Trusted contact person

(TCP)

A trusted contact person (**TCP**) is a resource that may be available to you to help protect your client’s financial interests and assets, including where you suspect that your client might be experiencing financial exploitation or diminished mental capacity to make financial decisions. The TCP may be contacted only in specific circumstances, in accordance with your client’s written consent provided on the [new account application form/existing account application form].

## Your role

As [a(n) TITLE], you are required to take reasonable steps to obtain TCP information from your clients and collect their written consent as part of the KYC process for the TCP to be contacted in certain circumstances. You are also required to take reasonable steps to keep your clients’ TCP information current.

You are required to take reasonable steps to obtain TCP information from all clients. This will help us respond promptly if any concerns around financial exploitation or diminished mental capacity arise.

This document is intended to support the discussions that you have with your clients about naming a TCP. You should talk to your client about concerns that arise and document your conversations.

## How can your clients benefit from a TCP?

* A TCP is a resource that may help protect your client in possible circumstances of financial exploitation or where you have concerns about a client’s mental capacity.
* Your client must provide consent for you to contact their TCP. This consent is gathered in writing at the time the TCP is named. Your client may also specify restrictions about when their TCP may be contacted.
* In accordance with client consent, you may consider contacting a TCP:
	+ if you notice signs of financial exploitation;
	+ if the client exhibits signs that they lack mental capacity to make decisions involving financial matters;
	+ to confirm the client’s contact information if you are unsuccessful in contacting the client after repeated attempts and where failure to contact the client would be unusual; or
	+ to confirm the name and contact information of a legal guardian, executor, trustee, an attorney under a power of attorney (**POA**) or any other legal representative.
* More information about TCPs can be found in [FIRM POLICY].
* With consent, a TCP can be an additional resource to help safeguard the assets of a client’s account when there is an emergency or potentially suspicious activity.

## Who should your client name as a TCP?

* The TCP should be an individual who your client trusts.
* There is no minimum age requirement for a TCP, however, the TCP should be someone that is mature and able to communicate and engage in potentially difficult conversations with you about the client’s personal situation.
* Clients may name more than one TCP and may name different TCPs for different accounts.
* A client-designated attorney under a POA can be named as a TCP, but clients should be encouraged to select an individual who is not involved in making decisions with respect to the client’s account. A TCP should not be the client’s dealing representative or advising representative on the account.

## What steps should I take to obtain TCP information?

* [FIRM FORM] is used to collect TCP information. Please refer to [FIRM POLICY] for additional direction on what constitutes reasonable steps to collect TCP information, including how to document any restrictions on contacting the TCP or a client’s refusal to provide a TCP.
* Steps for collecting TCP information may include:
	+ explaining to the client the purpose of a TCP,
	+ providing the client with a description of the circumstances under which you might disclose information about the client or the client’s account to a TCP, and
	+ asking the client to provide the name and contact information of a TCP.
* Documenting client instructions and consent can help support client autonomy when issues of financial exploitation or diminished mental capacity arise.
* Keeping good documentation and following the appropriate escalation protocol can help support your decision-making when deciding whether to contact a TCP.

## What are some ways that I can frame the conversation about naming a TCP?

* Approaches that may help your client discuss and plan for possible diminished capacity or financial exploitation include:
	+ Acknowledging that this is a difficult and possibly uncomfortable topic.
	+ Presenting the options for protecting themselves in a clear, simplified manner.
	+ Informing clients about the likelihood of financial exploitation or fraud.
	+ Informing clients about the steps other investors are taking to protect themselves.
	+ Using real-world scenarios when discussing diminished mental capacity or financial exploitation.
	+ Making the client feel that by overcoming reluctance to discuss a difficult topic and planning for possible losses of capacity, they are doing what other prudent and risk-aware clients do.
	+ Positioning it as a means for your client to maintain control.
	+ Linking it to enabling your client to achieve their financial goals even in the event of a loss of decision-making ability.

## What if a client is unwilling or unable to name a TCP?

* While taking reasonable steps to obtain TCP information is a necessary part of the KYC process, and you should encourage your clients to name a TCP, a client is not required to do so.
* You can still open and maintain a client account if the client refuses or fails to identify a TCP.
* If a client refuses to provide the name and contact information for a TCP, you may wish to make further inquiries about the reasons for the refusal and document your conversation.
* If a client declines to identify a TCP, your notes may include:
	+ that you explained the role of the TCP and the benefits of naming a TCP;
	+ the reason(s) that the client opted not to name a TCP; and
	+ that you informed the client that if they change their mind, a TCP can be added to their account at any time, and that you may revisit the matter in future discussions as part of the regular KYC process.
* If your client previously refused to provide TCP information, at each update, you should ask the client if they would now like to provide the information.
* If your client communicates specific restrictions for when a TCP can be contacted, you should document such restrictions.

## When should I consider contacting a TCP?

* Please refer to [FIRM POLICY] and review the scope of your client’s consent before contacting a TCP.

When concerns about financial exploitation or mental capacity to make financial decisions arise, you should speak with your client about your concerns before contacting others, including the TCP.

* In accordance with client consent, you may consider contacting a TCP:
	+ if you notice signs of financial exploitation;
	+ if the client exhibits signs that they lack mental capacity to make decisions involving financial matters;
	+ to confirm the client’s contact information if you are unsuccessful in contacting the client after repeated attempts and where failure to contact the client would be unusual; or
	+ to confirm the name and contact information of a legal guardian, executor, trustee, an attorney under a power of attorney or any other legal representative.
* When contacting a TCP, you should be aware of our privacy obligations under applicable privacy legislation and client agreements relating to the collection, use and disclosure of personal information. For more information, please refer to [FIRM POLICY].
* Notwithstanding that the client has named a TCP, there may be circumstances where [FIRM] may also contact an attorney under a POA, government organizations, departments or individuals (including police, or the public guardian and trustee) in instances where we suspect financial exploitation or have concerns about a client’s mental capacity to make decisions involving financial matters. Consult [FIRM POLICY] for details.

## How is a TCP different from a power of attorney (POA)?

* A TCP does not replace or assume the role of a client-designated attorney under a POA.
* A TCP is essentially an “emergency contact.” Unlike an attorney under a POA, a TCP does not have the authority to make any decision on behalf of the client or transact on the client’s account.
* A client-designated attorney under a POA can be named as a TCP, but clients should be encouraged to select a TCP who is not involved in making decisions with respect to their account.

## [FIRM] has policies and procedures available to assist you with trusted contact persons, including:

[*List of relevant policies, procedures and contacts at your firm. You may wish to review* [*CSA Staff Notice 31-354 Suggested Practices for Engaging with Older or Vulnerable Clients*](https://www.osc.ca/documents/en/Securities-Category3/csa_20190621_31-354_suggested-practices-for-engaging-with-older-or-vulnerable-clients.pdf) *for examples of policies and procedures that address relevant topics, communicating with older or vulnerable clients, reporting and escalating issues and identifying trusted contact persons.*]