

April 29, 2022

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: Consultation [2022-006]  
Proposed Principles-Based Regulation Guidance**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments in regard to the Financial Services Regulatory Authority of Ontario (“FSRA”) and its Consultation [2022-006], *Proposed Principles-Based Regulation Guidance* (the “Guidance”).

## **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. COMMENTS**

We appreciate FSRA’s effort in advancing principles-based regulation (“PBR”). Advocis has been a strong supporter of principles-based and outcomes-focused regulation. A significant advantage of a principles-based regulatory approach over a prescriptive one is that the former focuses on outcomes and higher-level principles such as acting with integrity and competence while keeping an overall focus on the best interest of the client.



Through a principles-based approach, regulators need not draft prescriptive rules aimed at every scenario or aspect of the relationship they regulate – a task that is nearly impossible for regulators to do and very costly for industry to comply with. Instead, PBR shifts the onus on industry participants to ensure that they are compliant with not just the letter, but also with the spirit of the rule and law. PBR makes it much more difficult for individuals to take advantage of regulatory loopholes or to avoid the underlying policy intent based on technical interpretation. In the absence of prescriptive rules, those subject to the regulation will be accountable at a higher level for their role in achieving the intended outcomes.

In adopting an outcomes-focused approach, PBR confers a level of discretion to regulated entities in the manner they achieve the intended outcomes. A healthy and competitive financial services sector provides consumers with the services they need, at reasonable cost, with strong and effective consumer protections acting as guardrails in that competitive space. PBR is particularly well suited to advancing the overarching consumer protection goals that CISRO/CCIR has set for insurers and intermediaries in its fair treatment of customers (“FTC”) guidance.

We believe that PBR generally, and the achievement of FTC more specifically, are most likely to be successful when bolstered by high standards of professionalism at all levels of the industry. This professionalism starts with an expectation that insurance sector stakeholders put the client’s interest first. When applied in a pragmatic and risk-based approach to financial advisors, this overarching mindset informs things such as the use of client-facing professional titles, the substance of continuing education courses, and how market conduct supervision is conducted.

We are mindful of the tremendous impact the financial services sector can have on consumers’ lives, both positive and negative. This impact underlines why we believe professionalism is so important to PBR interpretation and FTC outcomes. At the same time, we recognize that there are times when, on balance, it is necessary for regulators to take a more prescriptive approach. But resorting to a prescriptive approach should be limited to only those situations that clearly necessitate it. A prescriptive approach brings about additional regulatory burden, which ultimately impacts consumers negatively through higher fees or reduced services. These are not outcomes intended by regulators. Therefore, it is crucial that a consumer-centric approach to regulation strikes a proper balance between PBR, a flexible and outcomes-focused approach as the default option, and only utilizes prescriptive methods when absolutely necessary.

On this note, we appreciate the Guidance’s focus on transparency and collaboration. We urge FSRA to provide industry participants with meaningful opportunities to first address those regulatory challenges before moving on to adopting prescriptive rules. An effective approach to PBR requires meaningful engagement and communication with all industry members. Industry associations and professional bodies can shed light into business practices and provide valuable expertise in identifying and addressing regulatory challenges. Once a regulatory issue has been



identified, all industry participants along with regulators have a role in effectively addressing the issue and advancing FTC outcomes.

Lastly, we welcome FSRA's adoption of a principles-based and outcomes-focused approach to enforcement. We believe that preserving a flexible and risk-based approach to enforcement is a crucial aspect of effective PBR. An outcomes-focused and principles-based approach should reflect the business model, size, complexity and ultimate risk represented by market participants. We look forward to engaging with FSRA on developing guidance on its approach to investigations and enforcement.

### **3. CONCLUSION**

We commend FSRA's leadership in implementing PBR within the industry. PBR, when implemented properly, can enhance consumer protection and drive competition and innovation. We look forward to having productive discussions with FSRA on further developing and implementing this Guidance. Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Advocacy and General Counsel 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