Client Focused Reforms

Frequently Asked Questions

Staff from the Canadian Securities Administrators (**CSA** or **we**), along with the Investment Industry Regulatory Organization of Canada (**IIROC**) and the Mutual Fund Dealers Association of Canada (**MFDA** and, together with IIROC, the **SROs**), have established the CFRs Implementation Committee (the **Committee**) to consider and provide guidance on operational issues and questions shared by industry stakeholders relating to the implementation of the Client Focused Reforms (**CFRs**).

We have compiled a list of questions received by the Committee to date and have set out our responses to provide guidance to registrants as they prepare for the new requirements under the CFRs coming into effect on June 30, 2021 (conflicts of interest) and December 31, 2021 (KYC, KYP, suitability, RDI and all other reforms).

Our responses are intended to add clarity on how certain requirements under the CFRs should be operationalized, while preserving flexibility to the extent possible for registrants to operationalize those requirements in the context of their particular business models. We are not able to provide tailored responses to questions raised by individual registrants, or to provide detailed comments on policies, procedures, controls, sample documents, sample disclosure templates or sample checklists. The responses to the questions below do not constitute legal advice.

We will publish responses to additional questions submitted to the Committee during the phased transition period of the CFRs. We may also provide additional guidance in the future, after the CSA and SROs have had the opportunity to review how different registrants have implemented the CFRs and to assess best practices. We encourage registrants to plan now so that they will be in compliance with the new requirements once in force.

In this document, we refer to exempt market dealers as **EMDs**, portfolio managers as **PMs** and investment fund managers as **IFMs**.

The responses set out below represent the views of staff in CSA jurisdictions and do not necessarily represent the views of the individual securities regulators.

	Question	Response
Part 11 – Internal Controls and Systems		
1.	Are training modules required for each material conflict that is identified or is general training related to material conflicts broadly acceptable?	Under Part 11, our expectation is for firms to train all appropriate staff on conflicts of interest generally. This would include all registered individuals and supervisory staff, and additional staff as may be necessary depending on their roles and responsibilities. We expect that this would include compliance staff. For example, most firms provide their staff with training on the firm's code of conduct, which generally includes training about conflicts of interest policies, procedures and controls. Depending on the content, this may be sufficient to evidence training of staff on conflicts of interest generally.

	Question	Response
	Are firms required to train all staff on conflicts of interest or is the training requirement aimed primarily at registrants?	Specific training modules may be required for certain material conflicts in respect of certain staff. For example, training on conflicts of interest and firm controls related to compensation arrangements may be needed for all registered individuals and compliance/supervisory staff. Registrants should exercise their professional judgement when developing/implementing training modules and determining which staff require the training.
Know Your Client (KYC) – s. 13.2		
2.	**Risk Profile and Sufficiency of KYC Information** Section 13.2(2)(c)(v) introduces the concept of risk profile and in the Companion Policy it notes that assessing the client's capacity for loss involves the registrant having an understanding of the other factors prescribed in paragraph 13.2(2)(c), particularly the client's financial circumstances. There may be instances when the registrant is unable to obtain information about the client's outside holdings which can impact their assessment of a client's capacity for loss. Additional guidance regarding the CSA's expectations for those circumstances where the registrant does not have outside account information would be helpful.	While the CFRs clarify our expectation about what elements constitute a client's risk profile (i.e., risk capacity and risk tolerance), the expectations with respect to a client's assets/investments held outside of the registrant are not net new (see CSA Staff Notice 31-336). The overarching principle is that a registrant must always exercise professional judgement to assess whether it has obtained sufficient KYC information in the circumstances, given the client-registrant relationship and the registrant's business model, to meet its suitability determination obligation. This is consistent with pre-CFRs requirements in respect of their KYC and suitability obligations. The CP explicitly acknowledges that some clients may be reluctant to provide relevant KYC information or may delay responding to update requests. The refusal of a client to provide or update all of the information requested by a registrant does not automatically prevent the registrant from servicing the client. A registrant should use professional judgement to consider whether it has collected enough information from the client in order to meet its suitability determination obligation (or whether it should decline to open the account or decline to provide the products or services), and whether the information remains sufficiently current. There are circumstances where a registrant may need to enquire about investments the client holds outside of the registrant to have a better understanding of a client's financial circumstances to sufficiently support its suitability determination (this is the case currently as well as under the CFRs). This information may be particularly important to a registrant's ability to assess whether an investment might lead a client to become over-concentrated in a security or sector or whether the client qualifies for a prospectus exemption. For example, we currently expect dealers to obtain a breakdown of financial assets and net assets of the client to ensure that the information collected accurately reflects the client's financial circumstances and to assist the registrant in assessing the availability of the prospectus exemptions and the suitability of any investment made. We also expect dealers to make further inquiries about the client's financial circumstances in situations where there is a reasonable doubt about the accuracy of information given by the client or the validity of the client's claim to be an accredited investor or eligible investor. We also remind registrants of the requirement pursuant to section 13.3(2.1) in respect of client instructions (unsolicited orders). The CFRs requirements and accompanying CP clearly state that a registrant has no obligation to accept a client order or instruction that does not, in the registrant's view, meet the criteria for a suitability determination. In our view, marking the order as unsolicited is not sufficient. The registrant must take the measures set out in subsection 13.3(2.1) and advise the client in a timely manner against proceeding. Specifically, the registrant is required to inform the client of the basis for the determination that the action will not satisfy subsection (1), and recommend to the client an alternative action that satisfies subsection (1); this requires the registrant to have sufficient KYC information.
3.	**Keeping KYC Information Current**	The over-arching principle is that a registrant must always exercise professional judgement to consider whether they have collected enough information to meet their suitability determination requirements, and whether the information remains sufficiently current. The Rule is principles-based and we did not specifically prescribe how a

	Question	Response
	Section 13.2(4) requires a registrant to take reasonable steps to keep the KYC information current and the Companion Policy notes the client interaction should be documented. The frequency of a 12 or 36-month review also raises questions as to whether notes in a file of a phone call is sufficient or if a more formal process is necessary. Additional guidance regarding the CSA's expectations from registrants regarding evidencing compliance with this requirement would be appreciated.	registrant should evidence compliance with this requirement. The general requirement to keep information current is not new and our expectations are consistent with staff expectations in CSA Staff Notice 31-336. The CP provides flexibility in documenting a client's confirmation of the accuracy of information, including any significant changes. Such confirmation may be obtained by alternative methods such as maintaining notes in the client file detailing the client's instructions to change the information or be more formal by obtaining the client's signature (handwritten, electronic or digital). In some cases, notes of a phone call will be sufficient (and these will need to be available for supervisory review). In other cases (e.g., where there have been significant changes in a client's KYC information) we would expect that repapering of that information will take place. The periodic update should include a review of all of the KYC elements with the client – i.e., it would not be reasonable to just update a client's income or employment information and not also ask them questions to revisit their risk tolerance and time horizon. Some firms may find it helpful to use a KYC update form on each periodic update, or when there is a material change, but, again, it is not specifically prescribed in the Rule how a firm should evidence compliance with this requirement.
Conflicts of Interest (COI) – s. 13.4		
4.	**Best Interest Standard** While the CP does provide several examples of COIs and controls, members would appreciate more insight into how registrants can ensure they have resolved the COI in the best interests of the client.	Whether a registrant has addressed a material conflict of interest in their client's best interest will turn on an assessment of the facts and circumstances at the time. The principles-based approach in conflicts is a common and effective approach, particularly where the facts and circumstances of individual relationships can vary widely and change over time. Determining what is in the "best interest" of the client is a facts and circumstances-specific determination, not a check-box exercise. It entails analyzing the reasonableness of what the registrant has done to address the material conflict of interest in the best interest of their client on the basis of what a reasonable registrant would have done under the same circumstances. New guidance in the CP sets out our expectations as to how registrants may address their enhanced conflicts obligations. The requirement to address material conflicts of interest in the best interest of a client is a regulatory standard which, amongst other things, entails that when addressing the conflict, registrants must put the interests of their clients first, ahead of their own interest and any other competing considerations. We indicated in the CP that registrants must address conflicts of interest by either avoiding those conflicts or by using controls to mitigate those conflicts sufficiently so that the conflict has been addressed in the client's best interest. We provide guidance on the controls that registrants could consider including, for example, guidance regarding when a conflict would be material, as well as an escalation procedure on how to handle potential conflict situations. Registrants should look to the examples of controls that have been provided in the CP as examples of the types of controls that they should put in place. In our view, a registrant's COI analysis should include the following key elements: materiality, reasonability and professional judgement taking into consideration the client-registrant relationship and the registrant's business model in order to mitigate those conflicts sufficiently so that the conflict has been addressed in the client's best interest.

	Question	Response
		Registrants are responsible for the implementation and maintenance of policies and procedures to demonstrate their compliance with the conflicts of interest requirements under the CFRs.
5.	Can you provide additional guidance or context in relation to "material conflicts"?	The CP includes guidance on this point. The materiality of a conflict will depend on the circumstances. When determining whether a conflict is material, registrants should consider whether the conflict may be reasonably expected to affect either of the following or both: • the decisions of the client in the circumstances, • the recommendations or decisions of the registrant in the circumstances. In addition, the CP also provides examples of controls for inherent COIs that, in our experience, are almost always material COIs.
6.	Consent has historically been one of the acceptable mechanisms for addressing certain material conflicts. Will this continue to be an acceptable mechanism?	Consent without other action on the part of the registrant will not be enough to address a material conflict of interest in the best interest of a client. In the CFRs Notice of Publication (October 2019), we discussed comments that we received concerning consent, what it means to "address" a conflict, disclosure and controls: *"Regarding the requirement that a registered firm must avoid any conflict of interest that is not, or cannot be, addressed in the best interest of the client, one commenter urged the CSA to indicate whether avoidance is the only option, and urged the CSA to indicate whether it is acceptable, for example, to proceed where a client acknowledges and consents to the use of proprietary products";* and *"Many commenters expressed the view that disclosure alone can be sufficient in some circumstances and that the rule should accommodate this by allowing registrants to use their professional judgement about when disclosure alone is sufficient, such as for example when dealing with non-individual permitted clients and implement appropriate mitigating measures. Conversely, other commenters argued that excessive reliance on disclosure to help mitigate conflicts would not meet the principles of the best interest standard."* Our responses included the following: "We believe the term "address" … encompasses a wide range of actions a firm could reasonably take, including implementing appropriate controls to sufficiently mitigate the effect of the conflict, or avoiding the conflict altogether"; and "We recognize that the effectiveness of disclosure as a tool for addressing material conflicts of interest may depend upon the level of sophistication of the clients and the extent to which they are able to understand and act upon the information given to them. However, to address a conflict of interest in the best interest of clients, we believe

	Question	Response
		disclosure in conjunction with other controls (including pre-trade controls, post-trade reviews etc.) must be used. In addition, not only does disclosure sometimes fail to mitigate the risks related to conflicts of interests, but in some cases, disclosure of conflicts may aggravate the potential risks to the client's interest."
7.	In the case of a dealer that exclusively distributes the products of an affiliated fund manager, is clear disclosure that the firm exclusively deals in proprietary products and does not consider the larger market of non-proprietary products (or whether those would be better, worse or equal in meeting the investment needs of the client), along with client consent, an acceptable way to address the conflict? The spectrum of mutual funds made available to dealers is determined by the fund company. An affiliated dealer will in turn determine which of those funds are appropriate for their product shelf. While product assessments may be conducted somewhere else within the fund complex, this is not an exercise that is generally undertaken by the affiliated dealer.	The CFRs are sufficiently flexible to accommodate various business models. The question raises both conflicts of interest and KYP issues. If a client has opened an account after having been given clear disclosure that a dealer or adviser will be using proprietary products, it is reasonable to assume that the client has agreed to a client-registrant relationship on that basis. However, the dealer or adviser must also take other steps to address the conflict before it can proceed, and it cannot rely on the issuer or an affiliate for its product due diligence. The CFRs impose new or enhanced duties on dealers and advisers, including dealers who distribute solely proprietary products and dealers who distribute both proprietary and non-proprietary products, relating to the products that they make available to their clients and any related material conflicts of interest. Proprietary products almost always give rise to material conflicts of interest. *Conflicts of interest* Consent without other action on the part of the registrant will not be enough to address a material conflict of interest in the best interest of a client. We believe disclosure in conjunction with other controls (including pre-trade controls and/or post-trade reviews) must be used. The Companion Policy has guidance concerning both the steps that we expect dealers and advisers to take to address conflicts arising from proprietary products, and our expectations for conflicts disclosure. *KYP* To comply with the new KYP requirements, dealers who distribute solely proprietary products and dealers who distribute both proprietary and non-proprietary products must undertake their own product assessments, independent of any that may be done by their affiliated issuer or elsewhere within the fund complex.
8.	The CP has been amended to include guidance on purchasing assets from a client outside the normal course of business. Can you help us understand what scenarios are intended to be captured with this guidance?	In our view, purchasing assets from a client outside the normal course of business raises inherent conflicts of interest which are almost always material. This can be particularly challenging, given the implicit level of trust that most clients have in their registered individual, that some clients may not understand that their representative may not be acting on behalf of the firm in such transactions, and the associated inherent compliance risks for the firm where representatives engage in transactions with clients. For example, a registrant should not purchase real property or other assets that have a significant value from a client. If, after evaluating the conflict of interest, a firm chooses to permit such transactions to occur between its representatives and clients, the requirement to address material conflicts of interest in the best interest of the client applies to these scenarios. The firm must implement policies, procedures and controls to demonstrate that it has addressed these material conflicts of interest in the best interest of the client, including an assessment of the effectiveness of the firm's policies, procedures, and controls to address these conflicts. Firms could consider the following controls: requirement that the client receive independent legal advice or professional advice about the transaction.

	Question	Response
9.	Can you help us understand what regulators expect firms to do with the results of periodic due diligence on comparable non-proprietary products available in the market for firms that have a closed shelf and only offers proprietary products?	Firms who only trade in or recommend proprietary products are not *required* to perform a comparison between the proprietary products they make available to clients and other similar securities in the market under the Rule. However, performing periodic due diligence on comparable (non-proprietary) products in the market and evaluating whether the proprietary products are competitive with the alternatives available in the market has been included in the CP as an example of a control that firms could use to address the conflict of interest associated with offering only proprietary products. That is, being able to demonstrate that the firm's proprietary products are competitive with alternatives in the market would be one way that a firm can demonstrate that its product shelf development and client recommendations are based on the quality of the proprietary products it makes available to its clients. This example of a control is not meant to suggest that firms must use the information to change the products that they make available to clients (or perform a shelf optimization, as had been proposed under the 2016 Consultation Paper), although it may inform their analysis of whether or not the controls they have on this conflict of interest are sufficient to address the conflict in the best interests of clients.
10.	Can you help us understand the expected outcome of addressing conflicts of interest at the supervisory level for Producing Branch Managers?	The separation, or independence, of supervisory staff compensation encourages effective oversight of representative activities. We expect that the majority of the compensation of supervisory staff would <u>not</u> be tied to the revenue generation of representatives, the branch or the business line that the supervisory staff oversees. However, we recognize that in some situations, producing or non-producing Branch Managers may be compensated partly on the basis of branch or business line profitability. In these cases, we expect firms to assess the design of their compensation models, and ensure that the controls they have in place are sufficient to address, in the best interest of clients, these compensation-related conflicts at the supervisory level. Where there is a portion of supervisory compensation based on branch or business line profitability, we expect that other factors determining supervisory compensation are sufficient to outweigh any bias that supervisory staff may have towards profitability over the best interests of clients. We expect that controls such as multiple level supervision would also be in place, to ensure that there is sufficient oversight, by head office or an otherwise independent reviewer, of the supervisory process. We also expect that all compensating controls would be periodically tested to assess their effectiveness in ensuring that these supervisory conflicts have been addressed in the best interests of clients. In our view, the materiality of the conflict may depend on the percentage of compensation that is tied to branch/division sales. Registrants could consider the following additional examples of controls when considering how to address this conflict in the best interest of their clients: setting a low level of bonus compensation versus base salary; combined with strict measures that penalize non-compliance, e.g., if the bonus (and even salary) of supervisory staff is also tied to: (i) the branch and direct reports not receiving valid investor complaints (after independent investigation), and (ii) results from independent quality assurance calls to investors to assess compliance and sales practices.
11.	**Proprietary Products as Material Conflicts of Interests**	See our response to question 9 above. While not mandatory, this has been included in the CP as an example of a control that firms could use to address the conflict of interest associated with offering only proprietary products. We also refer you to the additional examples of controls included in the CP.

	Question	Response
	Section 13.4 of the CP indicates that it is an inherent material conflict of interest for a registered firm to trade in, or recommend, proprietary products. Firms that do so must be able to demonstrate that they are addressing this conflict in the best interest of their clients. The CP recommends conducting periodic due diligence on comparable non-proprietary products available in the market and evaluating whether the proprietary products are competitive with the alternatives available in the market. Please clarify what level of due diligence, if any, would be considered appropriate. In the case of products that are offered on a prospectus exempt basis, often there is limited publicly available information about the products and it can be difficult to conduct a comparison. Also, in the case of alternative products, they are not entirely comparable between managers. Also, how much due diligence is expected between non-proprietary products offered only on an incidental basis? (e.g., a registered firm mostly offers equity-based proprietary products to its clients but on an ancillary basis may recommend non-proprietary fixed income products for a portfolio – what level of due diligence on various available products would be considered appropriate, especially given that suitability must be determined on the basis of the client's overall circumstances?)	The level of due diligence should be sufficient for registrants to be able to meaningfully assess how the proprietary products that they offer fit within the general competitive landscape. We recognize that there may be some challenges in obtaining specific information about comparable products offered by the firm's competitors, including where those products are offered on a prospectus-exempt basis. However, in our experience, most registrants and issuers have a general knowledge of the competitive space that they operate in, and are able to gather enough information to understand how they or their offerings compare with others in the space. If there are specific limitations to the information registrants can obtain, or necessary assumptions or caveats registrants have to make in their comparative analysis (for example, because competitive products are materially different), this should be documented. Disclosure of the conflict to clients, including the specific disclosure referenced, is not sufficient for a firm to show that it has addressed conflicts associated with offering only proprietary products in the best interest of its clients. Our expectation is that the firm has other controls in place, such as those suggested in CP guidance, to address the conflicts. The obligation is for firms to disclose the conflict to clients, and also to disclose how they have addressed the conflict in the best interest of clients through these other controls. Regarding alternative products, a comparison to assess how the firm's products fit within the competitive landscape is still possible, but in these circumstances, it may require certain assumptions or caveats to be made. Again, as above, any such assumptions or limitations should be documented. Firms operating under a proprietary model with a limited shelf are not required to include or recommend non-proprietary products on an ancillary or incidental basis, whether because of the suitability determination requirements or otherwise. However, if a firm chooses to offer a non-proprietary product on an ancillary or incidental basis to clients, the firm must meet all of its KYP requirements in respect of that product. We refer you to the KYP guidance for elements that should be considered when assessing securities. The firm should document its due diligence and, from a conflicts and suitability perspective, should also document why it has chosen to recommend a particular non-proprietary product over others.

	Question	Response
12.	**Conflicts of Interest Records** Section 13.4 of the CP indicates firms are expected to use their professional judgement when deciding how much detail to provide when maintaining records that demonstrate compliance with conflicts obligations. Could you please provide additional guidance on this point?	We refer to you the CP guidance in section 11.5, "Conflicts of Interest". In addition to stating that registrants should exercise their professional judgement to assess what level of detail needs to be documented in records in order for them to demonstrate that they have complied with their conflicts of interest obligations, the guidance states that as the materiality of a conflict increases, there should be greater detail in the records maintained to demonstrate compliance. The guidance also provides examples of material conflicts where we would expect to see more detailed documentation: sales practices, compensation arrangements, incentive practices, referral arrangements, the use of proprietary products and services, and product-shelf development conflicts. In addition, we refer you to the list of records required under paragraph 11.5(2)(q) of NI 31-103, which does not include the phrase to 'demonstrate compliance' but instead clearly requires a registrant to 'document'. Our expectation is that a complete record be maintained of all of the listed sales, compensation and incentive practices and arrangements. Please see the CP guidance in section 11.5 "Sales practices, compensation arrangements and incentive practices" for a description of what must be documented. It is the registrant's responsibility to determine whether a conflict is material and the materiality of a conflict will depend on the circumstances. Registrants must document the basis for these determinations. A firm's conflicts of interest documentation can be part of a firm's risk assessment/conflicts of interest assessment, and can include cross references to the firm's policies, procedures and controls. While we have not prescribed a specific format, we expect firms at a minimum to document their identification, review and analysis of conflicts of interest, their determination as to whether a conflict is material, and the controls used by the firm to ensure that material conflicts have been addressed in the client's best interest. We refer you to the list of practices and controls included in section 13.4 of the CP guidance "Examples of conflicts of interest and controls" for more detail on what is expected to be detailed in a firm's conflicts policies and procedures.
13.	**Dealing with Clients – Part 13** Section 13.1 exempts fund managers from section 13 in respect of its activities as an investment fund manager. Please confirm that this exemption also intends to capture the activities of Portfolio Managers who are managing an investment fund.	Section 13.1 is not a new provision. Section 13.1 only exempts an investment fund manager in respect of its activities as an investment fund manager. Portfolio managers are subject to the requirements of Part 13, including the CFRs changes to conflicts of interest.
14.	**Contractual Arrangements** Investment services are offered to clients by contract. The contract outlines various terms and conditions, including the	Statutory, common and civil law standards of care and conduct will continue to apply to registrants, including the obligation for dealers and advisers to deal fairly, honestly and in good faith with their clients; and in some jurisdictions, registrants are subject to a statutory fiduciary duty when exercising discretionary authority (the common law generally imposes a fiduciary duty in these circumstances as well).

	Question	Response
	services the registered firm will provide to the client and the fees that the client will pay. Amendments to the services that are being provided, fee increases and terminating the relationship are examples of contractual changes that are generally addressed by notice to the client. We assume that this will continue to be acceptable.	The CFRs do not prescribe changes to the specific terms and conditions of contracts between registrants and their clients . It will be the responsibility of the registrant to determine whether any decisions affecting a client, including changing fees, are consistent with the enhanced requirements that the CFRs introduce relating to the disclosure of costs (including fees) and whether the service continues to be suitable for the client and puts the client's interest first. We also refer you to the CP guidance about the suitability determination of the account type.
15.	**Manner of disclosing conflicts of interest** Section 13.4(4) requires that "all material conflicts" be disclosed. Are registrants required to disclose all conflicts specifically (e.g., enumerated list) or is it acceptable to group them according to the nature of the conflict?	Material conflicts of interest are required to be disclosed under 13.4(4) where a "reasonable" client would expect to be informed of those conflicts. We do not want the conflicts disclosure to overwhelm clients, but also expect a level of specificity to help inform a client's decision when evaluating their relationship with the registrant. In some cases, it may make sense to group conflicts. We expect registrants to exercise their professional judgement when determining that grouping the conflicts will result in clients being able to more easily understand the disclosure.
Referral Arrangements – s. 13.7		
16.	**Definition of referral fee** Section 13.7 states that a referral fee "means any benefit provided for the referral of a client to or from a registrant." It would be helpful if members understood the rationale/objective for the definition change and what type of relationships it is trying to capture given that the definition has been expanded from the previous version in NI 31-103.	For clarity and in order to be consistent with other provisions in securities legislation, the definition has been expanded to cover any monetary or non-monetary benefits provided for the referral. One of the objectives for this change was to capture referral arrangements that created conflicts even though the arrangement may not involve the "payment" of "compensation". For example, a mutual referral arrangement between two firms may be a form of benefit that would be captured by this expanded definition, which may not have been captured by the more narrow definition of 'referral fee' currently in force.
17.	**Referral Arrangements**	Registered firms must conduct a due diligence analysis on all prospective referral parties, whether the party is registered or not. In our view, the due diligence must extend beyond simply confirming the registration status of the other party to the referral arrangement.

	Question	Response
	Registered firms must document all referral arrangements between the registered firm, its registered individuals, and another person or company, as well as all fees paid or received by the registered firm or its registered individuals pursuant to such arrangements. The CSA expect that the registered firm will also document its due diligence analysis of the parties to which it is referring clients in compliance with section 13.9. Under Part 13, Division 3 Referral Arrangements, and as part of a registered firm's responsibility under subsection 11.1(1), registered firms have a responsibility to monitor and supervise all of their referral arrangements to ensure that they comply with the requirements of NI 31-103 and other applicable securities laws and continue to comply for so long as the arrangement remains in place. This includes monitoring and supervising on an ongoing basis their own conduct and that of their registered representatives in connection with these referral arrangements, as well as taking reasonable steps to satisfy themselves that the other parties to the referral arrangements (from which they are receiving referral fees or to which they are paying referral fees) are also complying with their obligations under the referral arrangements. The CSA expect this to include maintaining any necessary registrations and, where parties are not registered, complying with any limitations on their activities in connection with the referral arrangements. Registered firms must document their oversight of all	We expect registered firms to exercise professional judgement when assessing whether they have obtained sufficient information in the circumstances to determine that making the referral is in the client's best interest. In our view, this determination should include a judicious assessment of any detrimental information obtained through the due diligence process. For example, registrants should take reasonable steps to consult publicly available databases, search engines and make inquiries of the other party (whether registered or not) to ascertain: • their status, including their registration or licensing status as applicable; • their financial health (e.g., bankruptcy or insolvency); • their professional qualifications and history, • whether they are or have been subject to any disciplinary actions, proceedings or any order resulting from disciplinary proceedings related to their professional activities under their governing body or similar organization; • whether they have been the subject of any investigation by any securities or financial industry regulator; • for an individual, whether they have been subject to any significant internal disciplinary measures at the firm they worked/work at related to their professional activities; • whether there are or have been any complaints, civil claims and/or arbitration notices filed against them related to their professional activities. We also expect that the registrant will maintain records of the due diligence conducted, which may include for example, obtaining certificates of compliance from the other party to the referral arrangement. For example, ongoing monitoring and supervision of the referral arrangement could include the following controls: • annual questionnaires sent to registrants receiving referral fees on the nature and extent of their involvement in referral arrangements; • interviews of registrants receiving referral fees during the branch review process; • ongoing assessment of compensation received by registrants under the referral arrangements; • conducting ongoing compliance calls to investors who have been referred to (or by) the firm to assess how the process is being conducted by each referral party; • requiring that unregistered referral agents that make referrals to a firm attend training on how to adequately conduct referrals;

	Question	Response
	such referral arrangements. Could you please provide additional guidance on the due diligence and monitoring and supervision that is expected?	• requiring that unregistered referral agents that make referrals to a firm only use pre-approved marketing materials and social media content in relation to their referral business; and • assessing complaints and other information received in connection with referral arrangements to ensure compliance by all referral parties.
Misleading Communication – s. 13.18		
18.	**Business Titles** Subsection 13.18(2) states that a registrant cannot use a title if based ***partly or entirely*** on sales activity or revenue generation. How are firms able to differentiate seniority in terms of titles if sales activity or revenue numbers are not used. Many firms have policies and procedures to not incent negative behaviours around awards and recognition. Can the CSA expand on what "partly" means in this context?	Section 13.18 prohibits the use of titles if based partly or entirely on sales activity or revenue generation. Partly means plainly "to some degree, but not completely". We note that a registered individual's sales activity or revenue generation within a firm does not necessarily correspond to that individuals' seniority within the firm. An individual's sales activity or revenue generation could fluctuate from year to year – but the individual's seniority within the firm would not change. For example, firms should be able to differentiate seniority in a title without tying it to a registered individual's sales activity or revenue generation. Seniority could be tied to the individual's relevant years of experience at the firm, qualifications and/or professional designation (e.g., CFA Charter holder)
19.	**Business Titles – Branch Managers** Section 13.18(2) states that a registered individual who interacts with clients must not use any of the following: (b) corporate officer title, unless their sponsoring firm has appointed that registered individual to that corporate office pursuant to applicable corporate law. Would Section 13.18(2) prohibit branch managers from having Director or Vice-President titles? We understand the changes are primarily aimed at advisors. Branch Managers are in an IIROC	Yes, the use of such titles would be prohibited. Unless the individual has been appointed by a board resolution to the corporate office (which we expect would include a defined substantive corporate responsibility), they are prohibited from using that title. There is no room for "an informal, non-specific corporate role". Such individuals could use their "branch manager" titles to the extent such titles accurately reflect the managerial responsibilities that have been assigned to them by the firm.

	Question	Response
	supervisory position and usually have significant autonomous authority over local strategy execution and people management matters. However, they are usually not formally corporate officers.	
20.	**Business Titles – Use with Permitted Clients** Section 13.18(2) states that a registered individual who interacts with clients must not use a corporate officer title, unless their sponsoring firm has appointed that registered individual to that corporate office pursuant to applicable corporate law. Using an informal Vice-President title is commonplace, and generally expected in an institutional environment. Given there appears to be some latitude for registered individuals who do not interact with clients, can the same be said for registered individuals who deal exclusively with permitted clients?	No. A registered individual who interacts with clients (including with permitted clients) is subject to s. 13.18(2) and that individual is prohibited from using a Vice-President title unless their sponsoring firm has appointed him/her to that corporate office pursuant to applicable corporate law. See our response to question 19.
Relationship Disclosure Information (RDI) – s. 14.2		
21.	**Implementation Timeline re: RDI requirements for new and existing clients** What is the CSA's expectation with respect to the implementation timeline for new clients and existing clients?	As provided under the blanket order issued on April 16, 2020, the RDI CFRs will now come into effect on December 31, 2021. We believe this extension, to a time which is six months after the implementation of the conflicts of interest CFRs and the same as the implementation of the rest of the CFRs, removes any practical obstacles to registrants' ability to provide all of their clients with updated RDI. We expect that all new clients and existing clients would receive the updated RDI in line with the December 31, 2021 deadline. The CP explains that registrants have flexibility about the manner in which they are required to deliver information to a client pursuant to s. 14.2. For example, this information can be provided to a new client during the onboarding meeting, to an existing client when the registrant first interacts with the client after the implementation date (e.g., when the registrant makes a recommendation or decision for the client's account or with fourth quarter reporting mailings).

	Question	Response
		When providing the s. 14.2 disclosure to existing clients, registrants should take into account whether their existing clients have opted to receive correspondence electronically. Where a client has opted to receive correspondence electronically and to the extent feasible, we expect firms to provide such disclosure to the client by December 31, 2021. We also encourage registrants to assess the effectiveness of the disclosure they provide clients by considering behavioural economics principles and tactics to simplify the content of the disclosure, including the requirement to use plain language in order to mitigate the risk that clients may not fully understand the information provided by the firm. We remind registrants that in order to satisfy their obligations under section 14.2, registered individuals must spend sufficient time with clients as part of an in-person or telephone meeting, or other method that is consistent with their operations, to adequately explain the information that is delivered to them, including an explanation of the changes that were made to the RDI delivered to their clients.
22.	**Disclosure relating to conflicts of interest** Registrants are also required to disclose material conflicts of interest before opening an account or in a timely matter after they are identified when the conflicts of interest requirements come into effect on June 30, 2021. Firms generally have processes to send relevant updates to existing clients annually, with most mailings being sent early in the year. There are substantial costs that are incurred for additional mailings.	The disclosure pursuant to 13.4 cannot be delayed. The CSA Notice 31-357 – *Blanket Orders/Class Orders in respect of Certain Client Focused Reforms Provisions of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations* was clear on this point. We stated our expectation that when the conflicts of interest CFRs come into effect on June 30, 2021, registrants will be required to disclose material conflicts of interest to clients before opening an account or in a timely manner after they are identified. Registrants may provide these disclosures separately from any other disclosures using stand-alone documents in any form, be it electronic or paper, that meet the plain language requirements in the conflicts of interest CFRs. To be more specific, registrants that are not required to be IIROC members are not required to include account opening conflict of interest disclosure in a prescribed RDI document. They are able to provide both of these disclosures separately from any other disclosures. The SROs will amend their member rules, policies and guidance to be uniform with the CFRs in all material respects, including harmonized implementation timelines.
23.	**General description of fees** Section 14.2(2)(b)(ii) requires a statement of the investment fund management expense fees or other ongoing fees the client may incur. The RDI is typically provided at account opening which may be	The purpose of RDI is to shape and confirm clients' expectations of the services and products they will receive through the registrant. Accordingly, the RDI requirements are tailored to provide general information at account opening, as compared to the more specific information that will be required when a particular trade is recommended to a client. When opening an account for a client, a registrant can usually be expected to know whether investment funds or other products or services with ongoing fees and expenses will be considered when choosing suitable investments for them. The requirement in subparagraph 14.2(2)(b)(ii) is not to provide the client with a list of all investment funds

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	prior to a suitability determination. Consequently, it may not be clear what type of products will be suitable for the client. What is the CSA's expectation in terms of this disclosure? There is concern it could become very general and lengthy making it less useful to clients.	or other products or services with ongoing fees and expenses used by the firm and their corresponding fees and expenses. Rather, it is to inform clients who may be invested in such products or services whether those investments have ongoing fees and expenses. We believe this is very useful and important information for clients. Research consistently shows that a significant proportion of investors do not understand the fees and expenses associated with investment funds or other products or services, if they are aware of them at all. We therefore expect this disclosure to include an explanation in simple terms of the applicable fees and expenses. For example, in the case of fees and expenses associated with an investment fund, key topics that should be discussed in plain language include the following: • the fees and expenses are not charged directly to the client but are taken from the fund as a percentage of its total assets; • the fees and expenses will be deducted from the returns of the fund, and therefore will affect the client's returns on their investment for so long as he or she owns the fund; and • when the client gets information about the value of their investment in a fund, the fees and expenses of the fund have already been taken into consideration.
24.	**Relationship Disclosure Information – Understanding Fees and Expenses** Paragraph 14.2(2)(o) requires a general explanation of the potential impact of ongoing fees the client may incur and any charges they may pay to the firm, including an explanation of their compounding effect over time. Given this requirement is with reference to the client's investment returns, rather than returns specific to any one security, a registrant must therefore explain the potential impacts with reference to a client's accounts at the firm. Could you please provide additional guidance on this point?	There is a fine balance between providing enough information and the point at which the typical investor is overwhelmed. The cost disclosure requirements in Part 14 of NI 31-103 are designed on the basis that the client should receive information at a level of detail that is appropriate to the time at which it is delivered. It is important to note that the requirements for transaction charge disclosures in RDI are "a general description" of the types of transaction charges that the client might be required to pay. This means that types of fees that the firm does not currently use for clients like the individual receiving the RDI should be excluded. It also means that the details of the amounts relating to a specific security should not be included in RDI. If a decision to invest in a specific security is made at the time when the account is opened, the detailed security-specific pre-trade disclosure of charges requirement will apply. Product-specific disclosure documents can be used to meet pre-trade requirements. The requirement to disclose operating charges to the client is not qualified as a "general description" and is specific to what the firm might charge the client related to the account. This is because RDI is deliverable at account opening and the specific details about the cost of having the account are therefore relevant at that time. The requirement relating to the potential impact of fees and charges is for a "general description" but it is specific to the types of transaction charges and the actual operating charges (if any), as well as the investment fund management fees or other ongoing fees the client may incur in connection with a security or service, applicable to the client's account. The most evident impact is that investment returns will be reduced in proportion to the fees and charges. For all these reasons, firms will need to exercise professional judgement in drafting disclosures, carefully considering their own operating model with particular reference to the individual client, as well as the clearest way to communicate the required information. We do not think it would be appropriate for firms to provide generic summaries of the kinds of charges that are used in the industry or a sector of it. Whether a firm can use a general purpose RDI package for all of its clients will depend on the degree to which the services and products it offers to clients may vary. Given the wide variation in fee models and products and services offered to clients, this is one of the circumstances where registered firms should exercise their professional judgement as to the extent to which they can standardize disclosure, how client-specific it can be and how much detail is needed. For example, a firm with a simple AUM-

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		based fee model could be much more specific and more readily use numerical examples than one that relies on a mix of transaction fees and trailing commissions paid on products that it sells to clients. We encourage firms to use graphics as well as text in order to make the information understandable to as many clients as possible.
Other		
25.	**Pre-trade disclosure of charges - MERs** Section 14.2.1 is a new requirement to disclose whether there are any investment fund management expense fees or other ongoing fees that the client may incur in connection with the security. We assume that Fund Facts can be used to satisfy this requirement. What are the CSA's expectations of how that requirement should be evidenced? Is it a form that is completed? Is it sufficient to conduct a branch review?	Section 14.2.1 is not a new requirement. The CFR added disclosure of MERs or similar fees as paragraph (d) in this existing pre-trade disclosure requirement. The Companion Policy expressly states that the fund facts document may be used for these purposes. Expectations for the oversight of compliance with the requirements in section 14.2.1 do not change because of the addition of paragraph (d).
Suitability		
26.	Where an adviser offers a hybrid service, clients will mostly be accessing services through a robo-adviser but can be assisted by a registered individual if needed. In the latter case, the client is not really assigned to a specific individual but rather a group of registered individuals. What is the CSA's expectation in such case as the CP is silent on this specific aspect of client servicing?	A registrant's obligations under paragraph 13.3(2)(a) are triggered "after any of the following events" including "a registered individual is designated as responsible for the client's account". It is often the case that online advisers will not have a registered individual assigned to a specific client's account. In that operating model, any one or more of the registered individuals at the firm or in a team at the firm might undertake any or all of the KYC, suitability determinations, client communications etc. for any given client. No single individual or group is assigned exclusive responsibility for the client. In such cases, the requirement to undertake a suitability review under paragraph 13.3(2)(a) would not be triggered simply because a new registered individual joined the firm or team, notwithstanding that the individual may at some point undertake registerable activity for the client. It is a common practice for registered firms, although not necessarily online advisers, to have teams of registered individuals specifically assigned to individual clients' accounts. In this operating model, responsibility for the client is shared among team members – no one individual is designated as responsible for the client's account. Determining whether a change in the team's membership triggers the requirement to review the client's account will require an exercise of professional judgement. A change of one registered individual on the team will not necessarily trigger a suitability review as long as there is continuity with respect to the remaining members. However, the roles and responsibilities of the members of the team, to the extent they differ, must be taken into consideration. For example, if there is a team leader who approves the

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		recommendations of the other team members and that individual changes, it is likely that a review would be appropriate on the basis that that individual is effectively designated as having responsibility for the client's account. We note that the other suitability review criteria in subsection 13.3(2), including periodic KYC reviews, will apply regardless of whether a registered firm uses any form of a team operating model.
General questions		
27.	Is there a comprehensive list of guidance/staff notices that will be rescinded or revised in relation to the CFRs? More specifically, IIROC and the MFDA have existing guidance on personal financial dealings (powers of attorney and control of client assets). Does either SRO intend to materially change their existing guidance?	Some of the CFRs impose new requirements, while others codify best practices set out in existing CSA and SRO guidance. Where there is an inconsistency between language included in earlier CSA guidance and the CFRs, the CFRs – to the extent that they impose requirements or set out more current guidance – will prevail. The CSA proposes to review earlier guidance and may rescind or revise it at a later stage. The MFDA will be revising all guidance, including guidance on personal financial dealings contained in MSN-0047 (Personal Financial Dealings with Clients): non-substantive, conforming changes to this Notice will be proposed, which will track revised wording and Rule references adopted under MFDA Rules. Currently it is not anticipated that there will be any changes to MSN-0031 (Control or Authority over the Financial Affairs of a Client). IIROC will be issuing new and revised guidance where necessary. Any guidance notes which the new guidance replaces will be rescinded. Currently, it is not anticipated that new guidance on personal financial dealings will be issued. The Committee is available to discuss and provide additional guidance in respect of any questions or inconsistencies raised by earlier guidance issued by the CSA.
28.	Consider whether CSA Staff Notice 31-334 – *CSA Review of Relationship Disclosure Practices* dated July 18, 2013 will continue to apply when CFRs comes into effect.	See our response to question 27. We intend to undertake similar reviews of registrant practices, including RDI, to assess compliance with the CFRs after their implementation and will provide updated guidance based on our findings.