

EMPIRE LIFE INFORMATION CIRCULAR

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TO: Managing General Agents

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SUBJECT: CLHIA Guideline G18 " Insurer-MGA Relationships"

Introduction As you know, the Canadian Life and Health Insurance Association (CLHIA) released Guideline G18 "Insurer-MGA Relationships" (copy attached) to help insurers and MGAs address regulator recommendations outlined in the Canadian Council of Insurance Regulators' (CCIR) position paper "Strengthening the Life MGA Distribution Channel".

CLHIA member insurers are expected to comply with Guideline G18 and are working to clarify MGAs roles and responsibilities in light of Guideline G18 through contract changes and notices.

Reference Document The CLHIA, with the input of the Canadian Association of Independent Life Brokerage Agencies (CAILBA), created a reference document for MGAs ("MGA Compliance: A Risk – Based Approach for Compliance Programs in the MGA Channel"). This reference document (copy attached) provides MGAs with guidance on what CLHIA member companies expect MGAs to do to meet the recommendations set out in Guideline G18.

Empire Life Empire Life expects all MGAs to structure their compliance programs using the attached reference document. The reference document covers initial screening of advisors for suitability, on-going monitoring, reporting and investigating advisors, and compliance with managing conflicts of interest industry guidelines, AML/ATF legislation and privacy legislation.

Please review the attached documents and ensure your processes for suitability screening, monitoring, reporting and investigating advisors and compliance with legislative requirements, are in line with the guidelines set out in the attached document. We will be asking about your overall compliance in relation to Guideline G18 when we conduct our Best Practices Reviews.

Reference **Carol Anne Bracciodieta**, Director, Investment Customer and Dealer Services and Distribution Practices



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

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

Guideline G18 INSURER-MGA RELATIONSHIPS

This Guideline has been approved by the Board of Directors of the Canadian Life and Health Insurance Association Inc. (CLHIA). Member Companies are expected to adopt this CLHIA Guideline having regard to the company's structure, products and business practices, including distribution channels. Member Companies are urged to incorporate this Guideline into the company's ongoing compliance program.

Adopted December 9, 2013, effective January 1, 2015

RELATED REFERENCE DOCUMENTS:

CLHIA Standardized MGA Compliance Review Survey

Insurer Due Diligence for Screening MGAs

Guideline G18

INSURER-MGA RELATIONSHIPS

1. INTRODUCTION

Over the past several decades, distribution structures within the life and health insurance industry have undergone considerable diversification. Although it is relatively new in Canada, the Managing General Agency (MGA) channel has recently emerged as a major channel, accounting for over one-third of all new premiums.

In 2010, the Canadian Council of Insurance Regulators (CCIR) launched a series of consultations to gain a better understanding of the MGA channel. These consultations concluded that greater standardization and clarification of roles and responsibilities would be beneficial.

2. PURPOSE

Consistent with the CCIR recommendations, this Guideline is intended to bring greater clarity to the roles, responsibilities and accountabilities within insurer-MGA relationships.

3. SCOPE

This Guideline applies where a member company is contemplating or has entered into a contract with an MGA.

In the event of any conflict between the provisions of this Guideline and any applicable law, the law takes precedence over the Guideline to the extent of the conflict. This Guideline does not override any responsibility established by legislation. Member companies should also take into consideration any provincial guidelines dealing with insurer-MGA relationships.

4. DUE DILIGENCE

Before entering into a contract with an MGA, insurers should conduct sufficient due diligence to confirm that the MGA has the expertise and resources to fulfill the duties of the contract.

This due diligence generally assesses such matters as the MGA's:

- experience and competence;
- financial strength;
- business reputation;

- internal controls (especially those related to business placed through the MGA);
- business continuity;
- advisors (including compliance, training and business tracking);
- E&O insurance;
- business objectives; and
- regulatory compliance.

5. ROLES AND RESPONSIBILITIES

The contract between an insurer and an MGA should clearly set out, either expressly or by reference, the MGA's roles and responsibilities with respect to the nature and scope of functions it is expected to perform. The contract should also establish the right of the insurer to monitor the MGA's practices relative to its contractual obligations.

The contract should address MGA responsibilities such as the following:

- adherence by both the MGA and all its advisors to the insurer's code of conduct (or its own if it has been reviewed and approved by the insurer);
- advisor screening;
- on-going advisor monitoring;
- reporting concerns about the suitability of an advisor to the insurer;
- consumer complaint handling and tracking;
- adherence to all legislation and regulation (including insurance laws and laws relating to money laundering, privacy and safeguarding of information, telecommunications and anti-spam);
- adequacy of Errors & Omissions insurance (especially as this may vary from statutory minimums); and
- adequacy of planning and resources for business continuity.

6. TREATING CUSTOMERS FAIRLY

Insurers should clearly state their expectations that all practices encompassed in the insurer-MGA relationship should promote a culture of treating customers fairly.

Historically, the fair treatment of customers has been a central objective of insurance regulation and industry practices in Canada. Recently, a variety of circumstances both in Canada and abroad have served to focus attention on understanding and reinforcing this concept.

The concept includes promoting outcomes such as:

- providing customers with clear information before, during and after the point of sale;
- reducing the risk of sales which are not appropriate to customers' needs;
- providing sound financial advice; and
- dealing with customer complaints and disputes in a fair manner.

7. MONITORING

Insurers should have policies and procedures to effectively monitor the MGA and to confirm that it is fulfilling its duties under the contract.

Insurers should require that each MGA complete and submit the CLHIA Standardized MGA Compliance Review Survey or similar survey on an annual basis.

Insurers should verify the responses on the monitoring survey by conducting on-site practice reviews on a periodic basis, with the frequency of these reviews based on the insurer's assessment of the risk associated with the MGA arrangement. Where deficiencies are noted on the monitoring survey, appropriate follow-up should be undertaken promptly to ensure the MGA understands and is addressing the deficiency.

Insurers should periodically check for material changes to financial strength as initially assessed as part of the insurer's due diligence.

Insurers should periodically check for material changes to the MGA's business objectives or its business mix.

8. INSURER ACCOUNTABILITY

Consistent with CLHIA Guideline G8, *Screening Agents for Suitability and Reporting Unsuitable Agents* where an insurer relies on an MGA to perform specific functions, the insurer retains ultimate responsibility and, accordingly, should take reasonable steps to ensure that the MGA is performing those functions.

9. IMPLEMENTATION

This Guideline comes into effect on January 1, 2015.



August, 2014

Reference Document
MGA Compliance: A Risk-based Approach for Compliance Programs
in the MGA Channel

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INTRODUCTION

Background

In 2011, the Canadian Life and Health Insurance Association (CLHIA) in consultation with the Canadian Association of Independent Life Brokerage Agencies (CAILBA) and individual MGAs, launched a Standardized Compliance Review Survey (CRS). The CRS is part of the industry's initiative to increase standardization of practices within the Managing General Agent (MGA) channel. This standardization is intended to address the concerns of regulators and assist in streamlining the compliance practices of insurers and MGAs.

The CRS asks about an MGA's policies and procedures related to its contractual and statutory responsibilities for compliance. It also asks about specific practices in the MGA's compliance program.

This Reference Document is intended to serve as a guide for MGAs who are developing policies and procedures and deciding how to implement specific practices.

Roles and Responsibilities of Insurers and MGAs

The central objective of a compliance program is to effectively manage risk. This requires establishing a level of scrutiny that provides a reasonable assurance that the potential for problems can be detected and appropriate steps can be taken to prevent customers being harmed.

MGAs are closer to the advisors and see the business an advisor is placing with multiple insurers. For these reasons, insurers look to their MGAs for this broader view of advisors, with the expectation the MGA will have systems in place to maintain an appropriate level of scrutiny. And because the MGA effectively serves as the insurer's "eyes in the field", insurers rely on the MGA to communicate their concerns about an advisor in a timely manner.

At the same time, this communication is a two-way street. Because an insurer is relying on an MGA to assist in managing its risk in the MGA channel, it is in the insurer's interest to make sure the MGA has the information it needs to accurately assess risk. This involves timely sharing of concerns an insurer may have about the conduct of an advisor that the MGA is monitoring.

Risk-based Approach

An MGA's compliance program should be risk-based.

The first step in implementing a risk-based compliance program is to assess the risk that an advisor presents.

Once the MGA has made this risk assessment, the next step is to decide on an appropriate level of scrutiny to manage that risk. This involves making decisions about what specific practices will provide a reasonable assurance that the risk is being managed.

Screening vs. Monitoring in a Risk-based Approach

Screening practices are intended to assist an MGA in deciding whether or not an advisor is suitable to act as an insurance advisor. Screening serves two key purposes. It helps the MGA decide whether or not to offer a contract to the advisor. And, where the MGA decides to enter into a contract, it helps the MGA assess the risk presented by the advisor.

Reference Document:

Screening is done to acquire information about an advisor who is essentially unknown to the MGA. For this reason, screening practices are highly standardized. In other words, all MGAs should use similar screening practices for all advisors.

Monitoring is an on-going process. It is intended to help an MGA manage the risk it has identified. It can also be used to reassess that risk.

In contrast with screening, monitoring practices vary from MGA to MGA and, for an individual MGA, from advisor to advisor. In other words, it is up to the MGA to decide what monitoring practices make sense to effectively manage the risks it has identified.

Organization of Reference Document

This Reference Document is organized to correspond to the various sections in the CRS.

Each section of the Reference Document begins with a general overview of the compliance functions and their objective.

Following this overview, each section describes factors that are relevant to assessing risk and practices that may be used to manage these risks.

Terminology

Throughout this Reference Document, 'advisor' is used to refer to licensed life agents and licensed A&S agents. The use of 'agent' or 'representative' is retained as required to refer to titles of other documents or to quote from these documents.

Where an MGA delegates functions to an Associate General Agent (AGA) or some similar entity, 'MGA' should be interpreted as referring to that other entity as appropriate.

Related Documents

All of the CLHIA documents referred to in this document are publicly available on the CLHIA website in an area called Materials for Financial Advisors under The Industry.

CAILBA has also developed materials to assist MGAs in the preparation of the written policies and procedures referred to in the CRS.

INITIAL SCREENING OF ADVISORS FOR SUITABILITY

Overview

As noted in the Introduction, the intent of screening is two-fold. The first purpose is to decide whether or not an advisor is suitable. On this point, under CLHIA Guideline G8, if an insurer has reasonable grounds to believe that an advisor is not suitable, the insurer should not have a contract with that advisor.

The second purpose is to assess the risk that an advisor presents. It is important to bear in mind that "suitable" does not equal "risk-free". Two advisors can be suitable and still present different levels of risk. For example, a younger advisor who is new to the industry may present a higher risk than a seasoned advisor. In this example, a variety of methods could manage the

additional risk posed by the younger advisor. Typical practices for managing this risk include training or mentoring the advisor, to name a couple.

A primary step in screening is use of the CLHIA *Advisor Screening Questionnaire* (ASQ) (see Appendix 1). The ASQ is a standardized screening survey that insurers use in all distribution channels. The version of the ASQ in this Reference Document has been adapted for use by MGAs. The questions in the survey remain the same but the instructions and consent have both been modified. As will be explained below, the ASQ is only part of the screening process.

Industry Practices

The entire screening process involves nine steps. These are:

1. An introduction (typically initiated by the advisor)
2. An interview or other type of meeting in which the MGA decides it has an interest in proceeding
3. Completion of the ASQ by the advisor, including the declaration and consent
4. Review of the advisor's responses on the ASQ by the MGA
5. Verification of the advisors responses through various means including third-party checks (e.g., credit) and data bases (e.g., licensing status)
6. Follow-up by MGA sending the Advisor Screening Confirmation Request (SCR) to some or all of the insurers listed in Q18 of the ASQ
7. Insurers completing and returning the SCR to the MGA within five business days
8. Gathering any additional information, not related to compliance/suitability, about an advisor in order to decide whether or not to offer a contract
9. Forwarding ASQ and supporting information to insurer(s) with whom advisor wishes a contract to represent

In real life, these will not always be discrete steps and the order may vary. For example, steps 1 and 2 might be combined, or step 8 might be done earlier before asking the advisor to complete the ASQ.

Step 3, completion of the ASQ, is a significant undertaking for both the MGA and the advisor. For the MGA, it entails taking possession of personal and proprietary business information. For the advisor, it requires time and effort ensuring the answers are accurate and complete. For these reasons, it is prudent to only proceed with this step if the MGA has a reasonable expectation, based on the interview or earlier discussion with the advisor, that it intends to offer a contract to the advisor. It is a good idea for the MGA to keep a note summarizing the reasons for proceeding to this step.

As a means of checking the information provided by the advisor, the MGA may, at its discretion, send the CLHIA *Advisor Screening Confirmation Request* (see Appendix 2) to some or all of the insurers identified in Question 18 of the ASQ. The Request should be sent with the accompanying consent signed by the advisor. Insurers will generally complete the Request and return it within five (5) business days provided it is accompanied by a signed consent.

If an advisor answers "yes" to queries about debt, bankruptcy or disciplinary actions in Questions 19-32 of the ASQ, this is generally evidence of heightened risk. The questionnaire indicates additional detailed information that should be provided by the advisor. The MGA should carefully review this detailed information to determine if it adequately addresses concerns about the suitability of the advisor. Regardless of answers about debt and bankruptcy, given the sensitivity of this matter, a credit check should be obtained for all advisors.

Compliance with basic licensing requirements is a key element of suitability. For this reason, routine verification of licence status and E&O coverage are both good practices. The MGA can check provincial databases to confirm that the life licence information provided in answer to Question 33 of the ASQ is accurate.

Similarly, the E&O certificate should be checked to confirm the coverage satisfies minimum provincial requirements related to single claims, aggregate claims and fraud coverage. If an advisor indicates in answer to Question 35 of the ASQ that previous coverage has been declined or cancelled, this is generally evidence of heightened risk. The MGA should carefully review the advisor's explanation to determine if it adequately addresses concerns about the suitability of the advisor.

As part of this verification process, if the MGA sees that the advisor is holding out to the public in a way that is inconsistent with his or her license and/or completed ASQ, the MGA may wish to question the advisor on this point as it may be a sign of heightened risk. Such inconsistencies might be found in things like letterhead, business cards, websites and social media accounts.

A number of specific practices in an advisor's business are subject to stringent regulatory requirements. This includes practices related to privacy, anti-money laundering, telemarketing, anti-spam, managing conflicts of interest and advisor disclosure. If an advisor is not aware of the full extent of these requirements as they apply to his or her practice, this lack of awareness may create heightened risk. The MGA's screening procedures should be designed to take these potential risks into account.

Insurers may establish specific criteria that exceed the standards for suitability established in the ASQ. MGAs recommending an advisor to an insurer that has established higher standards should only recommend advisors that also satisfy these specific criteria.

In some cases, an MGA may wish to recommend an advisor to an insurer where some period of time has passed since the advisor has completed the ASQ. Depending on the amount of time that has elapsed, the MGA may need to take steps to assure itself that the information on the ASQ is still complete and accurate. In these situations, the MGA should check with the insurer to determine what credit information is required, and how current it must be, to support the advisor's application for a contract.

ON-GOING MONITORING, REPORTING AND INVESTIGATING OF ADVISORS

Overview

The purpose of monitoring is to detect and prevent potential problems from becoming actual problems that harm the customer.

An MGA's choice of specific monitoring practices will depend on that MGA's assessment of risk. This assessment will take into account information about the advisor that is gathered in the initial screening process as well as information that is gathered in the course of on-going monitoring. The assessment of risk may also take into account a number of additional factors including the business structure of the MGA, the number of advisors, where the advisors work, the sales and marketing support the MGA provides and the types of products and services involved in typical transactions. For example, a small MGA operating out of a single office and specializing in a limited product shelf may have a different risk assessment than MGAs operating with different business models.

Reference Document:

Whereas initial screening is intended to provide a complete picture of the advisor at a single point in time, on-going monitoring is primarily intended to look for signs that there might be a problem.

As noted in the Introduction, both the MGA and the insurer have important roles in ensuring that the monitoring of advisors is thorough and effective. Where either the MGA or an insurer becomes aware that there might be a problem with an advisor, they should inform the other of this potential concern in a timely manner.

The MGA's reporting of problems with an advisor to a particular insurer should be done in a way that does not disclose specific information about another insurer's products or policyholders. At the same time a concern is being reported to a particular insurer, the MGA should consider heightening its level of scrutiny for all transactions involving that advisor, regardless of the insurer.

Once the insurer receives an MGA's reports about potential concerns, it will assess this information and work with the MGA to take any specific steps that are needed to investigate the concern or heighten the level of scrutiny. Early reporting of concerns to insurers is important because, in some cases, it may be added to information the insurer has received from other sources and be sufficient to tip the balance about decisions on the most appropriate follow-up.

When reporting concerns about an advisor, each party will need to exercise judgement in determining what constitutes a concern that should be reported. CLHIA Guideline G8 describes factors that affect suitability and gives advice about assessing the risk associated with these factors. As a general principle, given the overall importance of compliance programs as a means of protecting the customer, when there is any doubt, it is best to err on the side of caution and report the concern.

Reports of a concern, whether it is in writing or more informally in a conversation, should be factual and avoid inferences or judgments.

The reporting described in this Reference Document is reporting that goes between insurers and MGAs. This sort of "industry reporting" contrasts with "statutory reporting" to regulators that is required in some provinces. For example, in Ontario, Ontario Regulation 347 requires an insurer to report to the Superintendent where it has "reasonable grounds to believe that an agent ... is not suitable." Similarly, in British Columbia, in its January 2012 Notice *Role and Responsibilities of Managing General Agents in the Distribution of Life Insurance in British Columbia*, the Insurance Council of British Columbia states "an MGA has an obligation to report concerns regarding the suitability (trustworthiness, competency and ethics) of a life agent to Council ... where an MGA is uncertain if the concerns are relevant, it is encouraged to speak with Council staff."

Industry Practices for Monitoring

CLHIA Guideline G8 describes specific activities that are unacceptable sales practices and may provide evidence that an advisor is not suitable. The following is not intended to serve as an exhaustive description of these sales practices and how they can be monitored. Rather, for broader categories of sales practices, it explains the objective of monitoring and describes practices or circumstances that may be signs of heightened risk.

As noted in the Overview, the practices described here should be implemented on a risk-based basis. Accordingly, the MGA's policies and procedures should describe the practices that are appropriate for a basic level of scrutiny, indicators that can be used to escalate scrutiny and practices that are appropriate in situations calling for a higher level of scrutiny.

Know Your Advisor

The objective is to look for signs that an advisor lacks sufficient expertise or experience related to the products or services being recommended.

As part of the screening process, MGAs obtain information about the education, training and experience of advisors. This profile can reasonably be expected to change over time, especially in the case of newer advisors. A profile that does not change may be a sign of heightened risk.

If an advisor's pattern of business shifts and it appears that recent recommendations are not consistent with his or her training and experience, this may be a sign of heightened risk.

If an advisor holds out to customers in ways that are inconsistent with his or her education, training and experience, for example, titles and designations on letterhead, business cards, websites and social media accounts, this may be a sign of heightened risk.

The Insurance Council of British Columbia January 2012 Notice *Role and Responsibilities of Managing General Agents in the Distribution of Life Insurance in British Columbia* has more information about this aspect of monitoring.

Misrepresentation, Disclosure, Holding Out

The objective is to provide reasonable assurance that the advisor is providing accurate information to the client.

Given the importance to the client of the products and services that advisors are providing, the accuracy of information provided by the advisor is inherently important. As well, evidence that the advisor is providing inaccurate information, either deliberately or inadvertently, calls into question the competence of the advisor and the soundness of his or her advice and recommendations. Finally, in some cases, the information is required by law so failure to provide such information or inaccuracy in the information provided is, by itself, evidence of unacceptable sales practices.

Advisors are asked in Q. 38 of the ASQ if they have a standard disclosure statement with the six-point disclosure advisors are required to provide to comply with the CCIR principles for managing conflicts of interest (see Managing Conflicts of Interest for more details). If there are changes that affect this disclosure, failure to update the statement may be a sign of heightened risk.

In some cases, the "in good order" requirements for life applications can only be satisfied if the customer has expressly acknowledged receipt of disclosure. Failure to provide this disclosure may be a sign of heightened risk. Examples of relevant disclosure include:

- for transactions involving replacements, the client has signed acknowledgement of receipt of the LIRD and a written explanation of advantages and disadvantages is in the file; and
- for IVICs, the client has signed acknowledgement of receipt of the Information Folder.

Reference Document:

Undue Influence

The objective is to look for evidence that an advisor has, through undue influence, persuaded a client to purchase products or services that are not suited to his or her needs.

Undue influence can be subtle and difficult to detect. Adding to this difficulty is the fact that it can be exercised in almost any set of circumstances.

Two common situations that are often associated with vulnerability and undue influence are age and native language. Evidence that an advisor is placing a disproportionate amount of business or a sudden increase in business with such groups may be a sign of heightened risk.

Even in such circumstances, however, where a needs analysis supports the advisor's recommendations, undue influence is unlikely to have occurred. Accordingly, where an MGA is aware that a transaction involves a potentially vulnerable customer, the potential for risk can be assessed by looking for evidence of needs-based sales practices.

Business Practices

The objective is to look for trends in the advisor's business that would indicate that products purchased by clients are not meeting their needs.

Evidence that an advisor's product recommendations might not be suited to the needs of the client can be found in a number of indicators, including: conservation (i.e., the percentage of policies retained vs. lapsed), persistency (i.e., the percentage of policies in force after a specific period, such as two years) and wastage (i.e., the percentage of policies placed vs. applied for). Where information is available, these indicators can be monitored to identify the emergence of any trends that may indicate a need for closer investigation.

In addition to monitoring the preceding measures, a number of patterns may be signs of heightened risk. These may include changes in:

- the proportion of business placed with different carriers;
- the amount and/or type of business placed; and
- the face amount of insurance sold.

Leveraged strategies are an especially sensitive matter that merits careful attention. The fact that an advisor recommends leveraged strategies does not, by itself, point to a concern. But if, for example, the frequency of such recommendations shows a sudden increase, this may be a sign of heightened risk. Where the MGA is aware that an advisor is recommending leveraged strategies, the risk can be assessed by looking for evidence that the advisor has conducted fact finding that includes financial information about the client. As discussed above, evidence that this strategy is not suitable may also be found in patterns in the business the advisor is placing.

For IVIC transactions, the incidence of deferred sales charges, surrenders within six months and excess withdrawals may all be signs of heightened risk.

Advisor's Financial Health

The objective is to look for signs that the advisor is experiencing financial difficulties that might, in turn, affect his or her sales practices.

Reference Document:

Financial difficulties, by themselves, are not evidence of unacceptable sales practices. But they do increase the risk that an advisor may engage in unacceptable practices to increase sales and address his or her own financial needs.

Generally, MGAs should look for signs of financial difficulty in their advisors and use these as red flags to heighten the level of scrutiny for transactions handled by an advisor experiencing difficulty.

Common signs of financial difficulty include but are not limited to:

- garnishments;
- debt in the representative's account; and
- bankruptcy.

Specific Risks

Along with the general areas of concern described above, there are several specific risks that the MGA's compliance practices should be designed to detect.

Fronting occurs when a licensed agent submits an application for insurance and collects a commission on behalf of an unlicensed individual who has sold the policy. Fronting also occurs when an advisor places business with a carrier on behalf of a licensed agent who does not have a contract with the carrier receiving the business. Fronting is not always easy to detect but some of the more obvious indicators that should alert an MGA to the risk include:

- departures in the look of applications and supporting material usually submitted by the advisor;
- changes in the advisor's handwriting on an application; and
- volumes of business that exceed what the advisor would normally be expected to place.

Trafficking may occur when the advisor facilitates the sale of a client's insurance policy to a third-party that holds itself out as a purchaser of life insurance policies. These transactions are also referred to as viatical settlements. MGA's should bear in mind that the policies of individual life insurers in Canada as they relate to viaticals are generally more restrictive than statutory prohibitions.

Finally, in addition to specific indicators in individual transactions, there are a number of intangibles that relate to the advisor's overall ability to provide professional advice. Some of these indicators may relate to business practices (e.g., being slower to respond to requests) or knowledge of insurance (e.g., asking questions about matters of basic understanding). Similarly, changes in mood, physical appearance, engagement and the like may be evidence of more serious problems.

Industry Practices for Reporting

The objective of reporting is twofold. The general objective is to ensure that insurers get early indications that there may be concerns or issues with an advisor's advice and business practices. This was referred to as "industry reporting" in the Overview.

In addition, in jurisdictions where MGAs have a duty to directly report concerns regarding the suitability of an advisor to the regulator (e.g., British Columbia), the objective is to satisfy that duty. This is what was referred to as "statutory reporting" in the Overview.

An effective compliance program should be aimed at prevention as much as it is aimed at detecting problems that have already occurred. Timely reporting is critical to prevention. Accordingly, as noted in the Overview, if there is any doubt about what is being observed, it is prudent for the MGA to report this to the relevant insurer.

In the first instance, an MGA may wish to flag the concern with a telephone call to the insurer.

To act on the concern, the insurer will generally require a written report. The insurer will generally provide specific advice to the MGA about what information is required.

Any written report should be objective and fair. It should provide factual information that can be verified. Since reporting is intended to assist the insurer in determining next steps, the reports should not generally include conclusions.

In situations in which an advisor has contracts with multiple insurers, concerns about advice and recommendations related to one insurer's products should only be reported to that insurer. These concerns should, however, be used to heighten the monitoring of transactions involving other insurers.

Industry Practices for Investigating

The objective is to determine if, in fact, there is a valid concern about an advisor's suitability and what steps should be taken to address this concern.

In extreme cases, an investigation may result in the decision to terminate an advisor's contract and report the advisor to the regulator.

It is possible, however, that an investigation will result in a finding that the concern is unfounded. It is also possible that the investigation will find a situation that can be effectively addressed by other measures such as heightened monitoring, coaching, specific training, etc.

Given that it is the insurer who ultimately bears responsibility for the conduct of an advisor (at least with respect to the selling of its products), the insurer will generally direct the investigation and advise the MGA of what specific steps it should take.

MANAGING CONFLICTS OF INTEREST

Overview

The life insurance industry, guided by principles developed by the regulators, has developed a comprehensive set of practices for managing conflicts of interest that may arise in the sale of life insurance.

MGAs should be fully aware of these practices and support them. Support involves implementing the practices, as appropriate, in their own dealings. It also involves promoting a similar in-depth understanding on the part of the advisors of the practices and how they should be implemented.

Industry Practices

To address the CCIR principle about conflicts of interests, advisors should disclose the following information to their client:

- companies the advisor represents;
- the nature of the relationship with the companies represented;
- how the advisor is compensated (e.g., commission, fees, salary, etc.) and by whom;
- if the advisor is or may be eligible for additional compensation such as a travel incentive or bonus;
- conflicts of interest, actual and potential; and
- an invitation to the client to ask for more information.

This information is typically provided prior to the advisor first entering into a business relationship with a client. The 2005 Reference Document *Advisor Disclosure* (prepared by Advocis, CAILBA, CLHIA and IFB) provides sample templates for common scenarios.

MGAs may wish to provide additional support to assist advisors in the preparation of the required disclosure.

A number of specific situations increase the likelihood of perceived or actual conflicts of interest and may be signs of heightened risk. These include:

- the advisor either borrowing money from or lending to the client;
- recommendations about non-conventional investment opportunities;
- designations of beneficiaries, trustees and/or executors; and
- transactions in which the advisor is the owner or contingent owner of the policy.

To address the CCIR principle that recommendations be based on the needs of the client, advisors should follow steps for needs-based selling in the 2007 Reference Document *The Approach: Serving the Client through Needs-Based Sales Practices* (prepared by Advocis, CAILBA, CLHIA and IFB) and document the information that supports their recommendations.

Concerns about the potential for conflicts of interest can often be addressed by showing evidence of needs-based selling and, in particular, a rationale for the recommendations. Thus, where the MGA is concerned that an advisor may have a conflict of interest, the MGA can look for evidence that the advisor is documenting the client's needs. Alternatively or in addition, the MGA can look for evidence that the advisor is using available client questionnaires, calculators, etc. to guide fact finding and needs assessment.

PRIVACY

Overview

Legislation to protect the privacy of Canadians is well established. In addition to potential legal liability, breaches undermine consumer confidence in financial institutions generally and can negatively affect the reputation of the institutions involved in the breach.

MGAs should have written policies and procedures to safeguard the personal information of clients and advisors. Given the possibility of human error, it is important that these policies and procedures address breaches.

Advisors should have policies and procedures that parallel those of the MGA. In many cases, these will be adapted having regard for the scale and nature of their individual practice.

Industry Practices

At the most basic level, there are a number of features in the workplace that are indicators of sensitivity in relation to privacy. The absence of any of the following may be a sign of heightened risk:

- clean desk policies;
- locks on filing cabinets, etc.; and
- sound-proofing or barriers to protect the confidentiality of oral communication.

At a more technological level, there are a number of practices that provide a minimum level of protection. The absence of any of these may be evidence of heightened risk. These include: password protection, data encryption to adequately safeguard information while it is being retained or transmitted, and effective destruction of data when it is no longer required.

The growing use of cloud computing to optimize IT resources creates a new level of risk. MGAs entering into third-party agreements for computer services should ensure they have effective control over the transmission of information and storage of information so that adequate privacy safeguards are in place at all times.

AML/ATF

Overview

Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (the Act), insurers, brokers and advisors, among other reporting entities, are required to report certain suspicious transactions to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC).

Accordingly, MGAs should have a compliance program in place that fully adheres to the requirements set out in the Act and related regulations. At the time this document was prepared (i.e., early-2014), regulations under the Act were under review. For this reason, and more generally because of the dynamic nature of legislation in this area, it is important to stay informed of changes in the requirements.

The specific requirements and a description of how they apply to the life insurance industry are set out in the 2008 CLHIA *Guidance Manual to Combat Money Laundering and Terrorist Activity Financing*. Very generally, MGAs should have:

- a compliance officer responsible for the AML/ATF compliance regime;
- written compliance policies and procedures;
- documented assessment of risks and measures to mitigate high risk;
- periodic reviews (at least every two years) of the effectiveness of policies and procedures; and
- a training program for employees of the MGA.

Advisors should have policies and procedures that parallel those of the MGA.

Industry Practices

The necessary policies and procedures should, among other things, address:

- the roles and responsibilities for identifying reportable transactions;
- record keeping;
- ascertaining identity;
- exceptions; and
- completing and filing reports.

The assessment of risk should, among other things, consider:

- products and services;
- geographic locations of places of business and clients; and
- client and business relations.

A training program should provide basic background about money laundering and terrorist financing activities and specific information about the legislation and the MGA's compliance regime.

APPENDIX 1

ADVISOR SCREENING QUESTIONNAIRE For use by Managing General Agencies Screening Advisors for Suitability

Instructions to MGAs

The *Advisor Screening Questionnaire* (ASQ) should be used by Managing General Agents (MGA) as part of the screening process an MGA uses to assess the advisor's suitability and decide whether or not to enter into a contract with that advisor. An MGA should also use the ASQ to carry out screening functions delegated to it by an insurer. Questions 1-39 of this version of the ASQ are identical to questions used by insurers when they screen advisors.

To facilitate timely decision-making based on the information collected in the ASQ, MGAs who use it should not change either the questions or the Consent and Declaration.

MGAs should conduct their screening in good faith and compliance with all relevant statutory requirements. In addition to insurance regulation, this includes regulation of more general applicability including privacy and human rights legislation. The following recommendations support this outcome.

1. An MGA should not ask the advisor to complete the ASQ until after the MGA has met with the advisor.
2. Following this meeting, the MGA should only ask the advisor to complete the ASQ if it is interested in the advisor and should so advise the advisor.
3. If the MGA is interested in the advisor, any offer of contract should be made conditional upon completion of the ASQ and conditional upon the MGA being satisfied, after investigation, that the applicant is suitable to carry on business as an advisor.

The ASQ asks the advisor to provide his or her Social Insurance Number. Providing this information should be optional. It should not be a condition of proceeding with the screening process. As noted in the Consent, the Social Insurance Number is only provided for tax purposes.

Reference Document:

Instructions to Advisors

In keeping with regulatory responsibilities and prudent business practices, prior to entering into a contract with a life agent, an insurer and a Managing General Agency (MGA) will screen that advisor to determine his or her suitability to act as an advisor.

This standardized questionnaire was developed by the Canadian Life and Health Insurance Association (CLHIA), in cooperation with the Canadian Association of Independent Life Brokerage Agencies (CAILBA), to help promote greater consistency in screening practices within the industry.

This questionnaire is made up of 39 questions, a Declaration and a Consent and Authorization. Failure to answer all questions, except for Question 4 about your Social Insurance Number (SIN), and complete the Declaration and Consent and Authorization may delay or adversely affect your application. Providing your SIN at this stage is optional and intended to streamline the contracting process.

Generally, the questions can be answered by checking a box or briefly stating the required information in the space provided.

Where additional details must be provided to fully answer a question or explain the answer, these should be provided under Additional Information following Question 39. Care should be taken to ensure that any details in Additional Information clearly identifies the question to which it is responding.

In the Declaration, you declare that your answers are true, complete and accurate.

In the Consent and Authorization, you agree to specific steps that the MGA may take to verify your answers and/or obtain additional information. You also agree that the MGA may forward your answers and any additional information to any insurers with whom you wish to enter into a contract.

General Information:

1. Name: _____

☐Mr. ☐Mrs. ☐Ms. ☐Miss.

Name of Firm (if different): _____

2. Home address and contact information:

Address: _____ Apt. No. _____

City: _____ Province: _____

Postal Code: _____ Phone: () _____

E-mail Address: _____

3. Previous addresses in the last 5 years

Address: _____ Apt. No. _____

City: _____ Province: _____

Postal Code: _____

Address: _____ Apt. No. _____

City: _____ Province: _____

Postal Code: _____

4. Social Insurance Number: _____

5. Are you legally entitled to work in Canada? ☐Yes ☐No

6. Driver's licence number: _____

Business Information

7. Business address:

Address: _____ Apt. No. _____

City: _____ Province: _____

Postal Code: _____

E-mail Address: _____

Website URL: _____

Reference Document:

8. Previous business addresses in the last 5 years:

Address: _____ Apt. No. _____

City: _____ Province: _____

Postal Code: _____

Address: _____ Apt. No. _____

City: _____ Province: _____

Postal Code: _____

9. List other business or personal names used in the financial services sector in the last 5 years:

(corporation, business style, trade name or partnership)

10. Are you licensed to carry on business as a(n):

☐ Individual Agent

☐ Corporation: Full Legal Corporate Name _____

☐ Partnership: Full Legal Name _____

If a corporation or partnership, list principals/partners, shareholders _____

(Note: Each principal, partner or shareholder may be required to complete a separate ASQ.)

11. Quebec Licensees: Are you licensed to carry on business as a(n):

☐ Independent Representative

☐ Representative Attached to a Firm: Full Legal Name _____

☐ Independent Partnership: Full Legal Name _____

☐ Firm: Full Legal Name: _____

References

12. Provide three business references.

Name & Title: _____

Company Name: _____

Phone: _____ E-mail: _____

Name & Title: _____

Company Name: _____

Phone: _____ E-mail: _____

Reference Document:

Name & Title: _____

Company Name: _____

Phone: _____ E-mail: _____

Formal Education and Designations

13. Highest education level attained:

☐ Elementary school

☐ Secondary school

☐ CEGEP:

Institution _____

☐ University or college:

degree/diploma _____

Institution _____

☐ Post graduate:

degree _____

Institution _____

14. Do you have any designations?

Indicate year attained.

☐ FLMI yr. _____

☐ RFP yr. _____

☐ CLU yr. _____

☐ CFP yr. _____

☐ CH.F.C. yr. _____

Any other Professional Designation(s)

_____ yr. _____

_____ yr. _____

_____ yr. _____

If you are presently working on any designation, please list:

Other Business Affiliations

15. Do you conduct, or are you associated with, any other business?

☐ Yes ☐ No

If “yes”, provide details, including name, location and nature of business in Additional Information at the end of this form.

16. Are you a partner, officer or director or in a non-arms length relationship with any other business?

☐ Yes ☐ No

If “yes”, provide details, including name, location and nature of business in Additional Information at the end of this form.

17. Are you currently employed in any other capacity not already identified in this questionnaire?

☐ Yes ☐ No

If “yes”, provide details, including name, location and nature of business in Additional Information at the end of this form.

Insurance Companies

18. List, in order of total volume, the insurance companies with which you have placed business in the last 5 years. Indicate the lines of business for each company by a check mark under the corresponding product.

Name of Insurance Company	Are you still associated with co.?		Year association began	Lines of Business			Approximate Total Premiums For Life Products (if known)
	Yes	No		Life/A&S	Wealth	*Other	

Personal Profile

19. Have you ever been under any legal order to make monetary payments to another person or business entity, including spousal support?

☐ Yes ☐ No

If "yes", provide details in Additional Information at the end of this form.

Reference Document:

20. Are your wages or compensation currently garnished or have you ever had your wages or compensation garnished?

☐ Yes ☐ No

If "yes", provide details in Additional Information at the end of this form.

21. Are you currently indebted to any insurer or MGA or other financial services company?

☐ Yes ☐ No

If "yes", specify name of creditor, anticipated duration of debt, existing amount, when debt commenced, repayment schedule, conditions for repayment in Additional Information at the end of this form.

22. Answer each of the following five questions about bankruptcy or insolvency.

(a) Have you ever been declared bankrupt? ☐ Yes ☐ No

(b) Have you ever made a voluntary assignment into bankruptcy? ☐ Yes ☐ No

(c) Have you ever made a consumer proposal under any legislation relating to bankruptcy or insolvency? ☐ Yes ☐ No

(d) Are you currently an undischarged bankrupt? ☐ Yes ☐ No

(e) Are you currently a conditionally discharged bankrupt? ☐ Yes ☐ No

If "yes" to any of these questions, include trustee's name and address, location of bankruptcy filing, Assignment of Bankruptcy or Receiving Order, Statement of Affairs, and an explanation as to the circumstances of the bankruptcy or proposal in Additional Information at the end of this form.

23. Have you ever been a controlling shareholder, or officer of a corporation that was declared bankrupt, or placed in receivership, or made a voluntary assignment in bankruptcy, made a proposal under any legislation relating to bankruptcy or insolvency, or is currently not discharged or conditionally discharged?

☐ Yes ☐ No

If "yes", include trustee's name and address, location of bankruptcy filing, Assignment of Bankruptcy or Receiving Order, Statement of Affairs, and an explanation as to the circumstances of the bankruptcy, receivership or proposal in Additional Information at the end of this form.

24. Has any partnership or corporation, of which you are or were at the time of such event a partner, officer, director or a controlling shareholder, ever pleaded guilty or been found guilty of an offence under any law of any province, territory, state, or country, or is any such partnership or corporation currently the subject of an investigation or other charges?

☐ Yes ☐ No

If "yes", provide details in Additional Information at the end of this form.

25. Have you ever pleaded guilty or been found guilty of an offence under any provincial or federal law in Canada or any other country, for which you have not been pardoned?

☐ Yes ☐ No

If "yes", provide details in Additional Information at the end of this form.

Some examples of these offences are fraud, theft, weapons charges, drug trafficking, physical assault, impaired driving, tax evasion and human rights violations. You are not required to disclose minor traffic infractions such as speeding or parking violations.

26. Are you currently the subject of any charges described in Q. 25?

☐ Yes ☐ No

If "yes", provide details in Additional Information at the end of this form.

27. Have you or, if incorporated, the corporation ever been refused registration or a licence under any legislation which required registration or licensing to deal with the public in any capacity (eg. insurance agent, RIBO broker, mutual funds salesperson, securities dealer, motor vehicle dealer) in any province, territory, state, or country; or have you held such a license and been the subject of a disciplinary proceeding?

☐ Yes ☐ No

If "yes", provide details including specific sanctions and/or penalties imposed in Additional Information at the end of this form.

28. Have you ever been disciplined by a regulator in any sector of the financial services industry?

☐ Yes ☐ No

If "yes", provide details including specific sanctions and/or penalties imposed in Additional Information at the end of this form.

29. Are you or, if incorporated, the corporation currently being investigated by a regulator in any sector of the financial services industry?

☐ Yes ☐ No

If "yes", provide details in Additional Information at the end of this form.

30. Have you ever been terminated or resigned, or had any contracts cancelled which you held with any financial services company because you were accused of violating insurance or investment related statutes, regulations, rules, or industry standards of business conduct?

☐ Yes ☐ No

If "yes", provide details in Additional Information at the end of this form.

31. Are you currently, or is there any reason to believe that in the future you will be, under any legal restriction or impediment which would prevent you from lawfully carrying on the business of insurance agent or broker?

☐ Yes ☐ No

If "yes", provide details in Additional Information at the end of this form.

32. Are you or, if incorporated, the corporation currently involved in any unresolved client complaints?

☐ Yes ☐ No

If "yes", provide details in Additional Information at the end of this form.

Reference Document:

33. Licenses/Registrations currently held

*Type of License	Year Licence First Issued	Any interruptions in licensing? If yes, give details in Additional Information		License Number	Level (if applicable)	Prov. or Terr.	Expiry/ Renewal Date	Sponsor or Dealer
		Yes	No					

* Life Insurance; A&S Insurance; Property & Casualty; Mutual Funds; Securities; Mortgage Broker; Real Estate Agent; Other

Regulatory Compliance

34. Do you have Errors and Omissions Insurance Coverage?

☐ Yes ☐ No

If "no", provide an explanation in Additional Information at the end of this form.

Please attach a copy of your E&O certificate.

35. Has any policy or application for errors and omissions insurance on your behalf ever been declined, cancelled or renewal refused?

☐ Yes ☐ No

If "yes", provide an explanation in Additional Information at the end of this form.

36. Do you have written and up-to-date privacy compliance policies and procedures?

☐ Yes ☐ No

If "no", provide an explanation in Additional Information at the end of this form.

37. Do you have written anti-money laundering/anti-terrorist financing policies and procedures?

☐ Yes ☐ No

If "no", provide an explanation in Additional Information at the end of this form.

Reference Document:

38. Do you have a standard advisor disclosure statement related to managing conflicts of interest that you provide to clients?

☐Yes ☐No

If "no", provide an explanation in Additional Information at the end of this form.

39. Have you incorporated needs-based sales practices in your business?

☐Yes ☐No

If "no", provide an explanation in Additional Information at the end of this form.)

Additional Information

If you are providing additional information in response to any of the questions in this questionnaire, provide it here and indicate the relevant question number at the beginning of the response to each question.

[illegible]

Reference Document:

Declaration

I hereby expressly declare that the information I have provided in this Advisor Screening Questionnaire is true, complete and accurate in every respect, as of the date of signing.

I understand and agree that I must execute and deliver the enclosed Consent and Authorization to the MGA.

I agree to notify and provide updated information to the MGA within ten (10) business days, should there be any change in the information provided herein or in my ability to legally continue to sell life insurance and/or accident and sickness insurance.

I understand that a false statement or material omission, including a failure to provide updated information, may disqualify me from consideration for a contract with the MGA or result in the subsequent termination for cause of my business relationship with the MGA and may cause the MGA to report me to an insurer or an insurance regulator.

Date

Signature of Applicant

I have interviewed the above named Applicant and I am aware of nothing which precludes me from reasonably recommending the Applicant for contract with us.

Date

Signature of Manager of MGA

Consent and Authorization

In plain language ...

When you sign this Consent and Authorization, you agree that:

- the MGA can collect information from insurers and anyone else to confirm and add to the information you give to the MGA in your application for a contract, including the answers you give in the Advisor Screening Questionnaire;
- the MGA can keep this information and use it later when it is looking at your continuing suitability to be an insurance advisor; and
- the MGA may share the information you provide in your contract application, the Advisor Screening Questionnaire, and any additional information it collects or reports received from third parties by using this Consent and Authorization, with those insurers who are contracted with the MGA whose products you would like to sell or service.

The Consent and Authorization describes the kind of information the MGA may collect, where it may collect this information, how it may use the information, and with whom it may share the information. It also says how long the Consent and Authorization may be used.

To whom it may concern:

I have applied to the below-named Managing General Agent (the MGA) to be contracted to act on their behalf in the sale and servicing of insurance and other financial products of those insurers with whom the MGA holds a distribution contract. Part of the initial contracting process and of the ongoing review of my performance is an investigation of my background, including my business dealings. These investigations are conducted by the MGA and/or its authorized agent.

I have sold financial services including insurance as principal through the following business styles, trade names, corporation or partnerships ("Listed Entities")
(leave blank if none):

_____ Name	_____ Date
_____ Name	_____ Date
_____ Name	_____ Date

I make this authorization on behalf of myself and as authorized representative of the Listed Entities.

I hereby authorize and direct you to release to the MGA, information contained in your files concerning my agency, my employment, my business records, my education record, my credit record including records pertaining to the listed entities and/or any other relevant information.

On behalf of myself and the Listed Entities, I specifically authorize the MGA to

- obtain a criminal activity clearance report from any police agency or government; collect information concerning certificates, licenses and registrations from the applicable issuers or registrars; collect any information concerning complaints or disciplinary measures from regulators, industry and professional organizations and associations; and collect from relevant third parties any other information related to my education record, consumer credit record, or record of tax, securities or insurance related offences,
- collect information from, or exchange information with, any regulator, professional registry or database, insurance company, financial institution, personal information agents, detective and security agencies, organizations whose functions are the prevention, detection or repression of crimes or offenses, market intermediaries, my employer or ex-employer, and including all personal information which could be collected through verification of my application for employment or contract and ongoing performance evaluations.

While any contractual relationship subsists between us, I further specifically authorize the MGA to use this authorization to update its information regarding my background from time to time to assess my ongoing suitability to act as an advisor.

Without limiting the generality of the above, I further specifically authorize the MGA to obtain from any or all insurers identified in Question 18 of the Advisor Screening Questionnaire information about the status of my contract with the insurer(s); unresolved debts with the insurer(s); if appropriate, the possibility of renewing my contract with the insurer(s); and recorded concerns or complaints related to market conduct.

To carry out my role as an insurance advisor under a contract with the MGA it will be necessary to receive authorization to sell and service insurance from those insurers with whom the MGA holds distribution contracts. I specifically authorize the MGA to forward any information about me collected pursuant to this Consent and Authorization to any and all insurers that I name, or from whom I may seek authorization to solicit applications for their insurance products or services.

I understand that the MGA will establish a file concerning my application, my contract with them and my subsequent performance and market conduct, and that the personal information contained in this file will be accessed by the MGA's employees and its authorized agents in relation to my contract to sell life insurance and/or accident and sickness insurance as the MGA's representative to sell insurance products of the insurers contracted with the MGA. The file will be kept at the MGA's offices. A photocopy of the present consent has the same value as the original.

Where information is collected and retained under this Consent and Authorization I shall be entitled to be informed of the existence of the retained information, its use and to whom it has been disclosed, and shall have the right to access the information and request corrections to be made where the information retained is inaccurate or incomplete.

I further authorize the MGA to use my social insurance number in its files pertaining to me for taxation purposes for which it is legally required to be retained and used.

These authorizations shall be valid until the earliest to occur, of when it is revoked in writing by the Applicant, or 12 months after the Applicant ceases to receive any commission earnings from or through the MGA.

Applicant's name: _____ signed at _____ this _____.

Applicant's signature: _____

MGA: _____

Address: _____

APPENDIX 2

CLHIA Advisor Screening Confirmation Request

Instructions to MGA

The Screening Confirmation Request (SCR) may be used at the discretion of the MGA as part of its **screening process prior to entering into a contract with an advisor**.

It is intended to be used to obtain supplementary information from the insurers listed in Question 18 of the *CLHIA Advisor Screening Questionnaire* (ASQ).

A consent to collect the information in the SCR is included in the ASQ.

Care should be taken to ensure that all parties are identified consistently on the consent and the SCR.

A copy of the consent should accompany the SCR when it is sent to an insurer.

Insurers receiving this form agree to complete it and return it to the MGA within five (5) business days.

CLHIA Advisor Screening Confirmation Request

Name of MGA: _____

Name of Advisor or Entity (should be same as on consent):

Name of Insurer: _____

Date Request Completed by Insurer: _____

1. What is the status of the contractual relationship between the insurer and the advisor?

Never issued a contract ☐

Contract still active ☐

Contract terminated ☐

Contract terminated for cause ☐

Date of termination: _____

Date of termination: _____

Regulator to whom reported: _____

Date of report: _____

2. Does the advisor have any unresolved debts with the insurer?

No ☐

Yes ☐

Amount: \$ _____

Duration: From: _____ to: _____

Repayment Efforts: Yes ☐ No ☐

Debt Written Off: Yes ☐ No ☐

3. If the contract was terminated, would you consider re-contracting the advisor?

Yes ☐

No ☐

4. Has your market conduct area investigated or reviewed a concern or complaint related to market conduct regarding the advisor?

Yes ☐

No ☐

Optional

If there is any additional information that would help explain your answers to #3 or #4, please provide it here.
