



**Canadian Life
and Health Insurance
Association Inc.**

**Association canadienne
des compagnies d'assurances
de personnes Inc.**

**CLHIA RESPONSE TO:
Joint Forum of Financial Market Regulators
Proposed Framework 81-406:**

**Point of sale disclosure for mutual funds and
segregated funds**



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Point of sale disclosure for
mutual funds and segregated funds

**Submitted by the
Canadian Life and Health Insurance Association Inc.**

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INTRODUCTION

The Canadian Life and Health Insurance Association (CLHIA) is pleased to provide input to the consultation paper released by the Joint Forum of Financial Market Regulators, *"Proposed framework 81-406: Point of sale disclosure for mutual funds and segregated funds"*.

Established in 1894, CLHIA is a voluntary trade association that represents the collective interests of its member life and health insurers. Our members account for 99 per cent of the life and health insurance in force in Canada and contribute to the financial well-being of millions of Canadians by providing a wide range of financial security products. In particular, four million Canadians hold Individual Variable Insurance Contracts (IVICs). Assets held in these contracts were over \$105 billion at the end of 2006. Of that, almost \$70 billion were held in segregated fund assets, the area relevant to the Proposed Framework.

**CLHIA members
account for 99% of
life and health
insurance in force**

**4 million Canadians
hold IVICs**

**\$70 billion invested in
segregated funds**

In this submission, we provide General Observations on the Proposed Framework in Section I. Section II and Section III provide important contextual information for our more specific comments, first by providing an overview of the regulatory regime that protects our policyholders in Section II, and then by providing information about the consumer experience in applying for an Individual Variable Insurance Contract (IVIC) and managing that contract in Section III. Section IV explores the advantages of pursuing a principle-based regulatory approach to realizing the Joint Forum's vision. Sections V through IX look at some of the specifics in the Proposed Framework -- those proposals relative to initial transactions in Section V, proposals

relative to subsequent transactions in Section VI, legal liability issues inherent in incorporating the Key Facts into the contract by reference in Section VII, rescission right proposals in Section VIII, and MER presentation in Section IX. Finally, Section X presents conclusions and suggested next steps.

I. GENERAL OBSERVATIONS

The consultation paper identifies the Joint Forum's vision as *"providing investors with meaningful information when they need it most -- before they make their decision to buy a fund"*. Further, it notes that such information should be provided in a simple, accessible and comparable format.

The insurance industry is a strong proponent of providing meaningful disclosure to the consumer at point-of-sale. That is the cornerstone of our current practices. Indeed, almost all of the information anticipated in the Proposed Framework is currently provided to our customers at or before point-of-sale. As an industry, we have long been committed to working with one of the Joint Forum's partners, the Canadian Council of Insurance Regulators (CCIR), to explore ways in which to continuously improve this disclosure regime.

We commend the CCIR and the Joint Forum for their efforts and dedication to this important project.

We very much support the objective of providing simpler, more meaningful information to the consumer. We agree, too, that a format that lends itself, where possible, to easy comparisons is desirable.

Point-of-sale disclosure is the cornerstone of industry practices

Industry commends CCIR, Joint Forum for efforts

Industry supports improving POS regime

Current proposals could adversely affect customer service ...

...be cumbersome

...lead to decreased consumer choice

...and interfere with existing policyholder rights

Principles-based regulation is a better option

However, we are concerned that, as currently structured, the Proposed Framework presents obstacles to efficient and effective customer service, for several reasons:

- i) it tends to treat all consumers as a single class when, in fact, levels of sophistication, degree of self-direction and desire for choice vary significantly; whatever framework is ultimately decided upon needs to be sufficiently flexible to recognize different information needs;
- ii) it is unnecessarily cumbersome, requiring advisors to carry with them hundreds of disclosure documents which, in turn, may well result in decreased consumer choice (e.g., advisors will only offer a few options) or migration to less regulated products;
- iii) with respect to subsequent transactions, it interferes with the contractual rights that four million Canadian IVIC policyholders already have.

Finally the Proposed Framework is unnecessarily prescriptive. A true principles-based regulatory approach would be preferable and better lend itself to achieving cross-sector goals.

As we outline our concerns and suggest possible alternative approaches for the Joint Forum's considerations, we will use, as our primary touchstone, the best interests of IVIC policyholders and prospective policyholders.

II. CONSUMER PROTECTION FRAMEWORK: THE REGULATION OF IVICs

The existing system of prudential and marketplace regulation, including point-of-sale disclosure, has proved extremely effective in providing IVIC policyholders with a high level of consumer protection. This is borne out by strong industry standards and the scarcity of consumer complaints. Indeed, the regulatory system for the Canadian life insurance industry is widely viewed as an international model of excellence.

Canadian insurance regulatory system respected internationally

Unlike a mutual fund where consumers may own actual units or shares of the fund, a consumer cannot buy units of a segregated fund directly. Rather, a policyholder enters into a contract called an Individual Variable Insurance Contract (IVIC) with a life insurance company. The IVIC grants the policyholder the ability to choose among a variety of investment options within the contract, including segregated funds and fixed-income options similar to Guaranteed Investment Certificates. All assets of each segregated fund are actually owned by the insurance company, which guarantees values to consumers under such contract, based on the values of the segregated funds selected by each policyholder, and subject to several contractual guarantees.

Consumers don't buy segregated funds directly

Policyholder has contract (IVIC) with insurer

Contract provides segregated fund and fixed-income options

IVICs can be issued only by life insurance companies. Canadian life insurance companies include some of the largest and best-respected financial services companies in the country. They manage \$800 billion world-wide.

Life insurers manage \$800 billion world-wide

One of the most significant differences between the regulation of insurance and securities is that responsibility for insurance

Insurers responsible for distribution

distribution rests with the manufacturers, the life insurance companies, who are subject to both prudential and marketplace regulation. In the mutual fund industry, responsibility lies at the distribution level rather than the manufacturer level, hence leading to the need for additional regulatory focus at the dealer level.

IVIC policyholders have important contractual rights and guarantees

IVIC policyholders benefit from a number of contractual rights and product features including:

- A guarantee to return at least 75% (and often 100%) of the policyholder's contributions on maturity and usually on death;
- In many cases, a right to increase the level of guarantees based on the current market value of each segregated fund (i.e., a "reset");
- The right to convert the assets within the IVIC into a life or term certain payout annuity;
- The right to switch between segregated fund options within the contract at no cost.

Policyholders receive information on their contract and fund options at or before point-of-sale

Currently, every policyholder receives full information about all of their rights and obligations prior to signing the application. Disclosure about the IVIC and its segregated fund and fixed-income options is provided in an Information Folder and Summary Fact Statement (sometimes called "Fund Highlights" or "Fund Fact Sheets and Financial Highlights") which must be provided before or at the point-of-sale. These documents

include substantially all of the information included in the Joint Forum's proposed Fund Facts for all of the funds within the IVIC. Insurance companies require that policyholders acknowledge receipt of this point-of-sale disclosure material by signature.

Prudential supervision by insurance regulator

Every IVIC is subject to ongoing capital requirements in accordance with the professional standards of the Canadian Institute of Actuaries and supervision by the federal Office of the Superintendent of Financial Institutions, the Autorité des marchés financiers or a provincial counterpart.

Creditor protection for policyholders

Provincial insurance legislation recognizes protection from creditors for non-registered and registered life insurance and annuity products, including IVICs. As such, IVIC policyholders can plan for their future welfare with reasonable assurances, within certain parameters, that those funds cannot be attached by creditors.

IVIC guarantees protected by Assuris

In addition, the policyholder's guarantees within the IVIC are protected by Assuris (the Canadian Life and Health Insurance Compensation Corporation, formerly known as "CompCorp") in the event of insolvency of the issuing company.

Well-defined complaint resolution services

In the event of a consumer complaint, each insurer has a well-defined complaint resolution service, including a designated Ombudsman. As well, at an industry level, the consumer has access to the Canadian Life and Health Insurance Ombudservice.

III. THE CONSUMER'S BUYING EXPERIENCE AND EXPECTATIONS

Advisors must be life-licensed

Advisor assesses client's needs, objectives and investment profile before developing recommendations

Advisor disclosure

Product disclosure at POS...

IVICs are sold only by provincially-regulated life insurance agents who are required to meet entrance proficiency standards and, in most provinces, ongoing Continuing Education and Errors & Omissions Insurance requirements. The initial meeting between advisor and consumer is usually conducted on a face-to-face basis. The advisor generally works through a "needs analysis" and "asset allocation" questionnaire with the consumer to determine financial assets, goals and obligations and, with respect to investment choices, their attitude to risk, investment knowledge, investment horizon and investment objectives. The advisor then uses this information to develop recommendations from the investment choices within an IVIC (e.g., guaranteed investment options, segregated funds which may include access to equities, bonds, international portfolios etc.). Some advisors work with a single company and can offer the choices offered within a single IVIC. Others are brokers who represent multiple companies and can offer a range of IVICs with multiple choices within each.

At point of sale, the advisor also provides the prospective clients with information about themselves and how they do business. This includes information about the companies they represent, how they are paid and any conflicts of interest.

As noted previously, IVIC policyholders receive full information about the range of options within the IVIC at or before the time that they apply for the policy. They have access to ongoing disclosure not only about the funds they have chosen but,

...plus ongoing disclosure

indeed, about all of the options within that IVIC, in a number of ways: annual statements and semi-annual statements which are available on request, company websites which provide up-to-date information, and through their advisor. As well, insurers mail to existing policyholders the Summary Fact Statement for any new investment options that are added to the IVIC.

Subsequent transactions usually done by phone or mail

Subsequent transactions (other than pre-authorized monthly premiums) may be done in person, but are more often carried out by telephone or mail. For instance, a policyholder may simply call the advisor to exercise their contractual right to switch between investment options. There is no charge for this, and the switch is carried out without delay, usually on a same-day basis. Or a policyholder may mail a cheque to the advisor (or directly to the company), with instructions that it be applied to a certain fund within their IVIC. Again, these are generally transacted on a same-day basis when received.

Policyholders authorize advisors to act on phone instructions

To facilitate the ease and speed of subsequent transactions, many policyholders sign a Limited Trading Authorization (LTA) that enables the advisor to instruct the insurer to process new premiums, switches and resets of contractual guarantees reflecting current market values, based on telephone instructions from the policyholder. The purpose of the LTA, from the client's perspective, is to expedite the process and eliminate unnecessary paperwork.

Good information and good service important

Our experience has shown IVIC policyholders and prospective policyholders are looking for an informed advisor, a range of investment products and good information about their policy and its options. They also expect prompt service, convenience and

accessibility in the management of their contract, in the medium of their choice.

IV. REALIZING THE JOINT FORUM VISION THROUGH PRINCIPLES-BASED REGULATION

Principles-based regulation:

...regulators establish expected outcomes

...and...

...industry determines best way to meet the outcomes

Fosters efficient, effective, innovative marketplace

Principles-based examples abound in insurance regulation

We would strongly urge the Joint Forum to embrace a principles-based regulatory approach. In recent years, Canadian life and health insurance regulators, consistent with many financial services regulators around the world, have increasingly, moved towards principles-based regulation. Under such an approach, regulators set expected outcomes and the industry determines how to efficiently and effectively meet those outcomes. Consumers benefit from those efficiencies, and from an industry that has the flexibility to be innovative and responsive to changing marketplace needs. From the regulators' perspective, principles-based regulation provides the ability to set high-level principles that are applicable across dissimilar industries and products. Where the products are not identical, principles-based regulation is a particularly valuable tool.

Examples of effective principles-based insurance regulation abound, from the Supervisory Framework of the Office of the Superintendent of Financial Institutions (OSFI) to agent screening and suitability principles established by the Financial Services Commission of Ontario. In discussing principles-based regulation, OSFI Superintendent Julie Dickson has stated, "*We are not in the business of telling financial institutions how to run their operations*".

FSA: principles-based regulation allows regulators to be more nimble

A spokesperson for the United Kingdom's Financial Services Authority recently spoke of the importance of principles-based regulation, noting that *"It is the FSA's belief that legislators need to keep a clear focus on ultimate outcomes and key principles not only because regulators are keen to maintain some flexibility but because there is a real danger in detailed regulations being quickly overtaken by market events thus reducing the ability of the European markets to be as innovative and competitive as they can be."*

Industry recommends a more principles-based and less rules-based approach

The industry believes that the best way to deliver on the Joint Forum's vision is through a principles-based approach. The stated vision -- meaningful information for consumers -- is an excellent example of a principles-based model. Further, it could set out basic parameters of what should be included in such information. It would then be up to the industries to develop and deliver documents in a way that is both efficient and reflective of the needs and desires of their customers.

Excessive prescriptiveness about the documents (wording, font size, binding, etc.) and how they are delivered is indicative of a rules-based regime rather than a principles-based approach. As we will note later, such an approach can not only lead to delays in customer transactions but can limit the industry's flexibility, innovation and ability to respond to changing consumer needs.

V. INITIAL TRANSACTIONS

Under the Proposed Framework, two documents would be provided to prospective IVIC policyholders at or before the point-

Industry has an established point-of-sale regime

of-sale:

- (1) a Key Facts document which provides a brief description of the IVIC contract; and
- (2) a Fund Facts document for each fund that is selected within the IVIC.

The consultation paper further states that the proposed framework would not permit Fund Facts to be consolidated for presentation to consumers.

The industry's current regime already supports delivery of disclosure materials before or at point-of-sale. As such, the delivery itself does not present any issues.

Further, we support the application of a broadly similar standard to competing products and services.

The industry also supports the content of the Key Facts document describing the IVIC contract. This is, essentially, a reworking of the "Executive Summaries" included in the Information Folders that policyholders receive currently. The approach and content is clear and consumer-friendly.

Our concerns centre on what is being delivered.

The Proposed Framework would require that a Fund Fact be delivered only for the fund(s) selected by the consumer. Unfortunately, this does not give the whole picture to the prospective IVIC policyholder. It falls short in two important ways. One, the consumer is entering into an IVIC contract which

Requiring only Fund Facts that consumer has selected is misleading for IVIC policyholders

If objective is to get info before making a buying decision, consumer needs info on all options within IVIC

Could be unnecessarily cumbersome for advisors, requiring them to carry hundreds of Fund Facts

Consumer choice may decrease (to manage paper burden) and insurer and advisor liability increase

typically gives them access -- both at time of entering into the contract and at any time in the future -- to a range of segregated fund and fixed-income options. To restrict such disclosure to a single option is misleading for the consumer. Two, if the Joint Forum's vision is that consumers receive information before their decision to buy, it follows that, certainly in the case of an IVIC, they need information about the complete range of options available to them, rather than simply receiving the Fund Facts about the fund they have selected.

Quite aside from this fundamental concern, there are many practical concerns. Initial transactions for an IVIC contract are almost always done on a face-to-face basis, frequently across the kitchen table. In some cases, especially for those servicing consumers in rural Canada, advisors will travel long distances for these meetings. As such, advisors would need to carry with them a large and comprehensive supply of Fund Facts. As currently proposed, an advisor would have to provide a separate Fund Facts document for each fund offered and for each variation of that fund. For instance, an advisor with access to a single IVIC product containing 20 funds, offering three different classes and three different guarantee options for each fund, would have to carry 180 Fund Facts. For a broker representing several insurance companies, those numbers grow exponentially. This is clearly impracticable.

The likely outcome would be that, for the sake of simplicity and managing the paper volume, an advisor may elect to recommend only a few options within an IVIC. In practice, selection for the consumer would decrease, and the insurer and advisor may face increased liability if the consumer were not

Could lead to migration to other products

advised of the full range of options within the IVIC.

If the regulatory system becomes too complex, advisors and consumers will look for products that are easier to purchase. For instance, principal-protected notes do not have such disclosure requirements. Consumers may even find it easier to buy stocks, which do not offer the built-in risk diversification of segregated funds and mutual funds, nor the safety-net features of an IVIC.

Proposals don't meet best interests of IVIC policyholders...

As currently presented, the Proposed Framework for Fund Facts simply does not meet the best interests of IVIC policyholders. It would require insurers to provide less information than is currently made available to our customers which would mean incomplete disclosure and would likely lead to decreased policyholder choice.

...but...

...there are alternatives that meet the Joint Forum vision

The industry sees two possible alternate approaches, consistent with the vision of the Joint Forum, which better meet the best interests of IVIC policyholders and which do not create new liability for insurers.

Combine KeyFacts and info from all Fund Facts into a single document...

The first approach would be to combine the Key Facts and the key information of Fund Facts for all of the fund options within the IVIC contract into a single document. An example of how this might be done is provided under Annex A.

This provides meaningful information that is complete and easily comparable

From the policyholders' perspective, this has several advantages. They would receive *"meaningful information ...before they make their decision to buy a fund"* consistent with

the Joint Forum vision. The information they would receive would be complete and cover the full range of fund options within their IVIC. Further, that information would be provided in a simple, accessible and easily comparable format.

This approach could be combined with delivery of Fund Facts sheets for the specific funds chosen with the trade confirmation.

...or...

Bind together all Fund Facts for option within the IVIC...

A second approach would be to simply bind together Fund Facts for all options available within an IVIC into one document. This ensures that policyholders receive information about all relevant options before making a buying decision. The downside is that policyholders would receive a bulky document.

Complete, but little changed from existing regime

Although the industry has no objection to this approach, it is not clear if this moves the yardstick, as it were, in any appreciable way, for IVIC policyholders, as they already receive this information under the existing point-of-sale standards. In our view, the current consultation provides an excellent opportunity to consider various alternatives, and the first alternative set out above would be more meaningful for our customers.

Regulatory requirements for Fund Facts should not be overly prescriptive

With respect to the content of the Fund Facts, we have no objection to establishing basic parameters for content, but caution against being overly prescriptive in terms of wording, font size, what cannot be included and even length. For instance, if a consolidated Key Facts/Fund Facts document were to be used, this would need at least four pages, as shown in Annex A. As another example, the Fund Facts model has apparently been developed with a Canadian equity fund in mind.

There may be different information that would be relevant if the investment option were related to bonds or international equity. As well, companies should have the flexibility to add key information if it is germane to the investment option or their customers' needs. As an example, consumers who participated in focus groups conducted by the Investment Funds Institute of Canada (IFIC) in August identified areas they would like to see added (e.g., benchmarks, fund objectives).

Simplify, where possible

Further, if the concept of individual Fund Facts is retained, it would be desirable to simplify them so that multiple options for an individual fund (different guarantee options and/or classes) could be indicated on a single Fund Fact.

VI. SUBSEQUENT TRANSACTIONS

The Proposed Framework introduces a requirement that policyholders must receive new Fund Facts before subsequent transactions can proceed. In our view, this proposal, as it currently stands, does not meet policyholders' needs.

Re-sending Fund Facts before subsequent transactions would reduce efficiencies and delay trades...

At a macro-economic level, imposing such a requirement on IVICs and mutual funds reduces the efficiency and competitiveness of Canada's underlying capital markets -- particularly during periods of market volatility -- by delaying trading activities.

At the more immediate consumer level, not allowing the transaction to proceed until the Fund Facts has been re-sent to the policyholder not only delays trades, it duplicates material

**...take away
consumer choice**

**...infringe on
contractual rights
and**

**...frustrate timely
service**

**Policyholders
already receive
disclosure at point-
of-sale and on
ongoing basis**

**E-mail, FAX often
not a viable
delivery option**

already received, takes away consumer choice, is inconsistent with existing policyholder rights which usually set out that same-day or next-day valuation rights will apply to all transactions, and limits the effectiveness of policyholder instructions provided in a Limited Trading Authorization. The policyholder's expectation of timely and efficient service would certainly be frustrated, especially if they are not provided any choice in the matter.

We believe that the current system already meets the regulatory objective of ensuring that IVIC policyholders receive meaningful disclosure before making decisions relating to their contracts. IVIC policyholders receive full disclosure about all contractual rights within the contract, including information about the funds available, when they first enter into the contract. They also have access to ongoing disclosure about all fund options, through annual and semi-annual statement, company websites and their advisors.

The proposals appear to assume that delivery would simply occur by email or FAX. This is unrealistic. Not all policyholders have immediate access to email or FAX. Further, many consumers and financial institutions have significant security concerns with such channels related to privacy, information security or fraud. (It is not the Fund Facts document itself that gives rise to these security concerns, but the fact that an individual is identified as an investor or potential investor.) Many companies will not, in fact, email or FAX documents to consumers because of these concerns.

Industry unable to support current proposals for subsequent transactions

Given the transaction delays that the proposals would entail, the resulting consumer inconvenience and potential exposure to market volatility incurred by such delays, and the inconsistency with current policyholder contractual rights, we cannot support the proposals for subsequent transactions as they currently stand.

Viable alternatives would allow consumer to choose to...

Instead, we believe that two viable options exist that meet the Joint Forum's vision while better serving our customers. These options would involve consumer choice to either:

receive Fund Facts with trade confirmation

a) receive the Fund Facts document for every subsequent transaction to a new fund with the trade confirmation; or

...or...

rely on company website, unless specific request is made

b) rely on information available on the company's website and receive no additional information, unless a specific request is made of the advisor or the insurer.

In neither case would the transaction be delayed. Both options respect consumer choice and the contractual rights that IVIC policyholders already have.

VII. LEGAL LIABILITY

The industry has a fundamental concern with the proposal that the Key Facts be incorporated into the IVIC contract by reference. This appears to be based on the rationale that a

Remedies for misrepresentation already exist

remedy for misrepresentation to the client needs to be introduced. In fact, a number of such remedies already exist.

For instance, the contract is voidable by the insured where an insurer fails to disclose or misrepresents a material fact (*Uniform Life Insurance Act*, section 185); the Superintendent may prohibit an insurer from continuing to issue an IVIC where the Information Folder contains misleading, false or deceptive facts or conceals or omits any material fact (*Ontario Insurance Act*, subsection 110(7)), and the client may sue both the insurance company and the life insurance agent for damages resulting from negligence, breach of duty of care, breach of fiduciary duty, fraud and material misrepresentation. The full range of existing legal remedies (both common law and statutory) are set out in Annex B.

Using summary to replace or interpret contract increases insurer liability

Requiring that a brief summary be used to replace, supplement or interpret the contract increases insurers' liability. Insurers and consumers must be able to rely on the precise and detailed contract wording. Absent this, consumers will similarly be exposed to uncertainty should a disagreement lead to litigation of a contract's meaning and effect. Rather, the Key Facts document should refer the client to the contract for full information, just as the Information Folder does now. This provides the policyholder with certainty and considerably more information.

Consumer should be referred to contract for full information

VIII. RESCISSION RIGHTS

The proposed framework suggests that consumers should have a two-day cooling-off right, whereby they would receive back the

**Industry supports
rescission right for
IVIC contract at the
initial transaction**

lesser of the amount of their original premium paid into the IVIC or the value of the IVIC on the day they exercised this right. It is proposed that the right apply to initial purchases, subsequent purchases and switches.

In considering this proposal, it is important to bear in mind the context of the IVIC contract, and to also consider taxation or other unfavourable consequences it could have on the policyholder.

The industry can certainly support a rescission right for the IVIC contract itself. This is consistent with the notion of rescission rights that currently exist for life and health insurance policies. It would apply at the initial transaction only. (The decision to enter into the contract should not be reopened just because of new money coming in or a switch between investment options, potentially years later). If the client rescinded the contract, the amount refunded would be the lesser of the amount paid into the IVIC (i.e., the premium) or the value at the time the insurer processes the refund. The basis for valuation would be set out in the contract.

As currently structured, the Proposed Framework could have unintended consequences, by introducing an opportunity for abuse through the avoidance of deferred sales charge (DSC) fees. A policyholder in a DSC investment could switch from Fund X to Fund Y, exercise a cooling-off right and receive their money without the appropriate fees being applied.

With respect to switches, we would note that IVIC contracts already provide clients with the right to make penalty- and fee-

Contract provides rights for switches

free switches at any time during the term of the contract. Thus, a client may revisit any investment decision at any time and not just during the two-day cooling off period that is proposed. This provides the client with a highly effective remedy for errors in choices of fund options -- or simply adjusting the segregated fund choices to reflect changing market conditions or financial planning objectives. What is more, it is a remedy that may be more advantageous to the client than the "lesser of" cooling off right that is proposed. As such, IVIC policyholders are better served through existing contractual rights.

With respect to subsequent transactions involving new money, the proposed 48-hour cooling off period would introduce a new right not reflected in current contracts. While we are not opposed conceptually to this proposal, further consideration would be needed as to how existing contracts would be handled so as not to create inequities between existing and new policyholders.

Tax effects of rescission must be considered

We would also point out that the tax treatment of segregated funds differs significantly from that of mutual funds, and rescission would not reverse the tax effects of holding an IVIC, even for a relatively short period. There could be potential tax consequences to IVIC policyholders as a result of exercising a rescission right, which may not have been contemplated in the development of the Proposed Framework.

IX. MER PRESENTATION

The fundamental reason for showing the MER is to show the end cost to the consumer so that they can compare one option

to another. In the case of an IVIC, the MER is made up of management fees, operations costs and the costs of funding the insurance features within the contract.

Under the Proposed Framework, the Fund Facts for a segregated fund option within an IVIC contract would require a breakdown between MER and "insurance costs". The rationale for this appears to be a perception that the "insurance costs" represent the difference between a retail mutual fund and a "wrapped" fund. That is not, in fact, the case. (And even if it were, it is unclear why regulators would require one industry to provide comparative information about another industry's products.)

For IVICs where the life insurance company has invested premiums allocated to a segregated fund in an underlying pooled fund or mutual fund, the insurance company purchases the funds at wholesale (or "institutional") prices. Disclosure of the cost of the insurance portion of the segregated fund MER, therefore, would reveal proprietary information about the business relationship between the insurer and the fund manager. For internally managed segregated funds where a life insurance company has not invested premiums in underlying pooled funds or mutual funds, disclosure of the insurance costs reveals proprietary information about the insurer's business and actuarial practices.

From the consumers' perspective, it is important to know what the MER is. This is their bottom-line cost. It is this number that provides the information they need to compare costs with other fund options within an IVIC or, indeed, with mutual funds.

**Breakout would
require disclosure
of proprietary
information**

**Bottom-line cost
to consumer is
MER**

The Fund Facts should simply show the MER.

The Key Facts document already requires discussion of the various features available within an IVIC (e.g., guaranteed features) and that there are costs related to providing these features. This discussion should be qualitative, to ensure that proprietary information is not being broached.

X. CONCLUSIONS AND NEXT STEPS

In conclusion, the life and health insurance industry:

- Has a long tradition of working effectively with insurance regulators to ensure that our customers receive meaningful disclosure at point-of-sale;
- Supports the Joint Forum's vision that consumers receive meaningful information about the products they purchase;
- Supports and commends the Joint Forum and CCIR's efforts to build on and improve the clarity of point-of-sale disclosure already in place for IVIC policyholders;
- Supports the Joint Forum's efforts to improve the comparability of disclosure materials across regulatory sectors;
- Believes that the best way of achieving the Joint Forum's objectives is through the application of a principles-based approach to financial services regulation. This is particularly useful when the

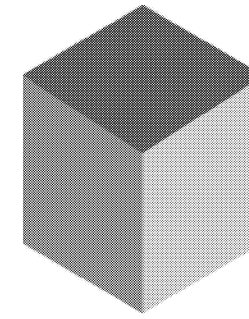
products involved are not identical. It also fosters a more efficient and effective marketplace that benefits consumers;

- Is concerned that, as currently structured, the Proposed Framework could lead to decreased consumer choice, increased transaction delays, and possible migration to less regulated products;
- Urges the Joint Forum to ensure that whatever disclosure regime is ultimately adopted respects the existing rights of IVIC policyholders;
- Believes that, in order for prospective IVIC policyholders to make an informed buying decision at point-of-sale, they must receive information about all of the investment choices available within their contract;
- Believes that the Proposed Framework relative to subsequent transactions is not in the best interests of IVIC policyholders. It would delay transactions and duplicate existing disclosure. Further, it does not respect existing policyholder rights. Alternative approaches should be considered;
- Recommends that any abbreviated disclosure documents should refer policyholders to their contract for more information;
- Recommends that rescission rights should apply at the contract level;
- Recommends that the MER be disclosed to policyholders.

We believe that further consultation can and should lead to a regime that improves the clarity of disclosure materials received by IVIC policyholders and prospective policyholders, and respects the rights and best interests of those policyholders. The existing process, long established in the insurance industry, involves industry legal and subject matter experts working constructively with insurance regulators. We would urge that, as a next step in moving this project forward, this group be convened and tasked with finalizing an approach that meets the Joint Forum's vision while reflecting the contractual and marketplace realities of IVIC policyholders.

FUND FACTS

Fund Name	IFSC Fund Category	Risk	MER (as at Fund's Year End)	Performance (Annual Compound Return)				
				1 Yr	3 Yr	5 Yr	10 Yr	Since Start
ASSET ALLOCATION FUNDS								
Conservative Portfolio Fund	Canadian Balanced	Low to Moderate	2.57	5.98	4.31	4.58	N/A	5.74
Advanced Portfolio Fund	Canadian Balanced	Moderate	2.94	11.38	0.20	4.81	N/A	6.27
Aggressive Portfolio Fund	Canadian Balanced	Moderate to High	3.03	12.76	-3.10	3.29	N/A	5.51
FIXED INCOME AND CASH EQUIVALENT FUNDS								
Money Market (TNIM)	Canadian Money Market	Low	1.31	1.71	N/A	N/A	N/A	6.85
Fixed-Income Portfolio Fund	Canadian Bond	Low	2.38	4.05	5.48	N/A	N/A	5.59
Mortgage (TNIM)	Canadian Mortgage	Low	2.36	4.83	5.79	4.80	5.74	8.38
BALANCED FUNDS								
Income (TNIM)	Canadian Balanced	Low	2.17	6.76	5.12	5.45	N/A	7.92
Balanced (Mackenzie)	Canadian Balanced	Low to Moderate	2.79	7.90	2.70	7.33	N/A	6.94
Growth & Income (AGF)	Canadian Balanced	Low to Moderate	2.82	12.10	0.92	4.92	N/A	4.46
CANADIAN EQUITY FUNDS								
Dividend (TNIM)	Canadian Dividend	Moderate to High	2.58	17.13	7.87	9.08	N/A	8.08
Equity Index (TNIM)	Canadian Large Cap Equity	Moderate to High	2.36	23.84	-3.31	4.08	6.04	7.26
Growth Equity (AGF)	Canadian Small Cap Equity	High	3.31	26.77	3.90	8.07	N/A	6.97
CANADIAN SPECIALTY FUNDS								
Real Estate (TNIM)	Real Estate	Moderate to High	2.95	4.04	5.40	6.09	5.07	5.05
Canadian Resources (AGF)	Natural Resources	High	3.31	40.77	19.99	17.00	N/A	4.73
Canadian Science and Technology (TNIM)	Science & Technology	High	3.10	25.00	-24.04	N/A	N/A	-24.71
Ethics (TNIM)	Specialty or Miscellaneous	Moderate to High	2.78	27.07	1.89	N/A	N/A	1.94
FOREIGN EQUITY FUNDS								
American Growth (AGF)	U.S. Equity	Moderate to High	2.93	1.00	-16.90	-10.16	N/A	-1.24
International Equity (Putnam)	International Equity	Moderate to High	3.01	3.94	11.15	-1.31	N/A	5.07
FOREIGN SPECIALTY FUNDS								
Asian Growth (AGF)	Asia/Pacific Rim Equity	High	3.43	12.08	-4.53	0.36	N/A	0.05
European Equity (Sceptre)	European Equity	High	2.49	9.82	-11.33	-5.80	N/A	-1.47



**GIANT
INSURANCE**

Choice Segregated Funds

Here are the basic things you should know before you enter into a Choice Segregated Funds policy.

When you enter into a Choice policy, the money you put into the policy is invested in the segregated funds you choose. The available funds are briefly described in the accompanying chart.

Your advisor can provide you with more detailed information about these investment options. You may also request a fund fact sheet for each fund that you are interested in or can access this on the company's website at www.giantfinancial.com/fund_facts/info. Fund specific information is updated on a regular basis.

KEY FACTS

Why buy this product?

When you invest in Choice Segregated Funds, you combine the growth potential of investment funds with:

- guarantee to protect your investment if the markets go down
- death benefit guarantee
- option that lets you reset your guarantee to a higher amount if your investment goes up
- possible creditor protection and tax advantages.

The death benefits guarantee is available immediately, but you will have to hold the policy for 10 years or longer to get some of the other benefits. You should consider this a long-term investment.

You pay an annual insurance cost, and therefore a higher MER, to get these benefits.

Your investment options

You can choose from the 20 segregated funds listed on the back of this page. Your adviser will help you choose the funds that are right for you.

You can change funds at any time. However:

- changing funds may affect your guarantees
- you may have to pay fees or sales charges when you change funds.

You'll find information about each fund in the Fund Facts chart at the back of this document. The chart will help you see how the different funds compare in terms of risk, cost and past performance.

Your guarantee

Each fund may have different guarantee options.

Guarantee option	Guarantee (as % of amount invested, if you hold policy for 10 years or more)	Guarantee (as % of amount invested, on death)
Full	100%	100%
Combined	75%	100%
Basic	75%	75%

The 100% guarantees cost more than the 75% guarantees. The insurance cost is added to the fund expenses to come to the total charge (MER) you will pay each year. See Fund Facts for cost of each fund.

The full guarantee is not available on some higher risk funds.

If you hold the policy for 10 years or if you die, you or your beneficiaries will get the market value of your investment or the guarantee amount, whichever is higher. That means if the market has gone down, you or your beneficiaries will get 75% or 100% of what you paid in (depending on the guarantee you've chosen), less any fees or withdrawals you have made.

The full and combined guarantees let you reset your guarantee amount when there are gains on your investment and base the guarantee on the higher amount. Some restrictions apply.

This policy will pay you an annuity at maturity unless you select otherwise.

Choosing beneficiaries

You can choose beneficiaries to inherit the guaranteed death benefit. Ask your adviser for details.

Making withdrawals

You can take out some or all of your money at any time:

- sales charges and withdrawal fees may apply
- withdrawals reduce the amount you get under the guarantee

If you change your mind

You can cancel your policy by notifying Giant Insurance in writing within two business days of signing an application.

- you will get back the amount you invested or less if the value of your investments has gone down
- you will also get back any sales charges you paid

How much does it cost to buy?

You may have to pay a sales charge. The table below outlines your options. Ask your adviser to explain the pros and cons of each option. Your adviser can also tell you about other sales charge options available on similar funds.

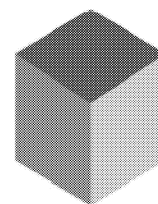
Your sales charge options (✓ Choose one)	What you pay	What else you should know
<input type="checkbox"/> Initial sales charge	(In per cent %) 0 to 4% when you buy	(In dollars \$) 0 to \$40 on every \$1,000 you buy
<input type="checkbox"/> Deferred sales charge	If you sell within: 1 year of buying 6.0% 2 years of buying 5.0% 3 years of buying 4.0% 4 years of buying 3.0% 5 years of buying 2.0% 6 years of buying 1.0% After 6 years none	0 to \$60 on every \$1,000 you sell

How does my adviser get paid?

- Your adviser will normally get a commission when you enter into the policy and direct premiums to a fund.
- Your adviser also gets an ongoing commission for as long as you hold the fund. This is called a "trailing commission".
- The commission rates depend on the sales charge option you choose. Your adviser can tell you the commission rates for this fund, and how they compare with similar funds.
- The fund company pays the commissions to the company your adviser works for. The company pays your adviser some or all of these commissions.
- The commissions are part of the fund's annual expenses.

For more information

For more information about this segregated fund and your insurance contract, speak to your adviser or contact:



**GIANT
INSURANCE**

Giant Insurance

10010-101 St. NW, Edmonton AB T5J 3G8

Phone: (780) 555-1212

Toll-free: 1-800-GIANTFI

E-mail: Choice@giantfin.com

www.giantfin.com

Legal Remedies for Misstatement by the Insurer

A consumer would have all the legal remedies which are available under the provincial insurance acts and at common law. The common law remedies include the ability to sue for damages as a result of breach of contract, negligence, breach of duty of care, breach of fiduciary duty, fraud, and material misrepresentation. A consumer may also seek rescission of the contract or punitive damages. A consumer may claim damages as a result of the conduct of the agent under the principles of agency law, in which case, the agent, insurer or both could be liable. Consumers could decide to bring a class action law suit where a matter common to a large group is at issue. Alternatively, consumers could ask for help from the industry ombudservice, the CLHIO.

In the past, where some type of misrepresentation has been established, insurers have generally entered into some type of settlement giving an increased benefit and process for individual case review.

The ultimate power of the regulator is to withdraw an insurer's license to sell insurance, or permission to sell the particular product which includes a misrepresentation. A regulator may also withdraw an agent's license or place restrictions on the license.

The *Uniform Life Insurance Act* (s. 185 in Ontario) states that where an insurer fails to disclose or misrepresents a fact material to the insurance, the contract is voidable by the insured. In the absence of fraud, the contract is not voidable by reason of such failure or misrepresentation after the contract has been in effect for two years.

Ontario Insurance Act Provisions

IVIC Specific

Section 110 (7) of the *Ontario Insurance Act* states that where it appears to the Superintendent that, (a) an information folder or other document filed with the Superintendent by an insurer with respect to a variable insurance contract (i) fails to comply in any substantial respect with the requirements of the Act or the regulations, (ii) contains any promise, estimate, illustration or forecast that is misleading, false or deceptive, or (iii) conceals or omits to state any material fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made; or (b) the financial condition of the insurer or its method of operation in connection with the issuance of its variable insurance contracts will not afford sufficient protection in prospective purchasers of such variable insurance contracts in Ontario, the Superintendent may prohibit the insurer from continuing to issue such variable insurance contracts in Ontario.

General

Section 441 of the *Ontario Insurance Act* gives the Superintendent power upon examination or investigation to make a report and upon notice the power to order the person to cease or refrain from doing any act or pursuing any course of conduct, to cease engaging in the business of insurance, or to perform the acts that, in the opinion of the Superintendent, are necessary to remedy the situation.

Where the Superintendent is of the opinion that the interests of the public may be prejudiced or adversely affected by any delay in the issuance of a permanent order, the Superintendent, without prior notice make an interim order to take effect immediately.

Section 439 of the *Ontario Insurance Act* states that no person shall engage in any unfair or deceptive act or practice.

Paragraph 447 (b) of the *Ontario Insurance Act* includes as an offence failure to comply with any requirement of, or any order or direction made under, the Act. A person is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000.

Ontario Securities Act

Section 122 (1)(b) of the *Ontario Securities Act* states that any person who makes any material statement in any document, preliminary prospectus etc. which is misleading or untrue is guilty of an offence and on conviction is liable to a fine of not more than \$5 million or to imprisonment for a term of not more than five years less a day or both.