

March 31, 2023

Canadian Insurance Services Regulatory Organizations
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

SENT VIA EMAIL: cisro-ocra@fsrao.ca

Dear Sirs/Mesdames,

**Re: Canadian Insurance Services Regulatory Organizations (“CISRO”)
Life Insurance Replacement Declaration**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide comments on the Life Insurance Replacement Declaration (“LIRD”) replacement proposal. Advocis shares CISRO’s goal of ensuring consumer protection when life insurance policies are replaced. We believe that our comments can help improve the life insurance replacement process to the benefit of consumers and industry participants. In short, we believe policyholders would be best served by a simplified approach to disclosure.

1. ABOUT ADVOCIS

Advocis is the association of choice for financial advisors and planners. With over 17,000 member-clients across the country, we are the definitive voice of the profession. Advocis champions professionalism, consumer protection, and the value of financial advice. We advocate for an environment where all Canadians have access to the professional advice they need.

Advocis members advise consumers on wealth management; risk management; estate, retirement and tax planning; employee benefits; and life, accident and sickness, critical illness and disability insurance. In doing so, Advocis members help consumers make sound financial decisions, ultimately leading to greater financial stability and independence. In all that they do, our members are driven by Advocis’ motto: *non solis nobis* – not for ourselves alone.



2. OUR COMMENTS

Advocis believes that CISRO should embrace a principles-based and outcomes-focused approach to life insurance replacement. During the replacement process, the focus should be on consumer protection through effective, simple disclosure.

a. **Effective, Simple Disclosure**

When a policyholder considers replacing a life insurance policy, they need the answers to two fundamental questions:

1. Why should I replace my current insurance policy?
2. What are the costs related to this replacement?

It may be appropriate for a policyholder to replace their policy if there has been a change in their life circumstances: they became a new parent and need more coverage; their children have grown up and ceased to be dependants; or they want to reduce their premiums. However, replacing a life insurance policy often comes with costs: a new contestability period, suicide clause, new exclusions, cancellation charges, or tax implications.

Once a policyholder has a firm grasp of the reasons for replacement and the costs associated, they can make an informed choice. The regulatory objective must be to provide the consumer with this information in the most accessible manner possible.

We know that consumers do not read lengthy contracts or disclosure documents.¹ To be effective, disclosure must be short, clear, and written in plain language. Unnecessary or redundant information should be eliminated.

This approach is recommended by the Ontario Securities Commission's Behavioural Insights Team. They suggest:

"Eliminate non-essential or redundant information. One way to reduce cognitive load is by eliminating non-essential or redundant information presented in the Annual Fee Report."²

¹ For instance, one study found that only 1-2 retail consumers out of 1,000 (0.1-0.2%) accessed the license agreement when purchasing software and even fewer read more than a small portion of the document; see: Yannis Bakos, Florencia Marotta-Wurgler, and David R. Trossen, "Does Anyone Read the Fine Print? Consumer Attention to Standard Form Contracts," *Journal of Legal Studies* 43:1 (2014).

² OSC Staff Notice 11-787: "Improving Fee Disclosure Through Behavioural Insights," (2019) at pg. 14. At: https://www.osc.ca/sites/default/files/pdfs/irps/sn_20190819_11-787_improving-fee-disclosure-through-behavioural-insights.pdf



The Behavioural Insights Team also recommends using plain language and presenting important information up front.³

Advocis agrees that a simple, direct approach to disclosure will most effectively inform and protect policyholders.

Unfortunately, the prototype form provided in this consultation does not achieve this objective. In an effort to be all-encompassing, the prototype includes many fields which would be inapplicable or unhelpful for many insurance replacements.

For instance, where a term policy is being replaced with another term policy, the key determinants may simply be the change in premium or coverage, with an applicable warning about a new contestability period and suicide clause. Other fields would not assist the policyholder in assessing the replacement.

However, these additional fields impose a cost. They distract from the essential information within the disclosure and add to the cognitive load on the policyholder.

For this reason, Advocis proposes a simpler approach.

b. Our Proposed Solutions

i) Reimagine Insurance Replacement Disclosure

Instead of relying on a detailed list of fields that must be completed (even when they provide little value to the policyholder), we suggest that CISRO consider reframing the disclosure around two fundamental questions: (1) Why should I replace my current insurance policy? (2) What are the costs related to this replacement?

By answering these questions in the disclosure document, the insurance advisor would provide the policyholder with the essential information needed to make an informed decision.

This approach also benefits the policyholder by helping to structure their assessment of the potential life insurance replacement. The prototype form mixes costs, benefits, and extraneous information together. Our proposal would clearly delineate the benefits and the costs of life insurance replacement, thereby facilitating the policyholder's cost-benefit analysis.

For this approach to succeed, we believe guidance from CISRO would be essential. Such guidance could set out the regulators' expectations as to the topics which should be covered in the disclosure document, if applicable. The advisor would then review the list of potential

³ *Ibid*, at pgs. 12-14.



concerns and address those which are applicable in the disclosure document for the client, thereby eliminating inapplicable and potentially confusing information from the disclosure.

We believe that this outcomes-focused approach to disclosure can achieve better consumer outcomes by facilitating policyholder comprehension.

ii) *Improve the Prototype*

The prototype form could be improved. In particular, we believe that CISRO should reorganize the form to highlight the essential information that policyholders need to know when considering their decision. The form should be directed to the policyholder and instructions to the advisor should therefore be placed in a supplementary guidance document. CISRO should also make the final form more concise and use plain language where possible.

Reorganize the Form:

Central to the policyholder's decision are the costs and benefits of life insurance replacement.

These costs and benefits are largely canvassed in "Part 2 – Reasons for replacement" in the prototype form. However, Part 2 is found mid-way down page 4 in the five-page prototype. Further, because the questions in Part 2 likely require more information than the space allows, this essential information will likely be relegated to additional pages attached to the form.

We believe that CISRO should use its form design to highlight this information. A plain-language summary of the costs and benefits of insurance replacement should be given a prominent place on the first page of the form to increase the likelihood that the policyholder will read and understand this information.

Address the Form to the Policyholder:

This disclosure document should be directed towards the policyholder.

Instructions to the advisor (such as "Explain why the existing contract does not meet your client's needs.") do not assist the policyholder in assessing whether to replace the insurance policy.

Therefore, where possible, instructions to the advisor should be placed in a supplementary guidance document to assist the advisor when completing the form. The form itself should include the information that the policyholder needs, directed to them (e.g. "The existing contract does not meet your needs because: ...").



Concise, Plain Language:

We believe that CISRO can improve the form by increasing the use of concise, plain language.

For example, the prototype form devotes almost a page and a half to the incontestability clause and suicide clause warnings. The prototype's suicide clause warning is as follows:

Suicide clause	
<p>When death is by suicide and occurs within two years of the date on which the contract comes into effect, the insurer will not usually pay the death benefit.</p> <p>Generally, the validity of a clause providing for payment of the death benefit despite suicide may not be transferred from one contract to another.</p> <p>By replacing an insurance contract, you may lose this advantage, since the two-year suicide period begins on the day on which the proposed contract comes into effect.</p> <p>Expiry date of suicide clause</p>	<p><input type="checkbox"/> Not applicable</p> <p><input type="checkbox"/> I have discussed the effect of replacing the policy on the suicide clause with the client.</p>

Life Insurance Replacement Declaration

Agent's initials: _____ Client's initials: _____

Page 3 of 5

<p>Proposed contract: <input type="text"/> year(s) after the contract comes into effect</p> <p>_____</p> <p>Day Month Year</p> <p>Replaced contract:</p> <p>_____</p> <p>Day Month Year</p> <p>Read and discussed with agent: (agent name)</p> <p>Signed by policyowner: _____ Date: _____</p> <p style="text-align: right;">Day Month Year</p>	<p>Agent's initials:</p> <p>_____</p>
---	--

We believe that these sections of the prototype form could be expressed more succinctly and in plain language.



For instance, for the suicide clause section, consider:

Suicide Clause:					
Usually, the insurance company will not pay a death benefit if death occurs by suicide within the first two years of the insurance policy. By replacing your insurance policy, this two-year period restarts.					
Expiry date of the suicide clause:					
Current Policy:			Replacement Policy		
_____			_____		
Day	Month	Year	Day	Month	Year

As in the example above, the language throughout the prototype form should be simplified and shortened. Where possible, jargon should be eliminated.

These changes would improve policyholder comprehension of the life insurance replacement form.

Digitize the Form and Make it Interactive:

CISRO could also consider whether an interactive electronic LIRD would be feasible. For example, based on the answers given by the consumer, additional pertinent follow up questions could automatically appear. This would reduce the visual clutter of the form to necessary fields only and result in a lower risk of information overload to the consumer.

iii) *Revise the LIRD*

A more modest approach to reform would be to revise the existing LIRD. The eleven questions set out in the current LIRD are a good place for consumers to start when considering a life insurance replacement.

However, most consumers are ill-equipped to answer these questions on their own. For this reason, most jurisdictions require a written explanation to accompany the LIRD.

We propose that the existing written explanation be replaced through a modification of the LIRD. Fillable comment boxes could be added under each of the questions, slightly lengthening the LIRD.



The advisor could then provide answers to each of the questions directly on the LIRD. The information provided in the LIRD should also fundamentally address the purpose of the “Reason Why” letter, thus satisfying that expectation.⁴

This would simplify disclosure by providing answers directly alongside the questions and combining two documents into one. It would also retain the principled nature of the LIRD, rather than replacing it with a more prescriptive document.

Again, in our view, the goal must be to highlight the important information for the policyholder. We believe that a more prescriptive disclosure document, where many fields are inapplicable or unhelpful, will not assist the policyholder in making the important decision whether to replace their life insurance policy.

3. CONCLUSION

We welcome the work CISRO has undertaken to improve life insurance replacement disclosure. We believe that the simplified approach to disclosure that we propose will best protect policyholders across Canada.

We continue to support CISRO’s work to obtain better outcomes for insurance policyholders, including through efforts to improve disclosure. We would welcome the opportunity to further discuss this initiative with you.

Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Advocacy and General Counsel at jryu@advocis.ca.

Sincerely,

“original signed by”

Greg Pollock, M.Ed., LL.M., C.Dir., CFP
President and CEO

“original signed by”

Catherine Wood, CFP, CLU, TEP, CHS, MBA, MIST, ICD.D.
Chair, National Board of Directors

⁴ The information on the LIRD should be substantially the same as that on the “Reason Why” letter. CISRO could consider whether a properly-completed LIRD could serve to fulfill that obligation, without further documentation duplication being necessary.