does not replace any other codes of conduct to which a Advisor must adhere, including those of insurers.
- Place the Customer's Best Interests First
- Hold Out Appropriately
 - Don't mislead
 - Don't pretend you have credentials you don't have
 - Don't overstate the importance of your credentials
 - Follow the provincial rules for the name you use in holding out. Generally, if you aren't incorporated or haven't licensed your company, you need to use your own name.



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Make Needs-Based Recommendations

- Use a proper needs analysis tool and make sure to document everything.
- If your file doesn't support the suitability of the sale, you can face problems down the line.

Provide Full Written Disclosure

- The insurers you represent
- The fact that you're an independent broker
- How (not how much) you are compensated
- Whether you're eligible for other comp (such as travel incentives) based on volume or contests for example
- Any real or potential conflicts of interest
- The customer has the right to ask for more info.
- Keep signed copies and make sure the customer gets one.



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Document in Writing

- Any additional fees you intend to charge for services. (It is advisable to have a written agreement in place if you intend to charge fees).
- Any commission splits (Quebec)

Be Clear and Accurate in Your Representations

- Clear, honest, factual
- Make recommendations on their merits.
- Don't defame competitors or their products and services.
- Explain all product conditions, guaranteed and non-guaranteed features, risk and limitations of advice and product.

Segregated Fund Disclosures

- Deliver Information Folder and Fund Facts for each fund in the contract before the app. is signed.
- Get a signed receipt from the customer
- Ensure that you make the customer aware of the rescission right provided by the insurer.



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Use Only Approved Sales Illustrations

- Follow CLHIA Guidelines on Illustrations.
- Get illustrations signed, particularly for Universal Life.

Avoid Conflicts of Interest

- This includes any attempt to exercise discretionary authority over a client's account.
- Outside business activities are an ongoing source of conflict, which must be disclosed and carefully managed:
 - Real estate
 - Mortgages
 - Tax preparation
 - Exempt market securities, to name a few

Make Recommendations Only When Appropriate

- For Replacements
- For Leveraging



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Obey the Rules

- For commission-splitting
- For referrals and referral fees
- For copyrights – get permission
- For document delivery – don't hold onto policies
- For the CRTC National Do Not Call List
- For anti-spam – get consent and communicate in a compliant way

Protect Privacy and Confidentiality

- Establish a Privacy Compliance Program
- Don't photocopy the medical portions of applications or medical reports required by insurers in the normal course of business unless you have consent.
- Get the customer's consent for the information you collect and ensure that this includes sharing information with the MGA.
- Notify the MGA immediately of any privacy breach or complaints.



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Handle, Report and Log Complaints

- Notify the MGA immediately of any complaints.
- Cooperate in resolution of complaint.
- Maintain appropriate records.

Create an AML Program

- The “Act” requires you to do so.
- Failure to implement a program carries administrative penalties.
- Having a program allows you to make a “due diligence” defense.
- Failure to have a program AND becoming involved in a money laundering or terrorist financing situation can lead to criminal penalties.

Keep Accurate Books and Records

- Develop this habit.
- It can save you tremendous amounts of time and aggravation.
- It can keep you out of court.



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Prohibitions

- Exercise of Discretionary Authority
- Fronting
- Rebating and Inducements
- Viatical Settlements/IOLI/STOLI and associated premium financing
- Accepting cash or cash equivalency payments
- Twisting or churning
- Tied Selling
- Forgery and Alteration of Documents
- Use of sales associates and assistants
 - Make sure that they either are licensed or that they steer clear of any activity that would require a license.
- Non-face-to-face sales
 - You must verify client identity lawfully.
 - Be alert to miscommunications.
 - Be alert to potential fraud.
 - Make sure you're licensed where you need to be.
 - Make sure your MGA and insurer are aware and agree to non-face-to-face (not all MGAs/carriers allow NF2F)



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More Trouble Spots

- Language barriers – make sure you know the insurer’s rules for use of translators. Generally, it should not be you or anyone who can benefit from the policy.
- Sales to seniors and other vulnerable groups – this is a regulatory hot button. Beware of designations that claim to provide you with expertise in working with seniors - they’re inherently misleading. Also make sure that the customer understands the recommendations.
- Over-concentration – don’t become a one note wonder. If you concentrate on just one product, company or concept, you will raise concerns about whether you’re doing needs-based selling.
- Inappropriate leveraging – make sure that any leveraging can be justified, is well-documented and is within parameters laid out by insurers

Records Management

- Be very consistent in the way you handle records.
- Document calls, meetings.
- All of these things add up to your greatest protection in the event that a sale is challenged.



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Some Cautions about Seg Funds

- If you park a customer's money in Money Market until the end of the rescission period or until the customer makes an allocation decision, make sure you follow up quickly and move the money. This is a common, costly error.
- Market timing in segregated funds is as wrong as it is in mutual funds. Don't do it.

MGA Activities

1. Handle licensing and E&O checks
2. Screen Advisors for suitability
3. Monitor Advisors' activities
4. Investigate problems and report to insurers
5. May provide or arrange for training to Advisors
6. Provide compliance support to Advisors
7. Handle complaints
8. Respond to insurer requests for information



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What Do MGAs Expect of Advisors?

- Strict adherence to the Advisor Code of Conduct and all other codes.
- Cooperation in files reviews, audits, complaints, regulatory queries.
- Keep us Informed.

Informed of What?

- Any license or E&O lapses or changes
- If you are or have been
 - charged with or convicted of any crimes.
 - the subject of a regulatory investigation.
 - subject to garnishments or have or will enter into bankruptcy or insolvency.
 - In conflict of interest.
 - In receipt of a consumer complaint that you cannot easily resolve.
 - the recipient of a complaint about privacy.

Regulatory Hot Topics

- Regulation of MGAs – CLHIA reference document
- Supervision of Representatives
- Managing Conflict of Interest and Suitability of Sales – FSCO report
- AML - FINTRAC audits
- Privacy - breaches
- Fair Treatment of Customers – will have an impact on everyone
- Anti-spam – waiting to see how it is enforced

Emerging Issues

- Sales to seniors
- Investor owned and stranger-owned life insurance – insurers will rescind policies, cancel your contracts, report you as unsuitable.
- Know the signs
- Know the risks
- It isn't worth it.