

November 3, 2020

Financial Services Regulatory Authority of Ontario
5160 Yonge Street, 16th Floor
Toronto, ON M2N 6L9

SENT VIA ONLINE SUBMISSION SYSTEM

Dear Sirs/Mesdames,

**Re: Financial Services Regulatory Authority of Ontario
Request for Comments Regarding Proposed 2021-2022 Statement of Priorities**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments in regards to the Financial Services Regulatory Authority of Ontario (“FSRA”) and its Proposed 2021-2022 Statement of Priorities (the “Proposed SoP”).

1. ABOUT ADVOCIS

Advocis is the association of choice for financial advisors and planners. With more than 13,000 members across the country, Advocis is the definitive voice of the profession, advocating for professionalism and consumer protection. Our members are provincially licensed to sell life, health and accident and sickness insurance, as well as by provincial securities commissions as registrants for the sale of mutual funds or other securities. Members of Advocis are primarily owners and operators of their own small businesses, creating thousands of jobs across Canada. Advocis members provide advice in several key areas, including estate and retirement planning, wealth management, risk management, tax planning, employee benefits, and life, critical illness and disability insurance.

Professional financial advisors and planners are critical to the ongoing success of the economy, helping consumers to make sound financial decisions that ultimately lead to greater financial stability and independence. No one spends more time working with consumers on financial matters and helping them to reach their financial goals. Advocis works with decision-makers and the public, stressing the value of financial advice and striving for an environment in which all Canadians have access to the advice they need. In all that they do, our members are fundamentally driven by Advocis’ motto, *non solis nobis* – not for ourselves alone.



2. INTRODUCTION

We congratulate FSRA for its proactive response to the COVID-19 crisis and for providing important relief for insurance agents – including extensions for licensing renewals and continuing education credit reporting requirements – at the very start of the pandemic. Even though these past months have been very challenging, FSRA has continued to operate diligently and deliver the oversight that industry and consumers require.

We are encouraged that FSRA’s policy-making process continues to be inclusive. We are also pleased that FSRA’s priorities are focused on consumer protection, transitioning to a principles-based regulatory approach and modernization. As FSRA has pointed out, this approach will deliver positive results as it will promote financial stability and economic growth, as well as improving stakeholders’ regulatory experience.

FSRA is undertaking important work in fostering innovation through its new Innovation Office. With COVID-19 disrupting regular business operations in 2020, the pandemic has proven the importance of enabling innovative technologies that allow client service to continue without interruption, notwithstanding the inability to meet face-to-face or collect wet signatures. Done correctly, innovation can enhance conduct oversight or consumer protection while supporting FSRA’s regulatory burden reduction efforts.

Advocis supports FSRA’s mandate of protecting the public so that consumers can continue to access financial products and services with confidence. We believe in the importance of a regulatory environment that ensures consumers are treated fairly by professionals that are worthy of their trust. This is why we consider the title protection framework for financial advisors and financial planners – currently under consultation by FSRA – to be of the utmost importance in bolstering consumer confidence in Ontario’s financial services sector.

3. OUR COMMENTS

We have the following specific comments in regards to the initiatives in the Proposed SoP:

3.1 Regulatory Efficiency and Effectiveness

Consumer Office

FSRA’s Consumer Office is a great opportunity for the regulator to better understand the perspective and needs of its primary constituency; we appreciate how the Office works in collaboration with the Consumer Advisory Panel to hear directly from leading consumer advocates. Given the Consumer Office’s mandate includes the consideration of the consumer’s experience with financial advice professionals, we believe it makes sense to also engage advisor associations such as ours.



After all, financial advisors are the intermediaries in the financial services sector that work most directly with consumers. Our members have a critical perspective to share about what consumers are looking for, where they are in need of the greatest help, and how product manufacturers are responding to changes in consumer preferences. Our members also play an important role in consumer education. In working with consumers across the table, it is our members who take the time to explain financial products, the regulatory framework and the consumer's rights and responsibilities in navigating the sector.

Given the important client-facing work our members do, we would welcome an opportunity to work with the Consumer Office whenever it crafts policies designed to improve the consumer experience.

Enabling Innovation

The current pandemic has shone a spotlight on the need for industry to accelerate their adoption of technology and take an open-minded stance to innovation. There has been a material shift in underwriting practices, the acceptance of digital document delivery and the provision of advice over virtual channels. FSRA's Innovation Office is well-positioned to modernize regulations that could restrain technological adoption while ensuring, through "responsible innovation", that consumer protection is not compromised.

We urge FSRA to keep a close eye on new advice delivery technologies that are marketing to consumers directly. Financial advisors are overseen by their respective regulatory bodies (MFDA, IIROC, provincial insurance councils) but many new fintech business models can change overnight and they may not be under the same scrutiny. We are aware of at least one fintech that is now essentially acting as a lead referral source and charging advisors for this service while purporting to offer clients a "free financial plan".

We have also seen the rise of fintech companies that do not have any background in advice or planning but nonetheless offer these types of services. Consumers may believe they are dealing with regulated professionals and place their trust in them; without proper regulatory oversight, in the event something goes wrong, consumers may be left without an avenue for redress. Holding technology companies to standards that are equally as high as those of licensed advisors is in the best interest of the consumer.

We would also like to take this opportunity to introduce Advocis' Technology Task Force (TTF). The TTF was created in 2017 and is composed of tech-savvy Advocis members. Its mandate is to explore the opportunities of modern technologies such as artificial intelligence and machine learning and analyze their impact on financial advice. The TTF's research supports our advocacy efforts for a better regulatory environment as we believe that both financial advisors and



consumers can benefit from technologies through greater access to financial services, increased choice in services and a more competitive landscape.

We believe there is an outstanding opportunity for the TTF to work closely with the Innovation Office, share mutual perspectives and strengthen the cooperation between our organizations. We would be pleased to connect the TTF with the Innovation Office to begin a deeper dialogue.

3.2 Life and Health Insurance

Segregated Funds

FSRA will be looking at various distribution issues related to segregated funds in the coming year. The client-focused reforms (“CFRs”) will be implemented in the mutual funds sector starting in mid-2021, with their objective of enhancing client service related to know-your-client, know-your-product, conflict of interest management, relationship disclosure and beyond; it is logical that FSRA would inquire as to whether the CFRs or CFR-like elements should be integrated into segregated funds.

We support this review and we would be pleased to provide further comments as FSRA develops possible policy options. However, we would recommend that FSRA strive to retain the distinct principles-based culture in the insurance sector that has allowed for strong communication and collaboration with stakeholders. Segregated funds share many characteristics with mutual funds, but the key distinctions related to their guarantees, resets, creditor protection and ability to bypass probate mean that the CFRs cannot simply be overlaid.

FSRA is also looking at the deferred sales charge (“DSC”) option for segregated funds, which makes sense given the Canadian Securities Administrators’ decision to ban the option for mutual funds starting in 2022, save for the Ontario Securities Commission which will implement new conditions on mutual fund DSC sales in the province. FSRA will need to determine whether any reforms should be done in harmonization with its colleagues at the Canadian Council of Insurance Regulators, or whether a “made in Ontario” is again appropriate here. We look forward to being a part of that conversation.

In studying these two major areas of reform, we understand that FSRA is keenly interested in understanding whether there are signs of arbitrage in the market in regards to a shifting of advisor recommendations from mutual funds to segregated funds that is driven by the desire to avoid regulatory obligations. We would be pleased to work with FSRA to study this potential consumer protection issue.



Fair Treatment of Consumers

We support the implementation of the Fair Treatment of Consumers (“FTC”) guidance; we believe the principles therein should be inculcated in every aspect of the life and health insurance framework. FSRA’s intention to take a common approach to FTC for stakeholders in the life and health sector, harmonized with its CCIR-CISRO colleagues, and depart from the inherited Treating Financial Services Consumers Fairly guidance is helpful.

We support FSRA’s work through CISRO to develop an industry-wide code of conduct. We remain active with our colleagues on the Group of Four Associations (the “G4”, which includes Advocis, an insurance company association, an association representing MGAs and another advisor association) in working to identify barriers to FTC principles and develop possible solutions to address those barriers. Regulators, insurers, distribution chain intermediaries and consumers all have a role in furthering the FTC principles.

Advisor Oversight

FSRA is developing an agent conduct team and a supervisory framework in response to changes in the market, including the increasing delegation of supervisory functions by insurers. We support FSRA’s interest in this area and we have also been working on enhancing the advisor oversight framework with our G4 colleagues.

Advocis believes that the key to enhanced advisor oversight is the identification of underqualified actors, which goes hand-in-hand with the title protection initiative discussed below, and the removal of bad actors in a way that prevents them from simply moving to another company or another sector. To achieve this, we believe that there will need to be a stronger information sharing protocol in regards to bad actors amongst CISRO members and between CISRO and industry. We also believe that the information in the Life Agent Reporting Forms could be utilized, in aggregate, and shared with industry so we can better understand the current issues with advisor oversight.

3.3 Financial Planners and Financial Advisors

We agree that the forthcoming title protection framework “will promote confidence and professionalism in the sector and reduce confusion for investors and consumers.” There are potentially tremendous benefits for all stakeholders – regulators, product manufacturers, advisors and consumers alike – but only if we get the implementation right.

While we understand that the initiative is about setting minimum standards for the use of the titles of financial advisor (“FA”) and financial planner (“FP”), we are firmly of the view that consumers rely on both FAs and FPs as professionals and their work is incredibly impactful to



consumers' lives. The minimum standards set by FSRA should be commensurate to this need and consumers' expectations of FAs and FPs as professionals.

Professionalism means establishing high initial standards, both in regards to technical knowledge and client relationship management, before an individual can use a restricted title. Professionalism also means that this training should be independent and not based on the licensing for the sale of any particular product. A license tied to product necessarily handcuffs the conversation between FA/FP and client and will almost certainly lead to a recommendation to purchase that product. That is not professionalism.

It is also critical that FSRA understand that FAs and FPs are equal in stature. We acknowledge that FAs are more difficult to define than FPs: FAs come in all shapes and sizes, and they are as varied as the clients they serve. While the work of both FAs and FPs touch upon the same technical areas, an FA's work tends to be more discrete than an FPs and its scope more tailored to the client's acute needs.

It is true that an FA's work generally does not result in the presentation of an integrated, holistic financial plan. But very few clients actually require this type of plan (and it is relatively rare for FPs to even produce such plans). The scope of an FA's mandate may be narrower relative to an FP's, but it is no less professional, and no less important for clients.

The title protection initiative is a generational opportunity to raise professional standards and align regulatory reality with consumers' expectations. We should not settle for less. We look forward to providing our full comments to FSRA on November 12, 2020.

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FSRA has set forth an ambitious agenda for the coming year, with initiatives that could materially enhance the well-being of consumers in the province. We look forward to being part of that conversation. Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Senior Director, Legal and Regulatory Affairs at jryu@advocis.ca.

Sincerely,

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President and CEO

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