

July 9, 2021

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Sent via email: [cisro-ocra@fsrao.ca](mailto:cisro-ocra@fsrao.ca)

Dear Ms. Warner,

**Re: CISRO Consultation on Principles of Conduct for Intermediaries**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments in regards to the Canadian Insurance Services Regulatory Organizations (“CISRO”) Consultation on its Principles of Conduct for Intermediaries (the “Principles”).

## **1. ABOUT ADVOCIS**

Advocis is the association of choice for financial advisors and planners. With more than 17,000 member-clients 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 both for the consumer and the country. No one spends more time with consumers than advisors and planners, educating them about 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.



## 2. INTRODUCTION

Advocis supports CISRO's intention to "supplement, complement and build upon the intermediary elements in the *Guidance on Conduct of Insurance Business and Fair Treatment of Customers (FTC)*" (the "Guidance") jointly issued by CISRO and the Canadian Council of Insurance Regulators ("CCIR"), and embed FTC Principles in a harmonized code of conduct. We agree that the Principles will reinforce the fair treatment of customers; however, we believe that certain elements could be clarified further to better reflect their underlying intent and ensure that intermediaries are fully aware of the professional behaviour and conduct expected of them.

## 3. OUR COMMENTS

Our specific comments on the Principles are as follows:

- **Principle #2 – Customers' Interests**

The Principles outline CISRO's expectations on how intermediaries can best ensure FTC outcomes but, as currently presented, the Principle regarding the priority of Customers' Interests is listed as the second Principle (following Compliance/Outcomes). We recognize that CISRO is not necessarily intending to express any particular order of importance through their presentation in the Principles; nonetheless, even if it is a symbolic gesture, we believe that the Principle regarding Customers' Interests should be the very first.

Placing this Principle first would emphasize the primacy of customers' interests above all else and underline the fact that these Principles are created, first and foremost, to advance the spirit of FTC. In that vein, this type of principle is traditionally first in the codes of conduct of many intermediary membership associations, such as Advocis,<sup>1</sup> FP Canada,<sup>2</sup> the Institute for Advanced Financial Planning<sup>3</sup> and the Independent Financial Brokers of Canada.<sup>4</sup>

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<sup>1</sup> The first principle in Advocis' Code of Professional Conduct specifies that "An Advocis Member shall act in a client's best interests." <https://myadvocis.ca/wp-content/uploads/CPC/ADV-CPC-ADVOCIS-FNL.pdf>

<sup>2</sup> The first principle in FP Canada's Principles of the Code of Ethics specifies that *Duty of Loyalty* encompasses "The duty to act in the client's interest by placing the client's interest first. Placing the client's interest first requires the Certificant place the client's interests ahead of their own and all other interests." <https://fpcanada.ca/docs/default-source/standards/standards-of-professional-responsibility.pdf>

<sup>3</sup> The Institute for Advanced Financial Planning's first Canon specifies under *Obligations to Clients* that "Members shall act in the best interests of their clients and shall place the interests of their clients above their own." <https://www.iafp.ca/content.php?SectionID=1&ContentID=8>

<sup>4</sup> The Independent Financial Brokers of Canada's Code of Ethics & Standards of Professional Conduct specifies



We would further highlight the focus on the priority of clients' interests by referencing the client-focused reforms ("CFRs") issued by the Canadian Securities Administrators ("CSA"). The CFR relating to conflicts management and client best interests took effect on June 30, 2021, well before the remaining CFRs which will come into force on December 31, 2021. While each of the CFRs will bring about meaningful enhancements to intermediary conduct, the focus on this element as first "out of the gate" sets the tone for the entire set of reforms.

We believe that the priority of the customers' interests should be expressed first – not only in terms of its ordinality, but also to convey how this element underpins all other elements that follow. We therefore recommend that Customers' Interests be repositioned as the number one entry in this list of Principles.

- **Principle # 1 – Compliance/Outcomes**

This Principle states that intermediaries must comply with all applicable laws, regulations, rules and regulatory codes to which they are subject. We believe this Principle could be strengthened by referencing compliance with not only the letter, but also the spirit, of these laws. Consumer protection is enhanced when intermediaries comply with the intent animating the laws; an overly narrow interpretation could impair this objective. Referencing compliance with the spirit of the laws furthers a principles-based approach to regulation.

Additionally, this Principle should reference that intermediaries' obligation in this regard includes remaining compliant with relevant laws that may be introduced or amended over time.

- **Principle #9 – Competence**

In regards to competence, Principle #9 only refers to the need for intermediaries to maintain an appropriate level of knowledge. It does not refer to developing and maintaining an appropriate level of skill. Possessing knowledge should not be conflated with having skills, nor should these terms be used interchangeably. Skills are specific learned abilities and the expertise required to perform a task well – put another way, it is the learned application of one's knowledge.

Advocis believes that achieving FTC requires that intermediaries demonstrate their competence through both knowledge and skill when providing financial advice to customers.<sup>5</sup> The

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under its first principle, *Paramourty of the Client's Interests*, that "An IFB member shall place the interests of his/her client first, ahead of all other interests, and setting aside any personal motivations and beliefs." <https://ifbc.ca/wp-content/uploads/2019/08/IFB-Code-of-Ethics.updatedJuly-2019.pdf>

<sup>5</sup> For example, Principle 3 (Competence) in Advocis' Code of Professional Conduct requires that "An Advocis Member shall exhibit their competence through the effective application of both skill and knowledge when providing products and services." Advocis Code of Professional Conduct – Explanatory Notes. Available at: <https://myadvocis.ca/wp-content/uploads/2019/04/2019-ADV-CPC-Explntry-Notes-FNL-1.pdf>



underlying Guidance also refers to the maintenance of “an appropriate level of professional knowledge and experience”<sup>6</sup>, with an understanding that one’s skills are honed by that experience. Therefore, we recommend this Principle include a specific reference to the need for intermediaries to maintain an appropriate level of skill, alongside knowledge.

The completion of ongoing continuing education (CE) is critical to competence: knowledge can quickly become outdated in a rapidly-evolving financial services sector, impairing FTC outcomes. In order to give full effect to this Principle, it is our recommendation that it reflect the importance of maintaining CE by requiring that (i) all jurisdictions have a CE requirement; and (ii) there be a role for accredited CE to ensure that the education is of high quality and enhances the intermediary-client relationship.

- **Principle #4 – Advice**

We believe that CISRO must demand a higher bar when it comes to advice: advice must not merely be suitable for the client, but instead reflect professional standards. In recent years, there has been a palpable shift in the expectations of consumers. At one time, “suitable” advice was simply a part of a checklist in transacting in a financial product. Today’s consumers recognize that it is the advice itself, and the longstanding client relationship between client and advisor, that takes centre stage; any transaction in product is incidental to fulfilling the goals and objectives discussed in that advice.

Because of the trust that consumers place in their advisor, and the tremendous impact that quality advice can have on consumers’ financial outcomes, it is critical that consumers can rely on ubiquitous, public-facing titles such as ‘financial advisor’ or ‘financial planner’ that are often used as proxies for professionalism. Unfortunately, this is not the case throughout most of Canada – these titles are largely unregulated and can be used by anyone without any particular knowledge or skill. This is finally starting to change.

We strongly encourage CISRO to align this Principle with other consumer-protection measures such as Ontario’s and Saskatchewan’s initiatives to regulate these key titles. Further, we highlight the CSA’s CFRs which introduce a new standard for interfacing with clients which prohibit registered individuals from using titles that could mislead their clients as to their proficiency, experience or qualifications.

To that end, we recommend that CISRO enhance this Principle by making clear that: (i) advice must be delivered at a professional standard; and (ii) the use of public-facing titles must align with any relevant restrictions and must not mislead or deceive the public as to the title user’s professional qualifications.

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<sup>6</sup> CCIR/CISRO, *Guidance Conduct of Insurance Business and Fair Treatment of Customers*. September 2018. At p. 6. <https://www.ccir-ccrra.org/Documents/View/3450>



#### 4. CONCLUSION

We thank CISRO for the opportunity to provide comments on its Principles of Conduct for Intermediaries. Overall, we are supportive of CISRO's goal to strengthen FTC by building upon the Guidance and setting forth expected standards of conduct for all intermediaries. We ask that you take into consideration the recommendations put forward in this submission as we believe these can further promote the intent behind the Principles.

Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Legal and Regulatory Affairs at [jryu@advocis.ca](mailto:jryu@advocis.ca).

Sincerely,

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

Rob Eby, CFP, RRC  
Chair, National Board of Directors