

From: [Keith Muchan](#)
To: [comments](#)
Subject: CSA Submission regarding referral arrangements
Date: October-18-18 10:08:07 AM
Attachments: [CSA Submission K.J. Muchan.pdf](#)
[Ontario Financial Advisory.pdf](#)

Dear Secretary,

Attached is a history of our referral fee arrangements and commentary regarding the impact the proposed changes will have.

In addition you will find a document from November 1, 2016 supporting referral fees as long as referral agents are adequately qualified and there is complete disclosure.

Interestingly, the reason I and my partners moved to a referral arrangement model was to provide the best investment advice we could and provide complete disclosure.

Ironically the proposed changes will prevent us from continuing to provide the best possible solution for our customers needs and undo years of work.

I hope you will review this information thoroughly and put yourself in our clients shoes as you will be disappointed with the outcome.

Sincerely,
Keith Muchan

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October 18, 2018

Keith Muchan
KJ Muchan Planning
o/s Sheffar Potter Muchan Inc.

PM = Investment Councillor/
Portfolio Manager

When did we start referral agreements:

- 1998

Why did we start referral agreements:

- for the very reason CSA is addressing issues today, we were 20 years ahead of the curve
- eliminate DSC's
- focus on KYC and do in depth financial planning
- ensure the very best investment management without conflict of interest by distribution channels
- direct relationship between client and portfolio manager
- significantly reduced management fees
- clear and concise reporting thus providing transparency
- bring the advisor and the PM to the table for no additional cost – no fee plans

How we find PM's:

- research performance
- observation
- referrals from other advisor's and PM's

How do we choose PM's:

- willing to work with client jointly with no increase in their management fee
- invest 250K of our own money to experience process, service, and performance
- if it is a positive experience then, and only then, would we refer clients to invest along with ourselves
- if it is not a positive experience from all aspects we terminate our investments and move on
- to date we have terminated two investments and have not had to terminate any that customers have been referred to
- we continue to maintain existing PM's and look for alternatives should the need arise
- currently we have four relationships, each with unique elements which determine what is appropriate for each customer

The irony of the proposed rules is what we have done in the best interest of the client will be undone causing great harm:

- we will no longer be able to pay our staff and ourselves to do the ongoing planning, service and maintenance of the clients overall wealth and risk management needs
- many advisors may, or will try, to move clients to solutions with less favourable attributes so they continue to be paid (there could be serious tax consequences). Personally we feel this isn't right but when you take ones means of earnings from them you can be assured it will happen
- future clients will not be referred to such beneficial relationships, as the business model is not sustainable
- though many of the proposed changes are good for the consumer and industry, the retail distribution channels cannot match a well-coordinated referral program between quality PM's and independent advisors

We recognize that the referral arrangement process is flawed, in that it allows for unqualified persons to be compensated, but surely the solution should not be the dismantling of the entire process to the detriment of the very people you are trying to protect.

Questions/Comments

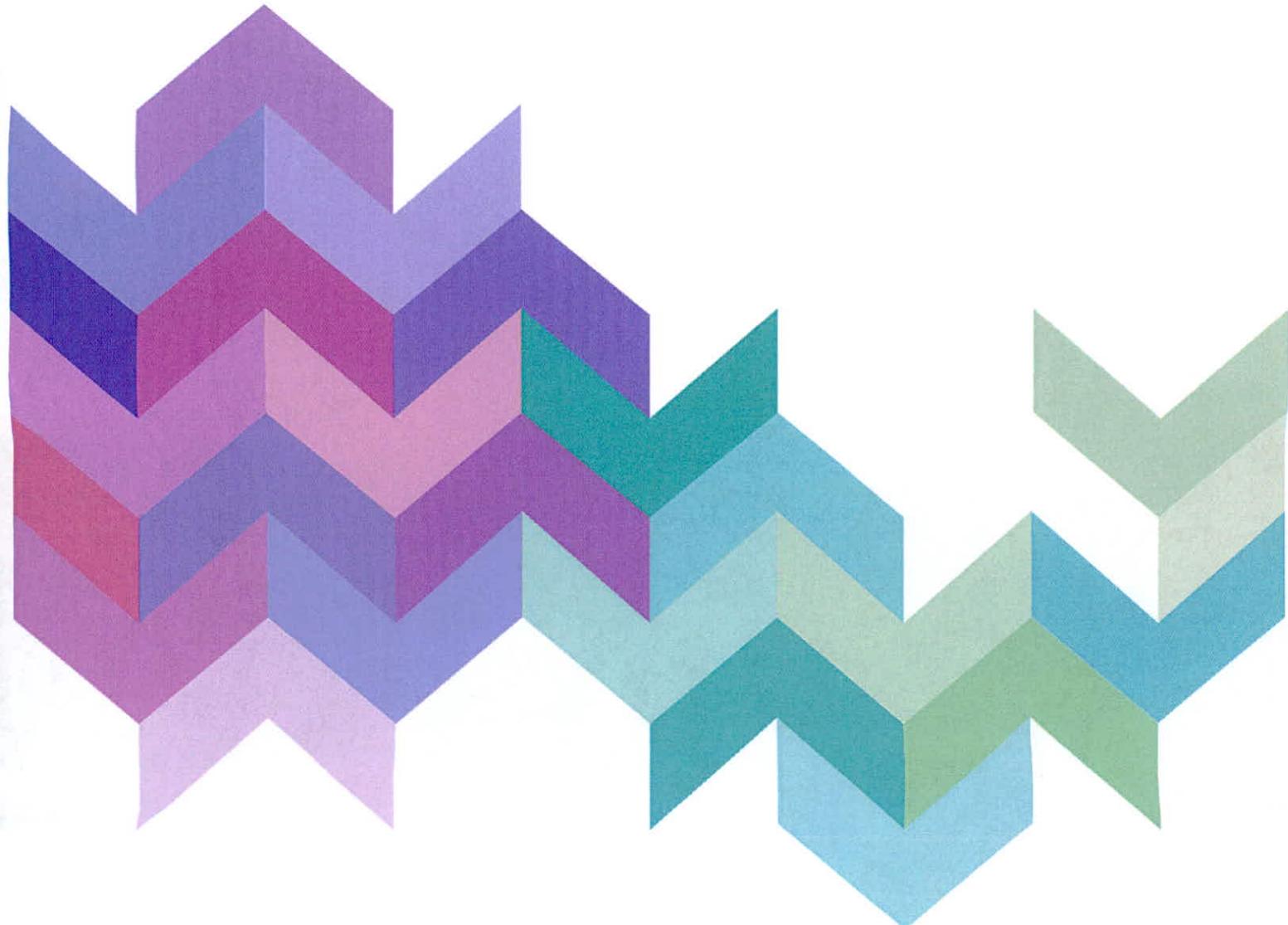
- why 25%
- why 3 years
- what qualifies an advisor as a registrant
- does a mutual fund or IIROC dealer have to be a middleman – what purpose do they serve
- doesn't the PM satisfy compliance
- shouldn't the PM be responsible for managing the referral arrangement and compliance there of
- wealth and risk management is more than "investing". Our KYC & KYP goes above and beyond past and current requirements
- by using a PM on a referral basis we are guaranteeing compliance, as they have rules that must be adhered to.



FINANCIAL ADVISORY AND FINANCIAL PLANNING REGULATORY POLICY ALTERNATIVES

FINAL REPORT OF THE EXPERT COMMITTEE TO CONSIDER FINANCIAL
ADVISORY AND FINANCIAL PLANNING POLICY ALTERNATIVES

November 1, 2016



CHAPTER 8 – REFERRAL ARRANGEMENTS

6. Referral Arrangements

We recommend that no individual or firm that engages in Financial Product Sales, or Holds Out as providing Financial Planning or Financial Advice, be permitted to enter into a referral arrangement with a third party for the referral of a customer or prospective customer who is to be provided with Financial Planning, Financial Advice or Financial Product Sales, unless the referral arrangement accords with conditions equivalent to those set out in Part 13 (Division 3) of National Instrument 31-103.

Rationale:

Consumers often need several different types of financial services including investment advice, mortgage brokering and insurance. A firm or individual that provides one of these services may not necessarily be licensed to provide the others. And even if the firm or individual can provide these other services, a different firm or individual might be better placed to serve the needs of a particular consumer. Indeed, under the proposed regulatory framework outlined in this report, the SBID would obligate a firm or individual to refer a client to a different provider(s) if said referral is in the best interest of the client. Accordingly, with the adoption of a SBID, referral arrangements could become more prevalent.

Referral arrangements from one individual or firm to another can help consumers access the financial services and products that meet their needs. From a regulatory standpoint, however, it is important that these referral arrangements be clearly disclosed to consumers. Moreover, consumers should be assured that such arrangements lead them to individuals and firms with the appropriate licensing and credentials to provide the services they require.

Referral fees should be transparent (the amount of the fees, the impact or consequences of their presence) and should be disclosed to the consumer in plain language before engaging the financial service provider. Any relationship that a financial planner has with others providing financial advice should be reasonable and should be disclosed prior to the engagement.

– FAIR Canada (June 2016)

I agree that there must be complete transparency of compensation and referral arrangements at all times. Too frequently consumers are not aware of the inherent conflicts with such arrangements and cannot comprehend the implications of such.

– Tom Trainor (June 2016)

In our Preliminary Policy Recommendations Document, we recommended prohibiting referral arrangements unless the person or firm receiving the referral fee is regulated as a provider of Financial Product Sales or Financial Planning or Financial Advice and owes a best interest duty to consumers. We received extensive in-person and written feedback on this proposal. Many commenters observed that within the securities regulatory system, the investor protection concerns raised by referral arrangements are mitigated by certain regulatory requirements. Specifically, commenters pointed to the conditions for permitted referral arrangements set forth in Part 13 (Division 3) of National Instrument (NI) 31-103.

Under section 13.8 of NI 31-103, a registered firm or individual must not participate in a referral arrangement with another firm or individual unless, among other things, the terms of the referral arrangement are set out in writing ahead of time. The registered firm is also required to record all referral fees, and the registrant must ensure that information about the referral arrangement is provided to the client in writing before the party receiving the referral either opens an account for the client or provides services to the client.

Furthermore, section 13.9 of NI 31-103 requires the registered firm or individual to verify the qualifications of the person or company receiving the referral, while section 13.10 sets out specific disclosure requirements. Our principal concern with referral arrangements focused on consumers being referred to individuals without appropriate credentials or licensing to provide the service. Taking into account stakeholder feedback, we therefore conclude that this concern is sufficiently addressed within the securities sector by NI 31-103.

We support the call for transparency about referral fees as a needed disclosure relating to potential conflicts of interest and costs. These disclosures should apply to Advisers, Financial Planners and all who act in some capacity to advise clients about investments, financial products and financial plans. We also agree with the desire to ensure that fee recipients are regulated firms for purposes of enforcing best-interest rules.

– CFA Institute (June 2016)

Division 3 of Part 13 of National Instrument 31-103 (which currently governs IIROC registrants) sets out specific conditions which must be met before a registered individual can participate in a referral arrangement, including written disclosure to the client.

- Investment Industry Regulatory Organization of Canada (June 2016)

We support restrictions and regulation of referral fees in line with what is found in National Instrument 31-103.

– Primerica (June 2016)

We support restrictions and regulation of referral fees in line with the requirements of National Instrument 31-103.

– Investment Funds Institute of Canada (June 2016)

In our view, this concern is not sufficiently addressed within the insurance and mortgage brokering sectors. To that end, we recommend that within the proposed regulatory framework that all individuals and firms that provide Financial Planning or Financial Advice and Financial Product Sales wishing to enter into a referral arrangement to adhere to conditions equivalent to those set out in Part 13 (Division 3) of National Instrument 31-103.