

Financial Advisors Act, 2014

FACTS ON BILL 157

1. Will Bill 157 add another layer of regulation and red tape?

Governments are not interested in overlap and duplication of regulation. The objective of Bill 157 is to ensure the new professional body oversees the profession of financial advisors like all other professions in the province.

Currently financial advisors are subject to several regulators in Ontario, depending on which product they are licensed to distribute; these regulators include the Ontario Securities Commission (OSC), the Financial Services Commission of Ontario (FSCO), the Investment Industry Regulatory Organization of Canada (IIROC), and the Mutual Fund Dealers Association of Canada (MFDA). The patchwork development of regulations over times has given rise to a confusing, complex and inefficient system. Regulation has focused on the sale and distribution of product, with each sector — mutual funds, life insurance and securities — having its own regulations. **Consumers often find it difficult to determine where they need to go to find out more about their advisor's qualifications or to lodge a formal complaint.**

Bill 157 would create an oversight body for all advisors regardless of the products they are selling. This would be the first time such a body existed. The bill would also regulate fee-for-service and fee-only advisors and planners that are currently unregulated. The purpose of Bill 157 is to create a harmonized approach to streamlining and simplifying the regulatory process.

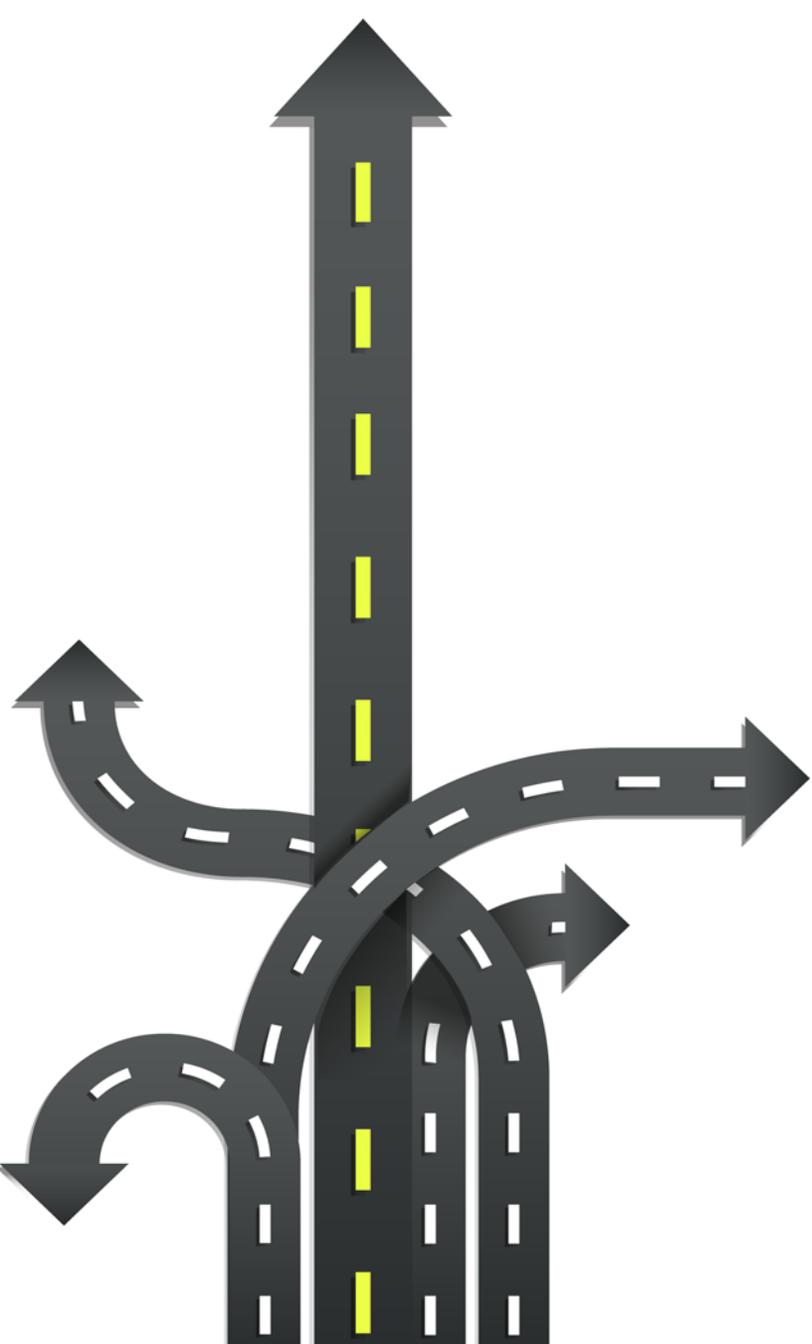
Professional conduct and standards directly affecting the advisor-client relationship would reside within the professional body. Current regulators often lack the unique perspective that professional financial advisors bring to discussions around policy development. This is precisely why lawyers oversee the legal profession, accountants oversee the accounting profession, and professional engineers oversee the engineering profession. Current product-focused, transaction-based regulators such as the OSC, MFDA and IIROC will have to work with the new professional body to reduce duplication and create effective market conduct regulation as the new body will be created in legislation and will have significant oversight of financial advisors.

2. Will Advocis become the new self-regulatory body (SRO)?

Bill 157 does *not* make Advocis the new SRO. Advocis has *never* taken the position that it should become the sole recognized professional organization.

The professional body would have advisor representation within its governance structure, which would need to be established in regulations once the bill is passed into law.

(cont'd on reverse)



Although today's regulators do not have substantive advisor representation on their boards, they create regulation that directly impacts advisors. Without professional financial advisors directly overseeing the financial advice profession, regulation will not be effective.

Advocis has been developing practice and proficiency standards for its members for over a century. Advocis would of course wish to have its professional standards and designations recognized by the new entity. Other standards or designations can also be recognized as Bill 157 calls for the recognition of such standards through the creation of specializations. These details will be outlined in the regulations and administrative agreements once the legislation is passed.

3. Why not simply regulate “financial planners?”

Bill 157 already contemplates the oversight of financial planners in the definition of “financial advice,” and through the potential to recognize specializations. There are a number of financial planning designations in Canada, and several thousand advisors hold planning designations. However, of the 45,000 financial advisors in Ontario, less than 250 actually earn a living just preparing financial plans and charging their clients a financial planning fee. The rest who possess a financial planning designation provide financial advice related to life insurance, mutual funds and securities, and are compensated through these products. Every consumer in Ontario accessing an advisor has the right to be dealing with a professional. This is why Bill 157 addresses the need to create a profession of financial advisors and not just financial planners.

Advocis represents financial advisors and financial planners, and promotes education leading to designations in financial planning.

4. How would financial advisors overseeing the regulation of financial advice help consumers?

Bill 157 makes provisions for public representation within the governance structure of a new professional body. Under the proposed model of a Delegated Administrative Authority, the public would have a place on the governing board appointed by the Minister. This will ensure consumers are adequately represented, and that regulation is developed with consumer representation.

Advocis has always called for public representation in its proposal for a financial advisor profession.

5. Would exempting some groups and occupations water down consumer protection?

The exemptions under Bill 157 do not lessen consumer protection. All individuals holding themselves out as “financial advisors” or “financial planners” would have to register with the new body.

Some professionals not holding themselves out as financial advisors, but who may be offering some form of financial advice ancillary to their primary occupation in a more limited capacity, would be exempt since they are already regulated by their primary professional body — these include: lawyers; accountants; real estate brokers; mortgage brokers; property and casualty insurance brokers. These professions examine the activities of their professionals, and can discipline their members if they breach their codes of professional conduct or regulations. Bank employees who are not permitted to hold themselves out as “financial advisors” and are limited to offering advice on simple deposit products such as savings accounts and GICs would also be exempt as these are very common, simple transactions.

6. Why not simply expand the authority of the existing regulators and have them regulate financial advisors and planners in a manner suggested in Bill 157?

Existing regulators regulate in silos based on their product oversight and jurisdiction. As an example, if an advisor is removed from the mutual fund industry for misconduct, he or she can spring up as an insurance advisor and begin selling similar products. This exposes consumers to risk. **Bill 157, were it to pass into law, would solve this problem.**

The title “financial advisor” is not protected in law. Some attempts have been made in the past to examine this issue, but the fragmented regulatory structure prevents progress on this huge consumer protection gap that anyone can call themselves a “financial advisor.” **Bill 157 would solve this problem.**

Without direct representation by advisors on the oversight body along with representation by the public, namely consumers, the development and application of regulation will not be effective. Professional financial advisors and consumers need to be directly involved. This is how other professions are established. **Bill 157 would solve this problem.**

The two dealer based self-regulatory bodies (IIROC and MFDA) recognized by the OSC currently regulate the industry through the perspective of the dealer firms, who sit on their boards, but create regulation for financial advisors. This often puts them in a conflict of interest as they regulate the client-advisor relationship directly. The unfettered accountability to the consumer should reside directly with the financial advisor. Financial advisors should be setting the standards of professional and ethical conduct. This is the case in other professions. **Bill 157 would solve this problem.**