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May 31, 2016

Mr. Brian Mills
Chief Executive Officer and Superintendent of Financial Services
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto, ON M2N 6L9

SENT VIA EMAIL: priorities@fSCO.gov.on.ca

Dear Mr. Mills,

Re: Draft 2016 Statement of Priorities

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments to the Financial Services Commission of Ontario (FSCO) in regards to its draft statement of priorities for 2016.

About Advocis

Advocis is the largest and oldest professional membership association of financial advisors and planners in Canada. Through its predecessor associations, Advocis proudly continues over a century of uninterrupted history serving Canadian financial advisors and their clients. Our 11,000 members (6,000 of them located in Ontario), organized in 40 chapters across the country, are licensed to sell life and health insurance, mutual funds and other securities, and are primarily owners and operators of their own small businesses who create thousands of jobs across Canada. Advocis members provide comprehensive financial planning and investment advice, retirement and estate planning, risk management, employee benefit plans, disability coverage, long-term care and critical illness insurance to millions of Canadian households and businesses.

As a voluntary organization, Advocis is committed to professionalism among financial advisors. Advocis members adhere to a professional Code of Conduct, uphold standards of best practice, participate in ongoing continuing education programs, maintain professional liability insurance, and put their clients' interests first. Across Canada, no organization's members spend more time working one-on-one on financial matters with individual Canadians than do ours. Advocis advisors

are committed to educating clients about financial issues that are directly relevant to them, their families and their future.

Introduction

We commend FSCO for recognizing that the financial services sector is of significant importance to Ontarians and the provincial and national economies. We would highlight that small and medium-sized business (SMB) financial advisors are a vital component of the financial services sector as a whole. Ontario SMB financial advisors contribute \$8.4 billion in GDP and create 85,000 jobs.¹ Of the approximately 80,000 SMB professional financial advisors² in Canada, 37,000 practice in Ontario providing advice to 4.8 million Ontario households.³

These 37,000 practicing financial advisors not only include life insurance agents, but individuals who are also licensed to sell other products, such as mutual funds and other securities. However, today, most professional financial advisors hold multiple licenses that allow them to provide holistic and extensive product knowledge to fulfill their clients' financial plans. These plans may include wealth accumulation and/or insurance products that will help them save for retirement or prepare for unexpected life events.

The current regulatory framework is burdensome to the way financial advisors conduct their daily business operations because it is based on product regulation rather than on the advisor/client relationship. This has resulted in regulatory silos that separate the insurance and securities sectors, resulting in multiple distribution channels that carry their own regulatory requirements. This means both inappropriate regulation and overregulation of financial advisors. Advocis believes that with the Ontario government's current review of the mandates of FSCO, the Financial Services Tribunal (FST) and the Deposit Insurance Corporation of Ontario (DICO), and the consultation on financial advisory and financial planning policy alternatives, the time is right to consider changes to the regulatory structure from one in which financial advisors are regulated by multiple regulators to a model of self-regulation. This will reduce regulatory gaps, harmonize requirements with those of other platforms and standardize proficiency requirements. Most importantly, a self-regulatory model for financial advisors will streamline regulation, and improve the consumer's experience with the financial services industry.

FSCO's Role as Strong Industry Leader

We agree with FSCO when it states that Ontario needs a strong, integrated regulator that can adapt and keep up with an industry that is rapidly evolving. The rapid changes taking place in the financial services landscape in Ontario, and the continuous product innovation and convergence, will require that FSCO be able to adapt quickly to new developments. By becoming a more agile and adaptable regulator, FSCO will not only head a more efficient regulatory system, but will demonstrate its leadership among other provincial regulators.

¹ Nationally, SMB financial advisors have a direct economic impact of approximately \$19 billion in GDP and create 180,000 jobs. *Sound Advice* – Insights into Canada's Financial Advice Industry. PricewaterhouseCoopers. July 2014.

² *Sound Advice* – Insights into Canada's Financial Advice Industry. PricewaterhouseCoopers. July 2014. <http://www.advocis.ca/secure/PDF/sareport.pdf>. There are approximately 100,000 financial advisors in total across Canada.

³ Investor Economics (2014).

Being a strong regulator also means finding more efficient ways to increase consumer protection measures. In order to keep consumers better protected, regulating the delivery of financial advice should be separated from the regulation of product sales. The Auditor General of Ontario's *Annual Report 2014* indicates that FSCO should delegate certain functions related to financial advisors, including licensing and registration, qualifications and continuing education, complaint handling and disciplinary activities, to a professional organization exclusively for financial advisors. We believe that this is the right approach. With more dual-licensed financial advisors being the norm rather than the exception, the regulatory framework needs to change to adapt to the industry's ever evolving needs.

Regulation without Representation and the Advocis Solution

As it stands now, financial advisors are being regulated without representation by a Commission that regulates and oversees them, but does not include them in their overall decision-making structure. Financial advisors should be recognized as professionals, just like lawyers and doctors, by being directly involved in the regulation of their own profession.

We would direct FSCO to our submission to the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives⁴ (Expert Committee) and Ontario Bill 157, *The Financial Advisors Act, 2014*⁵, which received unanimous support on Second Reading and was sent to Committee before the last election was called. Both our submission to the Expert Committee and Bill 157 supported regulatory reform whereby financial advisors would belong to a professional body that oversaw their conduct. In our submission to the Expert Committee, we propose the creation of a delegated administrative authority (DAA) for consumer-facing, individual financial service practitioners, including life agents. Our proposed initiative describes how the DAA would be responsible for overseeing the provision of financial advice and for establishing standards and requirements for all financial advisors regardless of the product they sell.

Our proposed model also addresses specific consumer protection issues such as effective licensing and registration requirements through mandatory membership in the DAA; education, training and ethical responsibilities; resolving the confusing "alphabet soup" problem through the recognition of titles and designations; establishing a single complaint-handling and discipline mechanism; and creating a unified searchable database where consumers could access their financial advisor's background information. Importantly, our proposal would work across the traditional regulatory silos, resulting in enhanced consumer protection.

Under the DAA, FSCO would continue to exist as an independent regulator that focuses its expertise on enforcing Ontario's insurance laws and regulations, while the new regulator would oversee the conduct and proficiency of individual financial advisors.

The oversight of the advisor/client relationship and financial advisor conduct should fall within one regulator; a regulator that recognizes financial advisors as their members. Under the DAA model there would be no need for multiple regulators to be responsible for overseeing financial advisors. Both our proposed DAA and the *Financial Advisors Act, 2014* offer a better way forward.

⁴ To view our submission please go to <http://www.advocis.ca/regulatory-affairs/RA-submissions/2015/Advocis-Submission-Expert-Committee-Sep15-with-Appendix.pdf>

⁵ Online at http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2934

With almost 40,000 financial advisors in Ontario, and close to 100,000 financial advisors across Canada, we believe that the financial advisory profession and the financial services industry has evolved to a point in which financial advisors are not only ready to take the reins to become self-regulated; it is also necessary. The current approach to regulation is both harmful to financial advisors and consumer protection. Financial advisor self-regulation would ensure consumers are well protected and that sound regulatory policy is developed. Advocis' proposed solution would specifically address the issue of advisor conduct oversight while ensuring that advisors are regulated with representation.

Supporting this change would demonstrate FSCO's role as a leader and innovator in Ontario and Canada's financial services industry. FSCO would be seen as a regulator that enhances consumer protection and fosters a balanced and healthy competitive marketplace.

Advocis' Role as an Association that Educates its Members

We believe that industry associations play a very important role in educating their members on emerging regulatory issues. Advocis' Regulatory Affairs (ARA) department, for example, works on behalf of Advocis' members to actively promote their knowledge, skills and professional standards across the country. ARA identifies and assesses regulatory issues that can directly impact our members' business practices, and also develops practical policies that support Advocis members and their clients. ARA's main goal is to promote a sound regulatory system that allows advisors to meet the needs of consumers in a competitive market.

ARA prepares timely communication pieces such as regulatory bulletins to inform and educate Advocis members on emerging regulatory issues that may affect their profession. ARA also produces a quarterly newsletter, *Advisor Voice*, and an information tool, the Advocis Regulatory Affairs Grid, to keep members abreast of regulatory developments. We would be happy to share these information tools with you.

Advocis and FSCO have worked together in the past on several industry initiatives and would we be delighted to continue working with FSCO in developing important communications pieces that notify financial advisors of key changes in laws and regulations. For example, at FSCO's request, Advocis recently prepared and distributed a bulletin outlining amendments to the Ontario *Insurance Act*, which come into effect in July 2016.

Conclusion

The financial advice industry has outgrown its current regulatory structure. Most importantly, the regulation of client-facing financial advisors can no longer be focused on the type of products being sold, but on the delivery of financial advice to consumers. A regulatory structure that is based on multiple regulators operating in silos is ineffective and inefficient, and does not serve consumers well.

We believe that every client-facing financial advisor should be accountable and proficient. This can be achieved by affording financial advisors the power to be involved in the regulation of their own profession as established in our proposed DAA model and in Ontario's *Financial Advisors Act, 2014*. The time is right for meaningful reform.

Should you have any questions, please do not hesitate to contact the undersigned, or Ed Skwarek, Vice President, Regulatory and Public Affairs at 416-342-9837 or eskwarek@advocis.ca.

Sincerely,

A handwritten signature in black ink, appearing to be 'GP' followed by a long horizontal stroke.

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

A handwritten signature in black ink, appearing to be 'Czorny' followed by a long horizontal stroke.

Caron Czorny, FLMI, ACS, CFP, CLU, CH.F.C., EPC, CHS, ICD.D
Chair, National Board of Directors