

August 11, 2021

Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

SENT VIA ONLINE SUBMISSION SYSTEM

Dear Sirs/Mesdames,

**Re: Financial Services Regulatory Authority of Ontario
Consultation [2021-008]: Notice of Changes and Request for Further Comment
Proposed Rule [2020-002], Unfair or Deceptive Acts or Practices**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide additional comments regarding the Financial Services Regulatory Authority of Ontario (“FSRA”) Revised Proposed Rule [2020-002], *Unfair or Deceptive Acts or Practices* (the “Proposed Rule”).

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 supports FSRA’s efforts to redefine the unfair or deceptive acts or practices (“UDAP”) rule in an outcomes-focused manner that transitions towards principles-based regulation. We recognize FSRA’s work to make the supervision of conduct more transparent, dynamic, and

flexible. In general, we support reducing barriers to innovation in the manufacturing and delivery of insurance products.

We welcome FSRA's decision to continue the prohibition on incentives and rebating in the life and health insurance sector, as well as for group products. Maintaining this prohibition protects the public by:

- Protecting consumers from making inappropriate purchasing decisions based on the offered inducement or rebate.
- Ensuring parity between different-sized insurers and intermediaries who compete for the same business, thus fostering competition based on risk pricing.
- Preventing the cost of the incentives from being borne by all consumers through higher premiums.
- Preventing arbitrary price discrimination between consumers.
- Ensuring that premium rates provide for adequate policy reserves (solvency concerns).

We appreciate FSRA's commitment to innovation in the insurance sector for the benefit of consumers. While we believe that allowing rebating in the life and health insurance is not the right path to encourage innovation, there are many other opportunities for innovation in the sector which could benefit consumers. These opportunities include:

- Increasing on-demand access to information, advice, servicing, and claims fulfillment.
- Modernizing service options in response to evolving consumer expectations (e.g. digital service, hybrid distribution models).
- Incentives to encourage beneficial behaviours which are not tied to the purchase or maintenance of a policy and are available to all policyholders as a class.

In relation to incentives generally, Advocis welcomes the opportunity for further discussions on modernizing their role in the life and health insurance sector. In the interest of harmonization, we support a national approach within the Canadian Council of Insurance Regulators' broader review of Incentives Management and the Fair Treatment of Customers. If FSRA would like to separately continue a discussion on the possibility of rebating in the life and health insurance sector, Advocis welcomes the opportunity to participate in these discussions.

We would like to clarify one point with FSRA: subsection 7(5) of the Proposed Rule excludes certain gifts or things of value from the definition of an inducement. We are concerned that this could potentially create a "back door" to allow rebating in the life and health insurance sector. We would appreciate if FSRA could clarify its intention for this section and indicate that this section is not intended to permit rebating in the life and health insurance sector.

3. A MINOR NOTE RE: RENUMBERING

Due to the renumbering associated with revisions to the Proposed Rule, section 7(2) refers to section 7(1)(v) (the prohibition on rebating in the life and health insurance sectors) as relating to automobile insurance. We suggest that sections 7(1)(v) and 7(1)(vi) be reordered.

4. CONCLUSION

We thank FSRA for its willingness to engage stakeholders in its policy development and its constructive response to comments on the Proposed Rule. We appreciate that FSRA has recognized the unique consumer protection concerns that may result from rebating in the life and health insurance sector, as well as for group insurance products. We look forward to further productive discussions with FSRA on this issue.

We continue to support FSRA's work to obtain better outcomes for consumers, including its efforts to provide outcomes-based definitions of UDAP that are consistent with FSRA's objects and the transition to principles-based regulation. 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.

Sincerely,



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



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