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May 8, 2018

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](mailto:priorities@fsco.gov.on.ca)

Dear Mr. Mills,

**Re: Draft 2018 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 2018.

**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 over 13,000 members, 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**

Financial services technologies are offering consumers easier access to a variety of new products. These technological advances can benefit both consumers and financial advisors, as consumers can gain greater access to innovative financial products, and financial advisors can take advantage of new technologies to better service their clients.

However, new technologies can also bring added risks, such as data fraud and cyberattacks which may expose consumers and businesses. According to The Global Risks Report 2018 13<sup>th</sup> Edition<sup>1</sup>, cyberattacks and data fraud are in the top five global risks based on their likelihood to take place. Furthermore, “[a]ttacks are increasing, both in prevalence and disruptive potential.”<sup>2</sup> The impact of such breaches and attacks can carry devastating financial impacts ranging in the billions of dollars, which regulators must take proactive steps to prevent and/or mitigate.

Regulators need to be prepared to play an important role in a challenging evolving fintech sector defined by innovation. According to Kevin Petrasic, banking partner in the Washington, DC office of White & Case LLP, and head of the Firm's Global Financial Institutions Advisory practice, “[w]hile various elements have helped incubate the growth of financial innovation, a critical factor to its continued growth, development and acceptance is regulation and the ability of financial regulation and financial regulators to evolve and adapt to new and continually rapidly developing financial innovations that often challenge traditional regulatory norms, concepts and approaches.”<sup>3</sup> With the increasing demand for financially innovative products, and its added risks, regulators will need to develop a more robust regulatory framework that can assess new technologies entering the marketplace.

The appearance of these new services and technologies into the marketplace have raised questions regarding the application of a regulatory framework that will allow for benefits to be reaped, while ensuring that any new risks are mitigated. In order to address these questions, Advocis took proactive steps to address the impact of fintech by striking a Task Force charged with researching new technological developments and the appropriate regulatory responses.

## **New Advocis Technology Task Force**

Recognizing that fintech will increasingly permeate all aspects of advisors’ duties and responsibilities, Advocis took the proactive steps of establishing a Technology Task Force (TTF) that will ensure Advocis can lend an informed voice in shaping the future of fintech and that the association is well-prepared to understand the unique challenges and opportunities fintech represents vis-à-vis financial advisors.

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<sup>1</sup> World Economic Forum. “The Global Risks Report 2018.” [http://www3.weforum.org/docs/WEF\\_GRR18\\_Report.pdf](http://www3.weforum.org/docs/WEF_GRR18_Report.pdf)

<sup>2</sup> Ibid. Page 14.

<sup>3</sup> Petrasic, Kevin. “The Role of Regulation in Financial Innovation: Does Fintech Need Regulation to Flourish?” White & Case LLP. <https://www.whitecase.com/publications/article/role-regulation-financial-innovation-does-fintech-need-regulation-flourish>

Founded in 2017, the Advocis TTF is comprised of volunteer association members from across Canada who are much more technology focused than typical advisors. While some are practicing advisors utilizing advanced technologies, other members are operating technology companies within the realm of fintech. The Advocis TTF currently is working on projects with University PHD students and preparing reviews internally on digital platforms, fintech developments, and emerging regtech.

The TTF's objectives include providing an analysis of the potential impact of artificial intelligence, robo-advice and fintech developments on financial advisors and their clients; and proposals for potential actions and initiatives to be undertaken by the TTF or other relevant stakeholders.

## **New Technologies and Consumer Protection**

We are pleased that FSCO recognizes the growing need to support innovation in the marketplace while maintaining its focus on consumer protection. However, as consumers' demand for more technologically innovative financial products increases, so should regulators' responsibility to protecting their privacy. There is technology being implemented and tested that is impacting consumers already, including "black boxes" in cars tied to car insurance premiums; mortgage companies assessing loan applications by surfing a consumer's social media; and life insurance companies utilizing lifestyle assessment technology that assess genes and eating habits, to mention just a few examples. We strongly suggest that regulators seriously commit to a robust assessment process of the privacy implications of these technologies, as well as the introduction of an overarching guiding principle for developers in this space.

In addition to consumer privacy concerns, we are worried about data theft. Data theft has become a common occurrence by thieves that are constantly developing new ways to access large pools of consumer and corporate data. We would like to know what role FSCO expects to play in protecting consumers' personal information in such circumstances, and if you are considering conducting data firewall tests as part of a regular audit process.

Advocis believes that the appropriate approach to rapidly evolving technologies should avoid simply capturing today's technology in rules and regulations that may become obsolete tomorrow. Therefore, we suggest that the following regulatory guiding principles be considered:

- a) Technological neutrality: regulation should not give preference for one technology over another;
- b) Proportionality: regulation should reflect the business model, size, significance, complexity and ultimately risk; and
- c) Integrity: in terms of transparency, security, and use of data.

## **Conclusion**

We commend FSCO for recognizing the important role it needs to play in fostering an innovative marketplace. As part of this, FSCO should commit to implementing effective measures to ensure consumers' privacy is protected. We strongly believe that the right balance between innovation and consumer protection can be achieved when regulators establish and enforce guidelines that require new technologies to be respectful of Ontarians' privacy.

Advocis' TTF would be pleased to work with FSCO and its partners as it moves forward in finding ways to being more responsive to innovation. 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](mailto:eskwarek@advocis.ca).

Sincerely,

A handwritten signature in black ink, appearing to be 'G. Pollock', with a long horizontal stroke extending to the right.

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

A handwritten signature in black ink, appearing to be 'J. Virtue', with a stylized '2' at the end.

Jim Virtue, CFP, CLU, CA  
Chair, National Board of Directors