



Canada Financial

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Compliance Manual

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Table of Contents

- Introduction 3
- Financial Solvency 4
- Guidelines for Marketing Materials 5
- Monitoring and Investigation 6
- Complaint Handling Procedures 7
 - Schedule “A” 10
- Code of Conduct..... 11
- Privacy Principles and Procedures..... 12
- Financial Transactions and Reports Information for Life Insurance..... 17
- Information for Life insurance 18
- The National Do Not Call List (DNCL) Rules 21
 - National Do Not Call List Exemptions 23
- Appendices..... 24
 - Appendix 1: Insurance Council of British Columbia Code of Conduct 25
 - Appendix 2: Remarks by Jeanne M. Flemming, Director, Financial Transactions and Reports Analysis Centre of Canada, to the Canadian Life and Health Insurance Association..... 73

Introduction

The successful implementation of high standards of compliance is a crucial factor that contributes to the continued success of, and public confidence in, life insurance companies and advisors doing business in Canada. The establishment and implementation of an effective compliance program, will determine how we are perceived by various stakeholder groups within the financial industry, including our clients, the advisors, the policyholders, our employees, our suppliers, regulators and the public at large. These stakeholders are aware that higher standards of compliance are increasingly being expected of both private and public Canadian companies.

The objective of this manual is to clarify and promote compliance excellence within our organization through: (i) high standards of competence, accountability and disclosure; (ii) compliance with legal regulations; and (iii) consistency with best corporate governance practices.

Financial Solvency

Our current regulatory environment requires all professionals involved with the financial services industry to constantly maintain the highest standard of compliance.

All contracts with insurance carriers that an Advisor has, require that the Advisor complies with each carrier's policies as specified in each contract, and also require that such carriers ensure that their contracted advisors comply with the requirements of the Insurance Act and the regulatory environment in the Province or Territory in which you operate.

One of the responsibilities that belong with the holding of these insurance representation contracts is the continuing financial solvency of the licensed practitioner; regulators also require notifications of solvency problems.

A licensee must notify the Insurance Council of BC within 5 business days where the licensee or any business the licensee owns or has participated in as a director, officer or partner:

1. is disciplined by any financial sector regulator, or any professional or occupational body;
2. declares bankruptcy;
3. has any judgment rendered in relation to any insurance activities, fraud or breach of trust; or;
4. is charged or convicted of any criminal offence or any offence under any law of any jurisdiction, excluding traffic offences resulting in monetary fines only.

More specifically, Manulife Financial's solvency policy prevents the continuance of a representation contract in the events of bankruptcy declaration or the entering a consumer proposal.

All advisors need to inform the Insurance Council, all contracted insurance carriers and CF Canada Financial promptly, in the event of such occurrences.

Guidelines for Marketing Materials

Our current regulatory environment requires all professionals involved with the financial services industry to constantly maintain the highest standard of compliance.

One of the key responsibilities relates to the holding out to the public with regards to the products and services we offer. One important part of this holding out refers to any printed or electronic material describing or representing the nature of such products and services.

It is imperative that any such material never contains any intentional or unintentional misrepresentation or misleading information.

It is strongly advisable to follow CF guidelines in the printing of your business cards.

In the case where other material is concerned, CF recommends limiting the distribution of such materials to the printed and approved publications of our carrier companies which are widely available from the CF offices and from the carriers themselves.

Further, any use of any company logo or trademark requires the approval and consent of the companies themselves and must be submitted to the companies for approval.

In no case should these logos and trademarks or company references be used without the express approval and consent for each specific usage.

Monitoring and Investigation

CF Canada Financial will continually monitor its internal procedures and train its staff to ensure that proper compliance is maintained in all its operations and the operations of the Independent Advisors that submit business through CF Canada Financial.

While responding to all complaints brought to the attention of CF Canada Financial and its staff, our process will monitor all the following indicators other than complaints:

Some of these indicators will be:

1. Missing/suspicious/inappropriate signing of documents
2. Missing/inappropriate witnessing
3. Suspicious/missing ID
4. Cash transactions
5. Excessive replacement activities
6. Excessive lapses
7. Signed blank forms
8. Unlicensed advisors
9. Evidence of fronting

9.1.1. Definition

There are two kinds of fronting:

1. The Advisor submits an application on behalf of another licensed person who is not authorized to represent that particular company
2. The Advisor submits an application on behalf of an unlicensed person.

In addition to monitoring indicators, CF will perform random checks for valid Licenses and valid E&O.

Complaint Handling Procedures

The following outlines CF Canada Financial policies and procedures for dealing with complaints to ensure that complaints are dealt with promptly and fairly.

A “complaint” is deemed to include an alleged grievance involving CF Canada Financial or an advisor affiliated with CF Canada Financial in the form of:

1. any written statement, including electronic communications, of a client, or any person acting on behalf of a client, or of a prospective client involving matters that occurred while the Financial Advisor was contracted with CF Canada Financial
2. any written or verbal statement from any person alleging:
 - 2.1. theft, fraud, misappropriation of funds or insurance, forgery, money laundering, market manipulation, insider trading, misrepresentation, or unauthorized trading;
 - 2.2. insurance related business outside of CF Canada Financial;
 - 2.3. an undeclared conflict of interest arising from an occupation outside of CF Canada Financial;
 - 2.4. personal financial dealings with a client;
3. any other verbal statement of grievance from a client for which the nature and severity of the client’s allegations will warrant, in the professional judgment of CF Canada Financial’s supervisory staff handling the complaint, the same treatment as a written complaint.
4. Complaints should be sent to:

CF Canada Financial
2200 - 1177 West Hastings Street
Vancouver, BC
V6E2K3
Attention: Compliance Officer

To ensure that CF Canada Financial provides an equitable process for the handling of complaints, the following process has been established:

Responding to Complaints, the following procedures are to be followed:

1. Ensure that your area is the appropriate area to handle the complaint. If not, immediately refer to your direct Manager and to CF Compliance Department
2. An acknowledgment letter (Appendix C) is to be sent to the complainant within a maximum of 10 days (ideally, within 5 days) of receipt of the complaint;
3. Report the complaint to the appropriate E&O Insurance Carrier to put them on notice, which is part of the requirements to ensure coverage.
4. The complaint must be resolved within a maximum of 45 days from the date it was received. Within the 45 day period, a complainant is to be informed no later than 15 days after a complaint has been dealt with, the reasons for the decision reached, the details of any proposed resolution as well as details of further avenues available for the person i.e. external dispute resolution bodies available.
5. Upon receipt of a written complaint or a verbal statement of grievance, CF Canada Financial' Compliance Department will (i) immediately record the complaint in the complaint log; and If the complaint cannot be handled immediately (investigation required),CF will send an initial response letter in the form attached as Schedule "A" within five (5) business days of receipt of the written complaint.
6. CF Canada Financial will notify the applicable CF Canada Financial Advisor and respective Manager about the complaint and, where appropriate and/or possible, request their information and documentation with respect to the complaint.
7. Where the complaint involves allegations of serious misconduct, breach of privacy or is a legal action, CF Canada Financial' Compliance Department will make senior management aware of the complaint.
8. In all such cases, if the complaint involves (a) the business of one of CF's contracted Product Provider Companies or (b) the suitability of the contracted advisor, CF will notify the Provider Company Compliance Department about the complaint.

9. CF Canada Financial' Compliance Department will commence its investigation and analysis of the allegations raised in the complaint with a view to providing the substantive response to the client or individual within 90 days of receipt of the written complaint.
10. With respect to the investigation and analysis, CF Canada Financial' Compliance Department will gather the facts, information and documentation where possible from the applicable and/or available sources within CF Canada Financial and/or elsewhere and objectively consider the complaint.
11. Complaints will not be dismissed based on any predetermined factors, rather each complaint will be considered individually on its own merits. In gathering the facts, CF Canada Financial may contact the client or individual to request additional information required to resolve the complaint.
12. Once the investigation has been completed, the substantive response letter will be prepared.
13. Depending on the nature of the alleged grievance, the proposed response will be reviewed by CF Compliance Department and if appropriate, CF's Executive Management.
14. Each substantive response letter will include an outline of the complaint and CF Canada Financial's substantive decision on the complaint, including the reasons for the decision.
15. CF Canada Financial' substantive response letter will be sent to the client by regular letter mail or, in some instances, by courier. CF Canada Financial will continue to proactively address further communication from the client or individual as appropriate in a timely manner until no further action is deemed to be required by CF Canada Financial in its professional judgment.

Schedule "A"

[CF CANADA FINANCIAL LETTERHEAD]

[Date]

[Client Name]

Address]

Dear Client Name:

CF Canada Financial acknowledges receipt on [Month, Day, Year] of your letter of complaint dated [Month, Day, Year].

We are investigating your complaint and will respond to you with the results of our investigation. CF Canada Financial endeavours to provide substantive responses to client complaints within 90 days of receipt. This timeline may be extended where we have requested additional information from you or if your complaint requires an extensive amount of fact-finding or complex legal analysis. In instances where the timeline is extended, CF Canada Financial will keep you apprised of the status of your complaint.

[Include request for any additional reasonable information required to resolve the complaint if known at

this time]

If at any time you would like to inquire about the status of your complaint or provide CF Canada Financial with any additional information or documentation relating to your complaint, please feel free to contact me at the mailing address noted below, by [telephone, fax and e-mail co-ordinates].

Yours truly,

[Name]

Manager, Complaints and Regulatory Investigations

encls.

Code of Conduct

CF Canada Financial expects all CF contracted advisors to follow the Code of Conduct of the Province(s) and Territories the advisors are licensed in.

In addition, advisors are expected to also follow the Codes of Conduct as required by their contractual obligations with the Carriers they hold contract with and represent in the field.

1. See the appendixes to review the Codes of Conduct for: The Insurance Council in The Province of British Columbia

Privacy Principles and Procedures

CF Canada Financial will endeavor to respect and maintain the privacy and confidentiality of all personal information collected as part of the requirements of conducting our Insurance and Financial business.

We will abide by the ten principles of privacy as quoted in the guidelines by the Office of the Privacy Commissioner.

Further, we will follow our documented Complaint Handling Procedures to resolve any complaint, issue and grievance.

Where appropriate, if the complaint involves allegations of serious misconduct, breach of privacy or is a legal action, CF Canada Financial's Compliance Department will make senior management aware of the complaint.

In all such cases, if the complaint involves (a) the business of one of CF's contracted Product Provider Companies or (b) the suitability of the contracted advisor, CF will notify the Provider Company Compliance Department about the complaint.

An organization is responsible for the protection of personal information and the fair handling of it at all times, throughout the organization and in dealings with third parties. Care in collecting, using and disclosing personal information is essential to continued consumer confidence and good will.

The 10 principles that businesses must follow are:

1. Accountability
2. Identifying purposes
3. Consent
4. Limiting collection
5. Limiting use, disclosure, and retention
6. Accuracy
7. Safeguards
8. Openness
9. Individual access
10. Challenging compliance

1. Be accountable

Your responsibilities

Comply with all 10 of the principles of Schedule 1.

Appoint an individual (or individuals) to be responsible for your organization's compliance.

Protect all personal information held by your organization or transferred to a third party for processing.

Develop and implement personal information policies and practices.

2. Identify the purpose

Your organization must identify the reasons for collecting personal information before or at the time of collection.

Your responsibilities

Before or when any personal information is collected, identify why it is needed and how it will be used.

Document why the information is collected.

Inform the individual from whom the information is collected why it is needed.

Identify any new purpose for the information and obtain the individual's consent before using it.

3. Obtain consent

Your responsibilities

Inform the individual in a meaningful way of the purposes for the collection, use or disclosure of personal data.

Obtain the individual's consent before or at the time of collection, as well as when a new use is identified.

4. Limit collection

Your responsibilities

Do not collect personal information indiscriminately.

Do not deceive or mislead individuals about the reasons for collecting personal information.

5. Limit use, disclosure and retention

Your responsibilities

Use or disclose personal information only for the purpose for which it was collected, unless the individual consents, or the use or disclosure is authorized by the Act.

Keep personal information only as long as necessary to satisfy the purposes.

Put guidelines and procedures in place for retaining and destroying personal information.

Keep personal information used to make a decision about a person for a reasonable time period. This should allow the person to obtain the information after the decision and pursue redress.

Destroy, erase or render anonymous information that is no longer required for an identified purpose or a legal requirement.

6. Be accurate

Your responsibilities

Minimize the possibility of using incorrect information when making a decision about the individual or when disclosing information to third parties.

7. Use appropriate safeguards

Your responsibilities

Protect personal information against loss or theft.

Safeguard the information from unauthorized access, disclosure, copying, use or modification.

Protect personal information regardless of the format in which it is held.

8. Be open

Your responsibilities

Inform customers, clients and employees that you have policies and practices for the management of personal information.

Make these policies and practices understandable and easily available.

9. Give individuals access

Your responsibilities

When requested, inform individuals if you have any personal information about them; explain how it is or has been used and provide a list of any organizations to which it has been disclosed.

Give individuals access to their information.

Correct or amend any personal information if its accuracy and completeness is challenged and found to be deficient.

Provide a copy of the information requested, or reasons for not providing access, subject to exceptions set out in Section 9 of the Act (see page 18).

An organization should note any disagreement on the file and advise third parties where appropriate.

10. Provide recourse

Your responsibilities

Develop simple and easily accessible complaint procedures.

Inform complainants of their avenues of recourse. These include your organization's own complaint procedures, those of industry associations, regulatory bodies and the Office of the Privacy Commissioner of Canada.

Investigate all complaints received and take appropriate measures to correct information handling practices and policies.

Financial Transactions and Reports Information for Life Insurance

Every country in the world, perhaps with a few notable exceptions, is engaged in finding ways to protect the legitimate financial system from those who would abuse it – finding ways to detect and deter and prevent money laundering and terrorist activity financing.

When it comes to deterrence and prevention, the work that FINTRAC does to ensure compliance with the law strives to keep illicit funds from entering the legitimate Canadian financial system. This involves ensuring that proper records are kept, that identification is obtained, that risks are being assessed and the other elements of a compliance regime are in place.

All the entities that make up Canada's financial system have a stake in ensuring that the level of deterrence is high. Life insurance companies have a stake in this too.

When it comes to detection, FINTRAC's intelligence assists investigations and it assists prosecutions. Financial intelligence sheds light on the transactions that can be related to criminal activity. It assists investigators in making decisions about where to seek evidence, who to include or exclude as part of the investigation, how the targets are connected and where the assets may be hidden.

There are specific legislative requirements under the PCMLTFA -Proceeds of Crime (Money Laundering) and Terrorist Financing Act – that are applicable to life insurance companies, brokers and independent agents. As an MGA operating in the Financial Distribution Industry, these requirements apply to CF Canada Financial Group Inc. as well.



Information for: Life insurance

Your Obligations

The following summary of the legislative requirements under the PCMLTFA applicable to life insurance companies, brokers or independent agents. If you are a life insurance agent and an employee of a life insurance company or broker, these requirements are the responsibility of the life insurance company except with respect to reporting suspicious transactions and terrorist property, which is applicable to both.

For information about legislative requirements in effect before June 23, 2008, see the applicable guidelines published before 2008.

1. [Reporting](#)
 - 1.1. [Suspicious Transactions](#)
 - 1.2. [Terrorist Property](#)
 - 1.3. [Large Cash Transactions](#)
2. [Record Keeping](#)
3. [Ascertaining Identity](#)
4. [Politically Exposed Foreign Person](#)
5. [Third Party Determination](#)
6. [Compliance Regime](#)

Note: Content in this section may require additional software to view. Consult our [Help](#) page.

[Information for: Life insurance \(PDF version, 65 kb\)](#) 

Additional Information for Life Insurance Companies, Brokers, and Independent Agents

1. [Penalties for Non-compliance](#)
 2. [FINTRAC Interpretation Notices](#)
 3. [Compliance Questionnaire](#)
-

Reporting

1. Suspicious transactions

You must report where there are reasonable grounds to suspect that a transaction or an attempted transaction is related to the commission or attempted commission of a money laundering offence or a terrorist activity financing offence.

See [Guideline 2: Suspicious Transactions](#) and [Guideline 3: Submitting Suspicious Transaction Reports to FINTRAC](#)

2. Terrorist property

You must report where you know that there is property in your possession or control that is owned or controlled by or on behalf of a terrorist or a terrorist group.

See [Guideline 5: Submitting Terrorist Property Reports to FINTRAC](#)

3. Large cash transactions

You must report large cash transactions involving amounts of \$10,000 or more received in cash.

See [Guideline 7: Submitting Large Cash Transaction Reports to FINTRAC](#)

Record Keeping

You must keep the following records:

1. Large cash transaction records
2. Client information records
3. Copies of official corporate records (binding provisions)
4. Copies of suspicious transaction reports
5. Beneficial ownership records

See [Guideline 6A: Record Keeping and Client Identification for Life Insurance Companies, Brokers, and Agents](#)

Ascertaining Identity

You must take specific measures to identify the following individuals or entities:

1. Any individual who conducts a large cash transaction
2. Any individual or entity that purchases an annuity or life insurance policy for which it may pay \$10,000 or more (including reasonable measures to obtain beneficial ownership information for an entity)
3. Any individual for whom you have to send a suspicious transaction report (reasonable measures and exceptions apply)

4. Any individual member of a group plan account when contributions to the plan are not made by payroll deductions or by the plan's sponsor

See [Guideline 6A](#): *Record Keeping and Client Identification for Life Insurance Companies, Brokers, and Agents*

Politically Exposed Foreign Person

If you receive a lump-sum payment of \$100,000 from an individual for an annuity or a life insurance policy, you have to take reasonable measures to determine whether you are dealing with a politically exposed foreign person. You also have to keep records and take additional measures.

See [Guideline 6A](#): *Record Keeping and Client Identification for Life Insurance Companies, Brokers, and Agents*

Third Party Determination

Where a large cash transaction record is required, you must take reasonable measures to determine whether the individual is acting on behalf of a third party. In addition, where an annuity or life insurance policy is purchased and the client is required to pay \$10,000 or more over the duration of the policy, you must take reasonable measures to determine whether the client is acting on behalf of a third party.

In cases where a third party is involved, you must obtain specific information about the third party and their relationship with the individual providing the cash or the client.

See [Guideline 6A](#): *Record Keeping and Client Identification for Life Insurance Companies, Brokers, and Agents*

Compliance Regime

The following five elements must be included in a compliance regime:

1. The appointment of a compliance officer
2. The development and application of written compliance policies and procedures
3. The assessment and documentation of risks of money laundering and terrorist financing, and measures to mitigate high risks
4. Implementation and documentation of an ongoing compliance training program
5. A documented review of the effectiveness of policies and procedures, training program and risk assessment

The National DNCL Rules

What are the National DNCL Rules?

The National DNCL Rules are a subset of the CRTC's Unsolicited Telecommunications Rules. The Rules require that telemarketers who call on their own behalf and organizations who engage a third party to call on their behalf (client of a telemarketer) subscribe to, pay fees for, and access the National DNCL. The National DNCL Rules prohibit telemarketers and clients of telemarketers from calling telephone numbers that have been registered on the National DNCL for more than 31 days. All telemarketers and clients of telemarketers must follow these Rules unless they are making calls that are specifically exempted from the National DNCL Rules.

What are the Unsolicited Telecommunications Rules?

The Unsolicited Telecommunications Rules include the Telemarketing Rules, the Automatic Dialing-Announcing Device (ADAD) Rules and the National DNCL Rules. All telemarketers and clients of telemarketers must follow the Telemarketing Rules and the ADAD Rules regardless of whether they are making calls that are specifically exempted from the National DNCL Rules. The full set of Rules can be found on the [Telemarketing information page](#) in the Consumers section of the [CRTC website](#). You can also read a condensed version of the Rules in the [National Do Not Call List and Telemarketing Rules](#).

What are the definitions of terms used in the National DNCL Rules.

Telemarketing: Telemarketing is the use of telecommunications facilities to make telephone calls or send faxes to consumers for the purpose of solicitation. Solicitation covers a wide range of activities, including sales calls, prospecting calls, and calls for charitable donations or volunteers. Any organization has the potential to be a telemarketer.

Solicitation: Solicitation is the act of selling or promoting a product or service – or requesting money or “money’s worth” – directly or indirectly, for oneself or for another party.

Telemarketer: If you make telemarketing calls or send telemarketing faxes on your own behalf or on behalf of one or more other businesses (i.e. clients), then you are a telemarketer.

Client of a telemarketer: If you engage a third party to make telemarketing calls or send telemarketing faxes on your behalf, then you are a client of a telemarketer. The third party must also comply with Unsolicited Telecommunications Rules.

Scrubbing: This is an industry term that describes removing telephone numbers on the National DNCL from a telemarketer's calling lists.

Express consent: This is permission given by a consumer to a telemarketer for receiving telemarketing calls from that telemarketer and for receiving telemarketing calls via an ADAD.

Are all unsolicited calls considered to be telemarketing calls?

No, not all unsolicited calls are telemarketing calls. Calls that are *not* considered telemarketing calls, and do *not* need to follow the National DNCL Rules but may need to follow the ADAD Rules include:

1. product recall calls
2. appointment reminder calls
3. appointment rescheduling calls
4. calls related to payment or bill collections
5. public service announcements
6. calls for the purposes of market research, surveys or public opinion polls

Do the Rules extend to telemarketers from outside of Canada?

Yes. The Rules apply regardless of where the call originates. Telemarketers calling Canadian consumers from outside of Canada must comply with the National Do Not Call List Rules.

Exemptions to the National DNCL Rules

Do all telemarketing calls fall under the National DNCL Rules?

No, some types of telemarketing calls are exempt.

These types of telemarketing calls are exempt from the National DNCL Rules:

1. calls made by or on behalf of:
 - 1.1. Canadian registered charities
 - 1.2. political parties, riding associations, and candidates
 - 1.3. newspapers of general circulation for the purpose of soliciting subscriptions
 2. calls made to:
 - 2.1. consumers with whom you have an existing business relationship
 - 2.2. consumers who have provided express consent for receiving telemarketing calls
 - 2.3. business consumers
-

National Do Not Call List Exemptions

Telemarketers should understand that there are certain kinds of telemarketing calls that are exempt from the National DNCL Rules.

The exemptions include telemarketing calls made by, or on behalf of:

1. Canadian registered charities;
2. Political parties, riding associations and candidates; and
3. Newspapers of general circulation for the purpose of soliciting subscriptions.

Telemarketing calls that are made to persons with whom there is an existing business relationship are also exempt. Telemarketers are free to call a consumer who:

1. Has purchased, leased, or rented a product or service from the telemarketer in the last 18 months;
2. Is in possession of a written contract with a telemarketer for a service that is still in effect or expired within the last 18 months; and/or
3. Has made an inquiry or has submitted an application to a telemarketer about a product or service within the last 6 months.

Telemarketers may also make calls to consumers if the consumer has provided express consent to be called. Express consent includes:

1. The consumer's permission to be called on a written form, electronic form, or an online form; or
2. The consumer's verbal permission.

The National DNCL Rules do not apply to telemarketing calls made to businesses

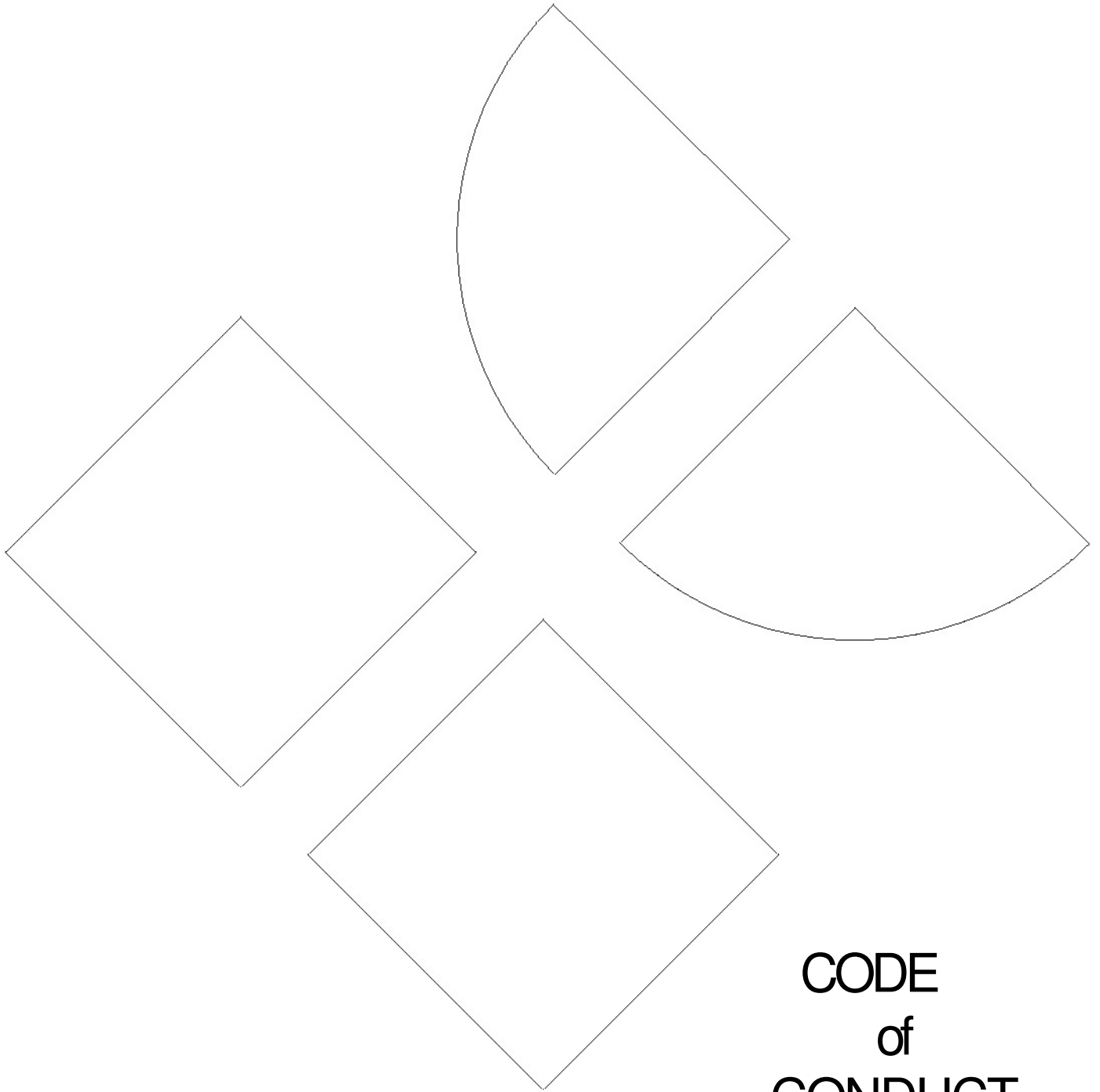
Appendices

1. Insurance Council of British Columbia Code of Conduct
2. Remarks by Jeanne M. Flemming, Director, FINTRAC

Appendix 1

Insurance Council of British Columbia Code of Conduct

**INSURANCE COUNCIL
OF BRITISH COLUMBIA**



**CODE
of
CONDUCT**



IMPORTANT INFORMATION REGARDING THE CONTENTS OF THIS CODE

Unless otherwise qualified in this Code, read:

- "Act" as the *Financial Institutions Act*;
 - "adjusting firm" as a licensed corporation or partnership, or an individual sole proprietor insurance adjuster, that meets the nominee requirements set out in Council Rules;
 - "agency" as a licensed corporation or partnership, or an individual sole proprietor agent, that meets the nominee requirements set out in Council Rules;
 - "client" as a person who may reasonably be expected to rely on a licensee's advice or actions in relation to insurance;
 - "Code" as the Code of Conduct;
 - "Council" as the Insurance Council of British Columbia;
 - "licensee" as a licensed insurance salesperson, agent or adjuster;
 - "nominee" as a licensee nominated to exercise the rights and privileges of an insurance licence issued to an insurance agency or an insurance adjusting firm;
 - "principal" as a person on whose behalf a licensee has undertaken to perform adjusting services;
 - "person" includes a corporation, partnership, society, association or other organization or legal entity;
 - "Rule" as a rule made by Council pursuant to section 225.1 of the Act; and
 - "transaction" as a situation in which a licensee provides an insurance product or service to any person.
-

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www.insurancecouncilofbc.com



TABLE OF CONTENTS

1. INTRODUCTION1.1

2. INTERPRETATION.....2.1

3. TRUSTWORTHINESS.....3.1

 3.1 PRINCIPLE3.1

 3.2 REQUIREMENT.....3.1 **3.3**

 GUIDELINES.....3.1 **3.4**

 EXAMPLES OF MISCONDUCT.....3.1

4. GOOD FAITH4.1

 4.1 PRINCIPLE4.1

 4.2 REQUIREMENT.....4.1 **4.3**

 GUIDELINES.....4.1 **4.4**

 EXAMPLES OF MISCONDUCT.....4.1

5. COMPETENCE.....5.1

 5.1 PRINCIPLE5.1

 5.2 REQUIREMENT.....5.1 **5.3**

 GUIDELINES.....5.1 **5.4**

 EXAMPLES OF MISCONDUCT.....5.2

6. FINANCIAL RELIABILITY6.1

 6.1 PRINCIPLE6.1

 6.2 REQUIREMENT.....6.1 **6.3**

 GUIDELINES.....6.1 **6.4**

 EXAMPLES OF MISCONDUCT.....6.1

7. USUAL PRACTICE: DEALING WITH CLIENTS7.1

 7.1 PRINCIPLE7.1

 7.2 REQUIREMENT.....7.1 **7.3**

 GUIDELINES.....7.1 **7.4**

 EXAMPLES OF MISCONDUCT.....7.3

8. USUAL PRACTICE: DEALING WITH INSURERS.....8.1

 8.1 PRINCIPLE8.1

 8.2 REQUIREMENT.....8.1 **8.3**

 GUIDELINES.....8.1 **8.4**

 EXAMPLES OF MISCONDUCT.....8.2

9. USUAL PRACTICE: DEALING WITH LICENSEES9.1

 9.1 PRINCIPLE9.1

 9.2 REQUIREMENT.....9.1 **9.3**

 GUIDELINES.....9.1 **9.4**

 EXAMPLE OF MISCONDUCT.....9.1

10. USUAL PRACTICE: DEALING WITH THE PUBLIC10.1

10.1 PRINCIPLE10.1
10.2 REQUIREMENT.....10.1
10.3 GUIDELINES.....10.1



11. USUAL PRACTICE: CONDUCT SPECIFIC TO INSURANCE ADJUSTERS.....	11.1
11.1 PRINCIPLE	11.1
11.2 REQUIREMENT.....	11.1
11.3 GUIDELINES.....	11.1
11.4 EXAMPLES OF MISCONDUCT.....	11.2
12. DEALING WITH THE INSURANCE COUNCIL OF BRITISH COLUMBIA	12.1
12.1 PRINCIPLE	12.1
12.2 REQUIREMENT.....	12.1
12.3 GUIDELINES.....	12.1
12.4 EXAMPLES OF MISCONDUCT.....	12.1
13. COMPLIANCE WITH GOVERNING LEGISLATION AND COUNCIL RULES	13.1
13.1 PRINCIPLE	13.1
13.2 REQUIREMENT.....	13.1
13.3 GUIDELINES.....	13.1



1. INTRODUCTION

The strength of the insurance industry is based, in part, on industry members providing advice and services to the public in a competent and professional manner. The underlying principle of all insurance business is utmost good faith. To command the confidence and respect of the public, the insurance industry must maintain a reputation for integrity, competence and good faith.

The provincial legislature has entrusted Council with the responsibility for maintaining standards of professional conduct in the insurance industry. The Act and Rules empower Council to set standards for insurance salespersons, agents and adjusters and to take remedial action where those standards have not been met. Rule 7(7) requires that licensees comply with this Code.

Council's mission statement is:

**We serve the public by regulating insurance licensees
under the *Financial Institutions Act* and by
promoting ethical conduct, integrity and
competence.**

In keeping with Council's mandate, the purpose of the Code is to define and communicate standards of conduct for use by licensees in their practice of the business of insurance. The Code is also used as a guide by Council in its deliberations on proper and usual practice in particular circumstances.

The Code sets out minimum standards of conduct. The extent to which each licensee rises above these standards is a personal decision. However, by striving to maintain the highest possible standards of ethical conduct, a licensee will enjoy the respect and confidence of the public and other members of the industry.

Licensees have a responsibility to assist in the regulatory process and act as gatekeepers for the industry by discouraging misconduct and reporting it where identified.



2 INTERPRETATION

The Code is divided into a number of subsections, each of which addresses a specific principle. Each Principle is defined and then further clarified with a stated Requirement. To provide licensees with additional guidance, each subsection also includes Guidelines and Examples of Misconduct taken from past Council decisions.

The Code provides a framework for a licensee to measure his or her conduct in particular circumstances. It is not possible to foresee every possible situation and describe the proper conduct. When reading the Code, keep in mind that although presented separately, all principles and requirements are interconnected. For example, the principle of Trustworthiness is fundamental to all activities of a licensee and to each of the principles outlined.

The Code applies to all licensees and should be read and interpreted in the context of a licensee's area of insurance practice and Council's primary **concern**, which is protection of the public interest. For clarity the Code refers to licensees by the first person "you".

The Code is written in plain language to be clear and concise and should be read in conjunction with governing legislation and the Rules. Council has additional resources available which expand on many of the principles and requirements detailed in the Code. These include our Licensing Handbook, Notices and Bulletins, all of which are available on our website at www.insurancecouncilofbc.com. Throughout the Code, when a published article was identified as addressing a particular subject, the Notice or Bulletin is referenced.



3. TRUSTWORTHINESS

3.1 PRINCIPLE

In an industry where trust is the foundation for all dealings, you must meet rigorous standards of personal integrity and professional competence. These characteristics speak to the essence of what a licensee does. Failure to adhere to these standards reflects not only on you, but also on the profession. Trustworthiness is a fundamental element of each requirement in the Code.

3.2 REQUIREMENT

You must be trustworthy, conducting all professional activities with integrity, reliability and honesty. The principle of trustworthiness extends beyond insurance business activities. Your conduct in other areas may reflect on your trustworthiness and call into question your suitability to hold an insurance licence.

3.3 GUIDELINES

3.3.1 Conduct that would reflect adversely on your trustworthiness includes:

- a) dishonestly dealing with money or property;
- b) improper use of your position or knowledge as a licensee for personal benefit; (Bulletin - April 2003)
- c) intentionally misleading clients, insurers or Council through false statements or by withholding material information;
- d) knowingly prejudicing the interests of a client or principal for personal gain; and
- e) conduct in the nature of theft or fraud.

3.3.2 Acts of dishonesty outside your professional life may reflect on your trustworthiness to hold an insurance licence.

3.4 EXAMPLES OF MISCONDUCT

3.4.1 A chartered accountant accepted unsecured loans from clients, breached terms of a suspension order, swore a false affidavit and mishandled trust funds.

3.4.2 While acting in a position of trust for a volunteer organization, misappropriated funds from the organization.

3.4.3 Used confidential client information provided by an insurer for a purpose other than intended.



34 Examples Of Misconduct - continued

- 3.4.4 Made or assisted in making a false insurance claim.
 - 3.4.5 Materially misrepresented odometer readings and previous vehicle damage in the private sale and registration of a licensee's motor vehicles.
 - 3.4.6 Signed and submitted segregated fund applications solicited and completed by another agent, to help the other agent circumvent the insurer's internal policy that prohibited life agents from selling segregated funds unless they were also licensed to sell mutual funds.
 - 3.4.7 Improperly rated a motor vehicle to circumvent AirCare.
 - 3.4.8 Made false declarations to an insurer.
 - 3.4.9 "Witnessed" a signature known to be a forgery.
 - 3.4.10 Made false or misleading statements to Council.
 - 3.4.11 Raised capital from clients of an insurance agency of which the licensee was owner and **principal**, without disclosing to the clients that they were investing in the agency and without providing material information to them about the investment, such as agency financial statements and disclosure on how the investments would be used.
-



4. GOOD FAITH

4.1 PRINCIPLE

The insurance industry is based on fiduciary relationships. Accordingly, the exercise of good faith by licensees in the practice of the business of insurance is essential to public confidence in the industry. Good faith is a fundamental aspect of your conduct and a key element in each of the Code's requirements.

4.2 REQUIREMENT

You must carry on the business of insurance in good faith. 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.

You also owe a duty of good faith to insurers, insureds, fellow licensees, regulatory bodies and the public.

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t that would reflect adversely on your intention to practice in good faith includes:

- a) wilful disregard of duties and obligations under the Act, Rules and Code;
- b) misrepresentation or failure to disclose material information where required;
(Bulletin - November 2002)
- c) unauthorized access, use or disclosure of confidential information;
(Bulletin - April 2003)
- d) making improper use of your position as a salesperson, agent or adjuster;
- e) employing or remunerating unlicensed persons to conduct insurance business; and
- f) taking advantage of a client's or insured's inexperience, ill health or lack of sophistication.

EXAMPLES OF MISCONDUCT

Signed as witness to applications, but had not in fact seen them signed.

Directed an employee to sign a document as agent of record, when the employee had not completed the form or met the policyowner.

Directed an unlicensed employee to take an insurance application.

Submitted applications that were known to have been completed by an unlicensed person.



44 Examples of Misconduct - continued

- 4.4.5 Used premium money for personal use.
 - 4.4.6 Backdated a client's automobile insurance and subsequently lied to an ICBC adjuster about when and how the transaction was processed.
 - 4.4.7 Counseled a client to misrepresent material information to an insurance company.
 - 4.4.8 Accessed confidential client information from an insurer's computer database without authority and subsequently communicated that information to another person.
 - 4.4.9 Drafted and signed a false certificate of insurance for a family member who required evidence of insurance coverage.
-



5. COMPETENCE

5.1 PRINCIPLE

Clients rely on the knowledge and advice of licensees. Accordingly, competence on the part of licensees is an essential requirement of the practice of the business of insurance. Incompetent conduct can result in significant prejudice to clients and insurers. It follows that you should not undertake to perform any insurance services beyond your level of competence.

5.2 REQUIREMENT

You must conduct all insurance activities in a competent manner. Competent conduct is characterized by the application of knowledge and skill in a manner consistent with the usual practice of the business of insurance in the circumstances.

You must continue your education in insurance to remain current in your skills and knowledge.

5.3 GUIDELINES

- 5.3.1 Your practice and level of service to clients should be consistent with that which a reasonable and prudent licensee in similar circumstances would exercise. Honest mistakes do not necessarily constitute a failure to adhere to the Code.
- 5.3.2 Conduct that would reflect on your competence includes:
- a) failing to properly place insurance coverage as instructed;
 - b) failing to provide evidence of insurance coverage when required;
 - c) failing to advise a client of a lapse or change in insurance coverage;
 - d) failing to conduct an adequate fact finding and assessment of a client's insurance needs;
 - e) failing to properly handle and account for money or property;
 - f) failing to maintain proper and adequate books and records of insurance transactions and related financial affairs;
 - g) failing to provide for the safekeeping and confidentiality of records;
 - h) failing to advise an insurer/principal of a risk or claim;
 - i) failing to properly document communications and instructions from a client to ensure mutual understanding and provide a record of the transaction; and
 - j) practicing in an area where you lack sufficient expertise, training or experience.
- 5.3.3 Nominees are responsible to Council for all activities of the insurance agency or adjusting firm and must ensure the agency or firm and its employees are properly supervised and operate in accordance with the conditions and restrictions on their licences.
-

**5.3 Guidelines - continued**

- 5.3.4 Licensees who have supervisory duties must fulfil those duties competently. Improper practice by supervised employees may bring a supervisor's competence into question if the conduct occurred due to inadequate supervision, including lack of policies, procedures and training.
- 5.3.5 You must comply with the continuing education requirements under the Rules. However, these are minimum requirements and may not be sufficient to maintain appropriate standards, particularly if you work in specialized areas.
- 5.3.6 You must refrain from giving advice in areas beyond your expertise as an insurance licensee. For example, you should refer matters that would be more properly dealt with by a lawyer or accountant.

5.4 EXAMPLES OF MISCONDUCT

- 5.4.1 Sold an insurance policy that was inappropriate given the client's stated objectives and circumstances and that a prudent and competent agent would not have recommended.
- 5.4.2 Counseled a client to conduct an assignment of a life insurance policy in a manner that failed to meet the client's stated objective.
- 5.4.3 Failed to properly manage the business and financial aspects of an agency, including the proper handling and remittance of premium money to insurers.
- 5.4.4 Altered the effective date of an insurance contract.
- 5.4.5 Permitted a Level 1 salesperson to conduct general insurance business without the direct supervision of a Level 2 or Level 3 agent.
- 5.4.6 Employed an unlicensed individual in a licensed capacity for a period of five months because procedures were inadequate to ensure employees were properly licensed before they commenced insurance activities.
- 5.4.7 Provided written notice to clients that their insurance coverage had been renewed, prior to receiving confirmation from the insurance company that renewal terms would be offered.
-



6. FINANCIAL RELIABILITY

6.1 PRINCIPLE

As an insurance licensee, clients and insurers entrust money, property and financial instruments to you to facilitate transactions or claims on their behalf. Accordingly, your reliability in handling these funds is essential to your practice as a licensee.

6.2 REQUIREMENT

You must be financially reliable. This means you can be relied upon to properly safeguard and account for money and property entrusted to you and to promptly deliver them in accordance with the circumstances.

6.3 GUIDELINES

- 6.3.1 Conduct outside your professional life may reflect on your financial reliability.
- 6.3.2 Outstanding judgements, pending legal proceedings and/or bankruptcies can reflect on your financial reliability.
- 6.3.3 Where you collect or receive funds on behalf of an insurer, you must:
 - a) not encumber the funds without the prior written consent of the insurer;
 - b) not use or apply the funds for purposes other than as described in the agreement with the insurer; and
 - c) pay to the insurer all funds collected or received less any deductions authorized by the insurer.

6.4 EXAMPLES OF MISCONDUCT

- 6.4.1 Failed to account for or repay unauthorized withdrawals from a bank account over which the licensee held a power of attorney.
 - 6.4.2 Failed to invest a client's money in mutual funds as instructed.
 - 6.4.3 Contrary to his clients' interests and for personal gain, solicited clients to invest the cash value of their life insurance policies in a company he had a vested interest in, without disclosing his inherent conflict of interest and the true risks involved.
 - 6.4.4 Personal debts and questionable financial involvement with a number of companies that solicited investors for offshore investments.
 - 6.4.5 Legal proceedings by a group of former clients alleging misappropriation of funds and by a bank seeking payment for personal credit line agreements and two promissory notes.
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7. USUAL PRACTICE: DEALING WITH CLIENTS

7.1 PRINCIPLE

Under the Code, a client includes anyone who might reasonably be expected, in the circumstances, to rely on your professional advice or actions in relation to his or her insurance. You are required to put the best interests of the client as your first concern, as befits the role of a fiduciary.

7.2 REQUIREMENT

When dealing with clients you must:

- protect clients' interests and privacy;
- evaluate clients' needs;
- disclose all material information; and
- act with integrity, competence and the utmost good faith.

7.3 GUIDELINES

CONFLICT OF INTEREST

- 7.3.1 You should not place yourself in a conflict of interest with your client, unless the client has first approved of your conduct after full disclosure of the conflict, preferably in writing.
- 7.3.2 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.

DISCLOSURE

- 7.3.3 What information is material and should be provided to a client depends on the circumstances of the transaction. You should disclose any information relevant to the client's insurance needs that a reasonable and prudent licensee would disclose in the same circumstances.
- 7.3.4 Prior to arranging an insurance transaction with a client who has been referred to you by an unlicensed third party, you must disclose to the client, in writing, any fee or compensation paid to the third party for the referral.



73 Guidelines - continued

- 7.3.5 Prior to conducting a transaction, you must disclose any fees you charge in addition to the policy premium. The fee should be disclosed in writing to the client and include separate dollar values for the total insurance premium charged by the insurer, the total additional fee charged by the agent and any premium finance fees charged by the agent.
(Bulletin - October 2001)
- 7.3.6 You must disclose to the client any arrangement to place the client's insurance through another agent and meet Council's sub-broking guidelines.
(Notice ICN# 98-003 - Sub-Broking)
- 7.3.7 You must fully inform clients about all aspects of the insurance products they purchase, including any changes that occur during the term of the policy.
- 7.3.8 You must make full and fair disclosure of all material facts to enable clients to make informed decisions regarding their insurance.
- 7.3.9 You must not use sales materials or illustrations that are misleading or unnecessarily confusing.
- 7.3.10 You must not use terms such as "guaranteed" without appropriate qualification or evidence to support the statement.

DUTY OF CARE

- 7.3.11 The client's interests take priority over your interests and should not be sacrificed to the interests of others. You must not engage in practices that place the interests of others ahead of the client's interests.

CONFIDENTIALITY

- 7.3.12 You must hold in strict confidence all information acquired in the course of your professional relationship concerning the personal and business affairs of a client, and must not divulge or use such information other than for the purpose of that transaction or of a similar subsequent transaction between you and the same client unless expressly authorized by the client or as required by law.

WITHDRAWAL OF SERVICES

- 7.3.13 If you choose to terminate your business relationship with a client you must do so in a manner that avoids prejudice and allows for the orderly transfer of the client's insurance business elsewhere. You must provide the client with adequate notice of your intent to withdraw your services, as well as comply with any applicable statutory and professional obligations.
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7.3 Guidelines - continued

7.3.14 Clients should be notified at least 30 days prior to the expiration of their existing insurance if you are unable to renew their insurance at the same terms and conditions.

(Notice ICN# 03-004 - Brokering in a Difficult Market)

PROTECTING CLIENTS' INTERESTS

7.3.15 You must report all claims promptly.

7.3.16 You must deliver insurance policies or evidence of insurance coverage within a reasonable time and, in any event, in accordance with the terms of your agreement with the insurance company.

7.3.17 You must deal with all formal and informal complaints or disputes in good faith and in a timely and forthright manner, including, when necessary, referring the complainant to other more appropriate people, processes and/or organizations.

7.4 EXAMPLES OF MISCONDUCT

7.4.1 Failed to fully assess a client's needs and objectives and neglected to advise the client of changes to the insurance plan as a consequence of a medical rating.

7.4.2 Provided a copy of a client's insurance policy to two other customers as an example of the product being offered.

7.4.3 Failed to refund all money due to a client in accordance with the cancellation provisions set out in the client's insurance contract and as agreed to in the licensee's contract with the insurer.

7.4.4 Requested an insurer cancel a client's insurance policy for non-payment of premium, when the premium had been paid, in order to apply the pro-rata return premium against an outstanding debt owed by the client.



8. USUAL PRACTICE: DEALING WITH INSURERS

8.1 PRINCIPLE

Licensees act as intermediaries between clients, insureds and insurers in a contractual relationship. The insurers' ability to meet their contractual duties is based on your honesty and competence in providing advice and information.

8.2 REQUIREMENT

You have a duty to insurers with whom you are transacting business to:

- make reasonable inquiries into the risk;
- provide full and accurate information;
- promptly deliver all insurance documents and monies due;
- represent the insurer's products fairly and accurately;
- adhere to the authority granted by the insurer; and
- promptly report all potential claims.

You must not defame or discredit insurers.

8.3 GUIDELINES

- 8.3.1 You have a duty to fully and accurately disclose any information material to the insurer's decision to issue a contract of insurance.
- 8.3.2 Where you are placing insurance on behalf of another agent who is acting for the insured, you should disclose this to the insurer.
- 8.3.3 Where there is an irreconcilable conflict between your duty to an insurer and your other duties as a licensee, you should decline to act in the transaction.
- 8.3.4 Insurers rely on licensees for information to make underwriting decisions. Therefore, you must make reasonable inquiries into a risk. This means making inquiries that a reasonable and prudent licensee would make in the same circumstances.



83 Guidelines - continued

- 8.3.5 In accordance with the Rules, it a condition of every licence issued that, where the licensee collects or receives insurance premiums on behalf of an insurer, the licensee must:
- a) not encumber the funds without the prior written consent of the insurer;
 - b) not use or apply the funds for purposes other than as described in the agreement with the insurer; and
 - c) pay to the insurer all funds collected or received less any deductions authorized by the insurer.
- 8.3.6 Insurance should be sold or conserved based on the merits of the particular policy as it relates to the needs of the client. Attempts to discredit insurance companies are not the proper practice of the business of insurance. This requirement is not meant to prevent licensees from providing information that is relevant to the client's ability to make an informed decision about his or her insurance. However, information offered solely for the purpose of undermining the reputation of an insurer is inappropriate.

84 EXAMPLES OF MISCONDUCT

- 8.4.1 Failed to remit to the insurer all premiums collected or received in accordance with the terms of the agency's agreement with the insurer.
- 8.4.2 Offered and bound terms under a policy that were not authorized by the insurer.
- 8.4.3 Issued a cover note purporting to bind an insurer the agency did not represent
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9. USUAL PRACTICE: DEALING WITH LICENSEES

9.1 PRINCIPLE

Along with your fellow licensees, you represent the insurance industry to the public. The public views the industry as a single entity, so by maligning a fellow licensee you are bringing your own reputation and that of the industry into public disrepute. Treating your colleagues with courtesy and respect enhances your own reputation and the public's confidence in the insurance industry.

9.2 REQUIREMENT

You must not defame or discredit other licensees.

9.3 GUIDELINES

9.3.1 Insurance should be sold or conserved based on the merits of the particular policy as it relates to the needs of the client. Attempts to discredit another licensee are not the proper practice of the business of insurance. This rule is not meant to prevent licensees from providing information that is relevant to the client's ability to make an informed decision about his or her insurance. However, information offered solely for the purpose of undermining the reputation of another licensee is inappropriate.

9.4 EXAMPLE OF MISCONDUCT

9.4.1 Used the Discipline section of the Bulletin to discredit another licensee.



10. USUAL PRACTICE: DEALING WITH THE PUBLIC

10.1 PRINCIPLE

The insurance industry provides services upon which the well-being of individuals and businesses will often depend. Therefore, it is incumbent upon all licensees to take their duty of care to the public seriously. Your forthrightness and conduct in representing yourself and your services reflects on other licensees and the industry as a whole. Accordingly, it is in the interest of all licensees to conduct themselves in a manner that promotes public confidence in the integrity and reliability of the industry.

10.2 REQUIREMENT

You must honestly represent yourself and the services and products you provide so as not to mislead the public.

10.3 GUIDELINES

HOLDING OUT

- 10.3.1 You must hold yourself out in the manner in which you are licensed.
- 10.3.2 You must disclose you are an insurance agent prior to conducting insurance activities with the public.
- 10.3.3 You must not use the term "and Associates", or similar phrase, as part of a business or trade name when there are not two or more licensees in the business.
- 10.3.4 You must not represent yourself as having specific expertise in a given area of practice or industry designations unless you are suitably qualified by virtue of your experience, training or both.
- 10.3.5 You must not purport to be a financial planner or provide financial planning advice, unless you meet the qualifications and disclosure requirements set by Council.
(Notice ICN# 02-001 - Financial Planning)
- 10.3.6 You must not make any false or misleading statements in the solicitation of or negotiation for insurance.

ADVERTISING

- 10.3.7 You must not engage in misleading advertising by offering prices, rates of return, products or services you cannot reasonably provide or that are subject to undisclosed qualifications.



11. USUAL PRACTICE: CONDUCT SPECIFIC TO INSURANCE ADJUSTERS

11.1 PRINCIPLE

Each requirement under the Code applies equally to all licensees. However, insurance adjusters play a unique role in the business of insurance, particularly in their relationships with insureds and insurers. Accordingly, the following sets out additional, specific duties applicable to licensees engaged in the role of insurance adjusting. This does not limit applicable duties under the other requirements of the Code. Adjusters must also refer to and comply with each requirement identified in the Code in the course of their practice.

11.2 REQUIREMENT

DUTIES TO PRINCIPALS

You must:

- protect your principal's interests;
- protect your principal's confidential information;
- disclose all information material to the loss or claim;
- decline to act where you have an undisclosed conflict of interest or financial interest in a loss or claim; and
- act within the authority and instructions of your principal.

DUTIES TO INSUREDS

You must:

- properly identify yourself, your principal and your role as an adjuster;
- adjust claims promptly and fairly;
- protect the insured's confidential information; and
- fully disclose information material to the insured's policy coverage, rights and obligations.

11.3 GUIDELINES

11.3.1 Where there is an irreconcilable conflict between your duty to a principal or an insured and your other duties as an adjuster, you should decline to act in the matter.

11.3.2 You must take reasonable steps to keep the insured informed of the status of a claim and respond promptly to the insured's communications.

11.3.3 You must not attempt to influence a claim through coercion, false or misleading statements or other improper means.

01 March 2005

Code of Conduct

Page 11.1

**11.3 Guidelines - continued**

- 11.3.4 You must not seek to discourage legitimate claims or cause undue delay in adjusting a claim.
- 11.3.5 You must not take advantage of inexperienced or unsophisticated insureds.
- 11.3.6 You must not accept any financial inducement in exchange for utilizing the services of a contractor, unless it is fully disclosed to the principal and insured.
- 11.3.7 You must fully and promptly inform insureds of material information regarding policy coverage, limitation periods, claim denials and their rights and obligations in the claims process, as required in the circumstances.
- 11.3.8 You must not mislead anyone as to your role in adjusting a claim. This includes who is your principal. For example, when acting on behalf of an insurance company, the insured should be aware that you act for the insurer in the claim and that the insured is responsible for the hiring and work of contractors, even if facilitated by you.
- 11.3.9 You must refrain from giving legal advice or discouraging insureds from seeking legal advice.
- 11.3.10 You must not deal directly with an insured represented by legal counsel without consent.
- 11.3.11 You must only act on an adjustment when you have authority from your principal, and then according to your principal's instructions.
- 11.3.12 You must not obtain medical information about an individual without the consent of that person.

11.4 EXAMPLES OF MISCONDUCT

- 11.4.1 Failed to identify a provision in a policy which required the insured to repair or replace damaged property within 180 days from the date of the loss in order to receive replacement cost.
- 11.4.2 Entered a restricted fire scene for the purpose of adjusting the property loss without authorization from the local fire department.
- 11.4.3 Disclosed confidential information in promotional material, including testimonials from claim files, claimant names, file numbers, negotiated settlements and liability decisions.
-



12 DEALING WITH THE INSURANCE COUNCIL OF BRITISH COLUMBIA

12.1 PRINCIPLE

Licensees benefit from a degree of self-regulation under the Act, in that they are able to participate in the regulation of their industry. This privilege requires the co-operation and support of licensees.

12.2 REQUIREMENT

You must respond promptly and honestly to inquiries from Council.

12.3 GUIDELINES

12.3.1 Section 231(1)(d) of the Act requires licensees to make a prompt reply to an inquiry from Council.

12.3.2 It is a breach of the Act under section 231(1)(c) to make a material misstatement in an application for a licence or in response to an inquiry from Council.

12.4 EXAMPLES OF MISCONDUCT

12.4.1 Failed to reply over several months to a number of inquiries from Council during the course of a Council investigation.

12.4.2 Swore a false affidavit advising Council that insurance activities had not been conducted while unlicensed.

12.4.3 Provided false and misleading information on licensing applications to conceal not having sufficient credits to meet the continuing education licence condition.

12.4.4 Made material misstatements in reply to an inquiry from Council.

12.4.5 Refused to reply to an inquiry from Council.



13. COMPLIANCE WITH GOVERNING LEGISLATION AND COUNCIL RULES

13.1 PRINCIPLE

Licenses are expected to adhere to all regulatory requirements. In terms of professional practice,

as
a licensee you come under the direct regulation of the Financial Institutions Commission
and
Council. Violation of the regulatory requirements administered by these bodies not only
contravenes the Code, it can also subject you to prescribed disciplinary action under the Act.

13.2 REQUIREMENT

You must be aware of and comply with your duties and obligations under the Act, the *Insurance Act*, the Rules and the Code.

13.3 GUIDELINES

13.3.1 You are required to read, understand and remain current on the applicable regulatory

requirements that apply to you under the Act and Rules. This information is readily available from a variety of sources. As necessary, Council publishes guidelines and directives to licensees on specific issues through its Notices, Bulletins and website. To assist you, the following is a list of specific resources that should be particularly noted. Legislation is available from Crown Publications Inc. at www.crownpub.bc.ca or your local library. All other information is available on Council's website at www.insurancecouncilofbc.com or may be obtained by contacting Council's office. You will find the *Site Search and Map* section of the website helpful in locating specific information.

13.3.2 You should also be aware of any other legislation, such as the *Income Tax Act* or

Motor

Vehicle Act, which may impact your particular practice.

Publications

- *Financial Institutions Act*
- *Insurance Act*
- [Council Rules](#)
- [Licensing Handbook](#)
- [Notices](#)
- [Bulletins](#)
- [Council Decisions](#)
- [Licence Conditions](#)

01 March 2005
13.1

Code of Conduct

Page

Appendix 2

**Remarks by Jeanne M. Flemming, Director,
Financial Transactions and Reports Analysis Centre of Canada,
to the Canadian Life and Health Insurance Association**

Proceeds of Crime (Money Laundering) and Terrorist Financing Act: Why Compliance with the Law Matters

**Toronto
May 13, 2010**

Check against delivery

Introduction and Outline

Thank you for that introduction

I would like to thank Frank Swedlove for inviting me to speak today. Frank has been a long-time leader in Canada's efforts to combat money laundering and terrorist financing. As president of the Financial Action Task Force, he worked globally, upholding the standards to which each country strives in their anti-money laundering and anti-terrorist financing regimes. I think you are fortunate to have him as the president of your association.

FINTRAC is part of a larger global effort. Every country in the world, perhaps with a few notable exceptions, is engaged in finding ways to protect the legitimate financial system from those who would abuse it—finding ways to detect and deter and prevent money laundering and terrorist activity financing.

At the root of Canada's *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* are those concepts of detection and deterrence and prevention. That's why the law created reporting compliance obligations for reporting entities like yourselves and FINTRAC to ensure compliance with those obligations.

At FINTRAC, we find ourselves squarely between the businesses that provide financial transaction reports to us and the police and other investigators who benefit from the financial intelligence we produce. Being in the middle, we add value to the information that is provided; we move it further along and offer real insight to assist the investigation of serious crimes.

I want to provide you an update this morning that will give you some context to explain how this effort is working. I realize there have been a few questions about this initiative and perhaps a few myths floating around. That may be the consequence of being a financial intelligence agency that operates behind the scenes. At FINTRAC, we do guard our information very closely.

One myth I would like to dispel this morning involves criminal convictions. FINTRAC does not lay charges. FINTRAC does not prosecute. Trying to measure FINTRAC by convictions would be similar to asking a roomful of lawyers and compliance officers what their sales numbers were last year.

FINTRAC is in the business of assisting investigations, not conducting them. We do that by getting relevant financial intelligence into the hands of those that investigate crime. We assist investigations every day, making use of the information that is reported to us. Taking all the

financial transaction information that we have at our disposal and bringing analysis to bear in turn—analysis which identifies criminal proceeds and providing some useful financial intelligence to the investigations and prosecution.

I realize that many of you have a long tenure in this business. I would like to emphasize that when it comes to money laundering, it is simply the proceeds of crime re-entering the legitimate financial system. It is any attempt to transport, conceal or otherwise convert those proceeds of crime. I would encourage you to approach the problem of money laundering as one that related to all those crimes that can generate criminal proceeds, such as drug trafficking and fraud.

FINTRAC does spend a considerable amount of time and resources working on money laundering cases where fraud is the original predicate offence. And we make use of all the information that is reported to enable us to conduct our analysis and ultimately make our disclosure to assist the criminal investigation. We are only as good as the information we have and our ability to analyze it.

When it comes to deterrence and prevention, the work that FINTRAC does to ensure compliance with the law strives to keep illicit funds from entering the legitimate Canadian financial system. This involves ensuring that proper records are kept, that identification is obtained, that risks are being assessed and the other elements of a compliance regime are in place.

All the entities that make up Canada's financial system have a stake in ensuring that the level of deterrence is high. Life insurance companies have a stake in this too.

When it comes to detection, FINTRAC's intelligence assists investigations and it assists prosecutions. Financial intelligence sheds light on the transactions that can be related to criminal activity. It assists investigators in making decisions about where to seek evidence, who to include or exclude as part of the investigation, how the targets are connected and where the assets may be hidden.

I'd like to give you a reference point for how we search transactions that we suspect to be relevant to money laundering in our database of more than 100 million transaction reports. Let me say that searching this information is like looking for a needle in a haystack, in a field of haystacks. On their own, transactions linked to criminal activity may not stand out or be noticeably different from millions of innocent transactions. However, we have developed data mining tools and methodologies over the years that enable us to detect patterns of suspected money laundering and to start following the money trail.

The other thing that can guide us is information we receive from law enforcement and other agencies—as part of ongoing investigations that may have already identified targets. In these cases, we can start from what is known and shed light on the existing investigation. Roughly 80% of the time, information from investigative agencies is the starting point for our disclosure of financial intelligence. This ratio may change over time. For the moment, the demand to assist ongoing investigations is high. High demand from prospective recipients does speak well of the product.

The financial intelligence that we produce can be complex and it can show the great efforts that criminals go through to hide the source of their funds. We have cases where the suspected criminals have used up to 16 or more financial institutions across the country to disperse and hide their assets. Being the recipient of financial transaction reports from across the country, and having access to information from other financial intelligence units from other countries, does give us an advantage when trying to piece together the money trail.

The Problem That We Face

Before becoming FINTRAC's director, I was not aware of the extent of the lucrative criminal enterprises that appear to be operating in this country. Seeing cases each day has had some affect on me. After two years in this job, I am occasionally asked what things preoccupy me, or more specifically, what are the questions that keep me up at night. For me it comes down to "are we doing enough to make this country a hostile place for those that launder money and finance terrorist activity?"

There are criminals in this country and they are getting up to some pretty bad things. They are fleecing and defrauding some of the most vulnerable members of our society, committing fraud, they are selling drugs, corrupting institutions. And, when it comes to mortgage fraud, they are stealing whole houses. We are not talking about petty crime here; some of these criminal activities appear to be large ongoing enterprises with a damaging impact on our society. The victims also include the institutions you represent.

I feel I have to make this point about the scale of criminal activity in this country because it concerns me. Perhaps that is a function of working at FINTRAC and of having a perspective on the many criminal investigations and the money that seems to be moving in these suspected criminal networks. It can be disheartening, at times.

This perspective has brought me to the view that Canadians can be naïve and perhaps overly optimistic in their view that crime and, in particular, organized crime are not Canadian problems. I want to assure you that they are and that they have an impact on Canada's communities large and small. Crime affects us all. Even those of us who are not victims of fraud or theft will feel the residual effects in a system that is compromised by the presence of a criminal element.

I want to call your attention to the larger Canadian financial system and the role that you have as operators within it—and as the stewards and occasionally gatekeepers of this system.

Those of you who work with insurance products must surely have your own perspectives on crime and perhaps a perspective on fraud and money laundering within your own industry. I want to make the connection between money laundering and fraud very plain because too often money laundering is viewed as an esoteric subject removed from the real crimes that produce real profits.

Financial intermediaries, such as brokers or agents, can actually do something to make it more difficult to operate a criminal enterprise in this country. You have that opportunity. It is an opportunity to strengthen the integrity of Canada's financial system and to shut out the criminals that would abuse and exploit this system. At the same time, it may also help curb frauds committed against insurance companies in this country.

The connection that I want to make for you is that any fraud against an insurance company will generate criminal proceeds that must be laundered. Even if those proceeds are in the form of a cheque from an insurance company, it is still criminal proceeds. When that cheque is carried to a bank or credit union, depositing that cheque is money laundering. Transferring those criminal assets to another account, that is money laundering too.

So, why does it matter that businesses send us reports?

It is important because the police don't have our unique data base to follow the money trail. FINTRAC provides the leads and the information necessary to assist police in acquiring search

warrants. FINTRAC's information can also reveal new targets for an investigation and previously unknown connections between individuals, bank accounts and companies. We also have an international perspective on transactions that is made possible by the reporting of electronic funds transfers and from the exchanges of information with financial intelligence units in other countries—both of which assist in following money into other jurisdictions and from those jurisdictions to Canada.

When your business sends in a suspicious transaction report it is important to keep in mind that several other institutions, in a variety of financial sectors, may have also provided reports about the same individual. As I mentioned earlier, we have cases in which 16 different financial entities have been used to obscure the trail of the money from its criminal origin to its final destination. Last year, 43% of our case disclosures involved reports from six or more reporting entities. So, as you can see, the cases can be complex and the transactions are seldom limited to a single institution. This highlights the benefit of collecting the data in one place and analyzing it with other contextual information like corporate registry information and other open-source data. It is particularly satisfying when we have the information at our disposal that allows us to connect these dots and then be able to show the money trail to police.

We also do the same for our international partners who are interested in transactions that occur in Canada that can have some significance to criminal investigations in other countries. Money moves easily around the world, FINTRAC plays a role in cooperating with financial intelligence units in other parts of the world, helping the global effort to curb the flow of illicit money and to detect criminals through their financial activity. As of today, we have entered into agreements to share information with the financial intelligence units of 69 other countries. This has opened a window on financial activity beyond our borders that also benefits Canadian investigations.

FINTRAC disclosed 556 cases to investigators last year, more than any previous year. These case disclosures, which involved more than 100 thousand transactions, were supplied to assist investigations of money laundering related to drug trafficking, fraud, smuggling of contraband, terrorist activity financing and a variety of criminal activities that can generate the proceeds of crime. We provided this intelligence to federal, provincial and municipal police forces. We also provided intelligence to CSIS, the Canada Border Services Agency, Canada Revenue Agency and to our international partners during the year.

Looking at all these cases as they are pulled together by FINTRAC's analysts, it is truly remarkable the lengths to which people will go to keep transactions out of their own name or to have nominees carry them out on their behalf only to have the funds ultimately returned through series of transactions and bank drafts to businesses under their control or accounts held in their name, here or in other countries.

Often the money laundering technique is simply moving the funds into an account and withdrawing them quickly in the form of a bank draft or transmitting the whole amount to a foreign account shortly after the deposit. It can often make no business sense to run the transactions through a series of accounts en route to their end destination but this is also sometimes done.

We have received a suspicious transaction report submitted to us from the life insurance sector that highlights that information can come to your attention long after the initial transaction. When that information does come to light, you may look back at those earlier transactions in a different way. As an example of just such a case, a Canadian life insurance company had written a policy on a man who was subsequently determined to be a notorious criminal. This came to their attention after a very public attempt on the man's life had failed. The newspaper reports

detailed his role in the local crime scene, including a history of charges and accusations that had been brought against him over the years.

The insurance company began to wonder why they held the policy, how it got written and if the premiums might have been paid with the proceeds of crime. To be fair, the payments may have seemed normal at the time. Payments were made by cheque. The decision to look back to the original transactions on this policy and report them as suspicious was a good one. The important thing is that once you arrive at a suspicion that proceeds of crime may have entered into the transaction, this should trigger the filing of a suspicious transaction report.

Proceeds of crime can enter the system in a variety of ways. When it comes to insurance transactions, it may simply be a cheque drawn on a bank account. It may be hard to spot. If you have other contextual information, you should add that to your examination of risk.

The Criminal Intelligence Service of Canada estimates that there are 750 organized crime groups in Canada, each engaging in a variety of criminal activities that generate large amounts of money. When it comes to dealing with these groups, we should strive to make their operations more difficult to run and easier to find.

As financial intermediaries in the larger Canadian financial system, your organizations are at the forefront of detecting and deterring the financial transactions that can facilitate the activities of these criminal networks. The transaction reports that you send are critical to this effort and you are uniquely placed to make this contribution. That is why we have this law.

Diligence is needed to continually foster a culture within your organizations that meets the compliance objectives of the law. This includes effective training. Training is an ongoing activity in every business and so it should be with your compliance programs.

You should also review your own compliance programs to assess any inherent risks of money laundering and terrorist financing within your business lines and your different products. Once you assess the risks, there is a need to implement controls to mitigate your exposure to such risks. This was the intention of the risk-based approach that was adopted two years ago. It is now a requirement of the law but the diligence that is required to make it work is an important element as well. As we know, these are not things that can be done once and set aside. They have to be part of the business and an ongoing effort.

There is also a need to identify and to report suspicious transactions. The obligation has been the law for nearly ten years and should not require a reminder. But after ten years, the level of reporting from the life insurance sector remains unusually low. I say that because there has been one exception. There is one company that is reporting more than the rest and the suspicious transaction reports appear to be appropriate. I would like to encourage a race to the top among the life insurance companies assembled here to be diligent in your review of risks within your own product lines and to ensure that you are meeting your reporting obligations.

Looking Forward

And to speak for a moment about the enforcement of the law, in late 2008 FINTRAC gained the power to issue administrative monetary penalties. Also known as AMPs, these fines have been used in the last year where we have identified violations of the law. They are a proportional penalty, one that takes into account not only the nature of the violation but the size of the entity or business that is being fined, their ability to pay and their compliance history.

Administrative monetary penalties serve as an adjunct to existing criminal penalties. This means both criminal and civil penalties will not be issued for the same instances of non-compliance. They are intended to encourage compliance not punish past non-compliance with the law.

These new penalties mark a change in FINTRAC's approach and perhaps in FINTRAC's tone. After ten years of outreach and efforts to raise awareness, there is a greater expectation that businesses should have effective compliance regimes in place, and that the requirements of the law should be part of the normal course of business. FINTRAC will now issue penalties when the violation of the law merits such a response.

Looking further out into the future, Finance Minister Flaherty has indicated "the government will be relentless in its efforts to combat money laundering and terrorist financing and that it will do what must be done to protect the interests of Canadians and ensure a safe and strong market for investors here and around the world."

An expression of that commitment came in the 2010 federal budget. FINTRAC's operating budget was increased by eight million dollars to improve our compliance regime and to expand the definition of predicate offence for money laundering to include tax evasion thereby increasing FINTRAC's ability to make disclosures in this area.

With the proposed new funding, FINTRAC will be able to hire new staff and increase the number of compliance examinations that we are able to conduct. This increase will allow us greater ability to ensure compliance with the law in all sectors. For example, FINTRAC will be conducting enhanced compliance activities involving federally regulated financial institutions (FRFIs) which will be independent of the OSFI reviews. Our intent is to increase the examination coverage of this sector with a focus on improving the data quality of the reports.

Finally, the 2010 federal Budget also announced new measures to strengthen Canada's anti-money laundering and anti-terrorist financing regime. These are included in Bill C-9, the *Jobs and Economic Growth Act*, which proposes new authorities for the Minister of Finance to issue directives to advise the financial sector of foreign jurisdictions and entities that pose an illicit financing risk and to require appropriate countermeasures. Under the proposed new authorities, the Government could also limit or prohibit financial transactions with designated foreign jurisdictions or foreign entities which are found to be at high risk of facilitating money laundering and terrorist financing. This will help ensure that Canada does not unwittingly become the destination of choice for illicit funds looking for a home. For the moment, the legislation has been published and is now available through the parliamentary Web site.

Thank you for taking the time to listen and thanks once again for inviting me to your conference.