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Dear Mr. Day:

Re: Ontario Securities Commission Draft Statement of Priorities for Fiscal 2013/14

Thank you for the opportunity to comment on the Ontario Securities Commission's (OSC's) Draft Statement of Priorities for Fiscal 2013/2014 (the "Draft SOP").

About Advocis

Advocis, The Financial Advisors Association of Canada, is the country's 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 of serving Canadian financial advisors and their clients. Our over 11,000 members 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.

As a voluntary organization, Advocis is committed to professionalism among financial advisors. Advocis members adhere to our published Code of Professional Conduct, uphold standards of best practice, participate in ongoing continuing education programs, maintain professional liability insurance, and act in their clients' best interest. Across Canada, no organization's members spend more time working one-on-one with individual Canadians on financial matters than do ours. Advocis advisors are committed to educating clients about financial issues that are directly relevant to them, their families and their future.

Almost all Advocis members are regulated under provincial securities commissions. As the OSC is a key regulatory body for securities intermediaries and dealers and oversees powers delegated to recognized self-regulatory organizations, its priorities and activities directly affect a significant number of Advocis members. The following specific comments relating to these priorities are in respect of the areas that coincide with the priorities of Advocis and those that directly impact our members.

The Value of Financial Advice

Advocis member financial advisors work with their clients to achieve the same fundamental goal that is at the heart of the OSC's Mandate: helping consumers to save and to invest prudently, and thereby to promote the long-term financial security of Canadians.

Academic studies confirm that Canadians benefit tremendously from access to financial advice, and Canadians who use financial advisors consistently accumulate more wealth, at all wealth and income levels, than those who do not use financial advisors.

In July 2012, the Montreal-based Centre for Interuniversity Research and Analysis on Organizations ("CIRANO") released Canada's largest and most scientific independent study to date on the value of advice. The study, entitled Econometric Models on the Value of Advice of a Financial Advisor¹ (the "CIRANO Study"), is based on data collected from over 10,000 households in 2010 and 2011 and provides strong evidence of the connection between financial advice and the accumulation of financial wealth.

After accounting for more than 50 variables that could influence wealth accumulation, the CIRANO Study reported that people who work with a financial advisor and receive financial advice accumulate considerably more wealth over time than people who do not receive financial advice. The longer the relationship with the advisor, the greater the beneficial impact for consumers: households with four-to-six year long relationships accumulated 58% greater assets than non-advised households, whereas households with 15+ year relationships accumulated 173% greater assets.

The CIRANO Study confirms research conducted by the Investment Funds Institute of Canada ("IFIC"). In each of 2010 and 2011, IFIC released studies (the "IFIC Studies") that indicate a likely correlation between financial advice and higher levels of financial assets, retirement readiness and financial literacy among consumers.

Our Comments

Our comments concerning some of the OSC's Key Regulatory Priorities and Proposed Actions in the coming fiscal year are set out below.

¹ <http://www.cirano.qc.ca/pdf/publication/2012RP-17.pdf>; also see: <http://www.advocis.ca/regulatory-affairs/Regbulletins/sp-bull-049-oct12.pdf>.

Warn investors about potential harm

The Draft SOP states that one of the OSC's Key Regulatory Priorities for 2013-2014 will be "to proactively expand the use of communications strategies to warn investors about potential harm."

We welcome this priority, with a caveat: When warning consumers about potential harm and the risk of fraud in the financial markets, we would urge the OSC to encourage consumers to seek financial advice from proficient, ethical professionals (such as Advocis members) who are dedicated to client service.

Consumers who use financial advisors benefit greatly, accumulating far more wealth than those who do not, at all wealth and income levels.

The British Columbia Securities Commission in its recent "Be Fraud Aware" initiative produced a number of videos that warn BC consumers about the risks of dealing with an unscrupulous and predatory financial advisor. These professionally produced videos depict a dapper, smooth-talking and utterly amoral fraudster whose mission is to talk unsuspecting British Columbians out of their money so that he can enjoy his luxury condo and his yachts. Unfortunately, viewers of the BCSC's Be Fraud Aware videos could form the impression that most financial advisers are scoundrels. We urge the OSC to take care that its proactive communications strategies do not paint good advisors with a brush meant for scoundrels, and does not discourage consumers from seeking out good advisors.

Investor Outreach

The Draft SOP states that the OSC will "engage investors and investor advocacy groups, including the Investor Advisory Panel, through community meetings and outreach... and focus groups to better understand investors' key concerns."

We support wholeheartedly the OSC's intention to engage investors and investor advocacy groups in order to better understand investors' key concerns. However, we do not believe there is any good reason for the OSC to limit its outreach and engagement to investors and investor advocacy groups. We urge the OSC to engage with financial advisors as well.

Adviser Responsibilities to Investors

The Draft SOP states that the OSC will "work with investors and SROs to examine and better understand the impact of imposing a best interest duty on dealers and advisers."

We believe this commitment should be broadened beyond investors and SROs to also include working with dealers and advisors.

(Also see our comments further below, "regarding Initial assessment of the application of a best interest standard.")

Suitability Sweeps

The Draft SOP states that the OSC intends to “conduct a ‘mystery shop’ research sweep of advisers to gauge the suitability of advice currently being provided and identify areas of concern and assist in targeting future OSC suitability sweeps.”

We welcome the OSC’s commitment to documenting and evaluating suitability practices.

We hope that the proposed evaluation of the suitability of advice will go beyond using surveys and focus groups to identify examples of unsuitable advice in order to initiate highly visible enforcement proceedings.

We believe the assessment of the suitability of advice that is provided to consumers should go beyond shaming of bad advisors, and should also focus on good advice and the benefits that consumers derive from advice.

We urge the OSC to consult with financial advisors, including Advocis and its members, concerning the proposed methodology of mystery shops and suitability sweeps and how the results will be reported. We are concerned that publicizing “bad apples” who offer egregiously unsuitable advice should be done with care, in a way that does not taint the reputation of good financial advisors and does not discourage consumers from seeking out financial advice.

Initial assessment of the application of a best interest standard

The Draft SOP states that the OSC will “publish an initial assessment of the application of a best interest standard for advisers and dealers (including a regulatory impact analysis.)”

Earlier this year, Advocis submitted comments² in response to Canadian Securities Administrators Consultation Paper 33-403: The Standard Of Conduct For Advisers And Dealers: Exploring The Appropriateness Of Introducing A Statutory Best Interest Duty When Advice Is Provided To Retail Clients. We have undertaken detailed analysis of the potential impact of the application of a best interest standard, and have identified some potential consequences that could be harmful to consumers.

We encourage the OSC as a participant in the CSA consultation, to engage in transparent and open dialogue with all stakeholders, prior to coming to final decisions regarding whether to impose a best interests standard and the form that it should take.

² http://www.osc.gov.on.ca/documents/en/Securities-Category3-Comments/com_20130220_33-403_pollockg_lockharth.pdf.

We also urge the OSC to include in any assessment and regulatory impact analysis, a review of the impact that the implementation of new standards for dealers and advisers in the UK and in Australia is having on client access to financial advice in those markets.

What's missing?

The OSC has a broad, market-oriented mandate: to protect investors from unfair, improper or fraudulent practices and to foster fair and efficient capital markets. In exercising its investor protection mandate, the OSC places considerable emphasis on industry sales practices, and whether the products that are being sold to investors are suitable.

We believe that over time, the OSC's mandate has become much broader, and should be recognized as also encompassing the fundamental purpose of sound capital markets, which is to promote the financial security of individuals through the ability to invest savings safely and securely. We submit that a question the OSC should be asking is whether there are ways the OSC can use its regulatory authority to promote better outcomes for consumers in the capital markets.

We believe the OSC's focus on sales practices is too narrow, and the OSC should expand its focus beyond the suitability of investment recommendations, to also consider broader systemic issues that bear on the role of the capital markets as a mechanism for consumers to accumulate savings. For example, a narrow question that the OSC concerns itself with is whether the risks of a particular security are being disclosed to consumers in an appropriate way. A broader question that we believe the OSC should also consider and incorporate into its Priorities, is the impact of different approaches to risk disclosure and to compliance on investment outcomes – with a focus on what actually benefits consumers, and how the OSC can apply its regulatory tools to promote consumer saving and long-term financial security.

We believe the OSC should not focus narrowly on the mechanics of sales practices, but should also consider more broadly, whether and how its approach to regulation can have an impact on consumer financial literacy, approaches to savings and investment, effective consumer decision-making, access to professional financial advice and long-term capital accumulation.

Consumer decision-making

We believe the OSC should make understanding how consumers actually make decisions regarding investment one of its priorities. The OSC and the CSA should study how actual consumer decision-making takes place - what information about investment products consumers actually assimilate, what criteria they actually weigh in making investment decisions, and what conclusions can be arrived at regarding the quality of consumers' decision processes and what might be done to improve them, particularly with regard to investment outcomes and portfolio performance over time.

We believe that regulation should be based on a realistic understanding of how many or most consumers actually make investment decisions, and should not be based on the assumption that most consumers can be expected to consistently make well-informed and well-considered investment decisions on their own.

We expect that research into the consumer decision process will show that most consumers do not actually make informed decisions based on their own detailed and considered assessment of alternatives when choosing investment products. In general, consumers who are making decisions about investment products are not inclined to assimilate a lot of detailed information about a selection of financial products, to carefully compare choices in detail, weigh alternatives and select the optimal product to suit their needs. Financial advisors seek to inform and educate consumers about choices, but ultimately the consumer tends to rely on the advisor's judgment.

Prudent consumers rely on financial advisors and the advice they offer when making investment choices. The single crucial element in that process is the expertise and professionalism of the financial advisor. The public interest will be best served if the financial advisors that consumers rely on are proficient, professional, ethical and accountable.

Regulators and SROs act as gatekeepers in establishing proficiency standards for individuals who sell financial products to consumers, but in our view more is needed to enhance the professionalism and accountability of all financial advisors. Accordingly, we submit the OSC should give more priority to ensuring that consumers have access to financial advisors who are proficient, professional, ethical and accountable. We believe the Advocis' Raising The Professional Bar initiative, by requiring all financial advisors in a province to belong to an accredited professional association (as described below), and by making that a condition of licensing to sell financial products and of holding out as a financial advisor, will help to ensure that consumers receive the financial advice that they need.

The Advocis Professions Model

We submit that the OSC should make promotion of the professionalism of financial advisors priority.

Advocis has developed its Professions Model as a framework for promoting consumer access to professional, proficient and ethical financial advisors, encompassing all Canadian jurisdictions and all financial services.

Financial advisors are vitally important to helping consumers to develop sound habits of saving and prudent investment. This includes educating consumers and helping them to understand financial products and make sound investment decisions. Empirical evidence establishes without question, that consumers at all asset and income levels benefit greatly from having ongoing access to financial advice.

Millions of Canadians rely upon financial advisors to provide them with financial planning and investment advice, including access to financial products and services to help achieve those plans.

Given the advisor's central role in securing their financial futures, Canadians should be able to trust that their advisor satisfies high industry-wide standards of professionalism, proficiency and accountability.

Unfortunately, this is not always the case: currently, in nearly every province, anyone can hold themselves out as a financial advisor, regardless of training or licensing, and it is far too easy for individuals who do not meet the standards in one regulated sector to continue to deal with the public elsewhere. As well, standards for important consumer safeguards such as continuing education or errors and omissions insurance vary widely by province and sector.

The current system leaves consumers exposed. Advocis believes the current situation can be greatly improved with a straightforward new requirement: all persons who hold themselves out to the public as financial advisors or who are licensed to sell any financial products should be required to maintain membership in a recognized professional association that enforces robust professional and ethical standards.

This requirement will significantly enhance consumer protection by raising the professional bar for all financial advisors. Advisors will be required to comply with the association's high proficiency and conduct standards that are enforced with an effective complaints and disciplinary process. Advisors who run afoul of the requirements of a financial regulator or SRO will also be accountable to their professional association. Consumers will be able to easily verify their advisor's credentials and disciplinary history across industry sectors. Advisors themselves will benefit from enhanced public trust, status and confidence in them as true professionals, while seeing unethical colleagues who tarnish the industry removed in an efficient manner. Product providers will enjoy enhanced professionalism from the individuals who represent their firms to the public and a stronger platform from which to recruit new advisors.

This proposal is designed to complement but not conflict with the existing regulatory framework, which is largely focused on the sales of specific insurance and securities products. Rather than duplicate the efforts of existing regulators, the proposal fills in critical regulatory gaps that arise from this product focus and better reflects the comprehensive approach to financial planning and investment advice that most Canadians receive.

We look forward to working with the OSC to assist in achieving its objectives for the coming fiscal year and into the foreseeable future.

Advocis appreciates this opportunity to provide comments on the OSC's Priorities and would be pleased to address any concerns or answer any questions. Please feel free to contact the undersigned or Ed Skwarek, Vice President, Regulatory and Public Affairs, at 416-342-9837 or eskwarek@advocis.ca.

Yours 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 'H. Lockhart'.

Harley Lockhart, CLU, CH.F.C.
Chair, National Board of Directors