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Philip Howell
Chief Executive Officer and
Superintendent of Financial Services
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto, Ontario
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Dear Mr. Howell:

Re: FSCO Statement of Priorities – June 2010

Advocis appreciates the opportunity to provide comments to the Financial Services Commission of Ontario (FSCO) regarding its Draft Statement of Priorities – June 2010.

Advocis, The Financial Advisors Association of Canada, is the largest and oldest professional membership association of financial advisors and planners in Canada. Our association was founded in 1906, as the Life Underwriters Association of Canada. Our almost eleven thousand members in Canada (5,000 of which are Ontario members) provide comprehensive financial planning and investment advice, retirement and estate planning, risk management, employee benefit plans and disability coverage, to millions of Canadian households and businesses. Our members are provincially licensed to sell life and health insurance and mutual funds and other securities. Advocis members are for the most part independent owners and operators of small businesses, entrepreneurs who create thousands of jobs in every community across Canada.

Advocis members maintain lasting relationships with their clients based on trust. They help clients, young and old, individuals, families and businesses, to set financial goals, manage risks, save consistently and invest prudently.

Advocis members embody professionalism based on education, best practices, and high standards of proficiency and ethics. Advocis promotes the professionalism of financial advisors through:

- Advocis' Code of Professional Conduct;
- Guidance on best practices;
- Errors and omissions insurance coverage that protects consumers;
- Professional designations supported by a comprehensive curriculum and rigorous standards – Advocis' Chartered Life Underwriter (CLU) and the Registered Health Underwriter (RHU); and educational support for the attainment of the Certified Financial Planner (CFP); and
- Mandatory competency-based continuing education.

Advocis believes that Canadians should have ample access to professional financial advice, products and services and should be able to choose among a diverse range of financial service providers. Independent-minded, entrepreneurial, small business professional financial advisors provide valuable service to Canadians in delivering professional financial advice, products and services and have a significant place in the financial services sector.

Mandate and Vision of FSCO

Given that FSCO is the regulatory body for insurance intermediaries in Ontario, its strategic priorities and activities directly impact Advocis members. As a key stakeholder in the policy development process as it relates to the licensing, market conduct and consumer protection in the distribution of life and health insurance, we are supportive of the mandate of FSCO: “To provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors” and its vision “To be a progressive and fair regulator working with its stakeholders to support a strong financial services sector”.

As a key stakeholder, we are supportive of FSCO’s culture of partnership and dialogue with the Ministry of Finance, consumers, pension plan beneficiaries and other stakeholders such as Advocis as it fulfills its mandate. FSCO not only works with the Ministry of Finance to implement changes to legislation and regulation but also has, as one of its key roles, making recommendations to the Minister on matters affecting the regulated sector, including recommendations to keep the regulatory system current.

Focused Regulatory Approach

Advocis is supportive of the objective to work to have a responsive, modern regulatory framework which protects consumers and investors while supporting a healthy and competitive marketplace (page 5).

Principles-Based Regulation (PBR)

Advocis believes that a principles-based approach to regulation, which is focused on outcomes, will provide greater flexibility to deal with new circumstances, new challenges and new products while providing consumer protection and an effective and efficient means of regulating market participants.

A principles-based approach to regulation requires regulators to adopt a sound approach to regulation, one based on detailed consultation with stakeholders. At the same time, stakeholders take an active interest and participate in the formulation of regulation and rules. Advocis does this through its best practices manual where it develops guidelines and practices to assist its members comply with a given principle. Advocis believes in a principles-based approach to regulation where stakeholders must be proactive and a partner with regulators in achieving a progressive, vibrant and competitive marketplace.

The guiding core regulatory principles that should direct action on the part of regulators are:

- Act only in the case of market failures, information asymmetries or matters of consumer protection;
- Identify the problem through detailed consultation and analysis; and

- Employ PBR responses unless there is clear evidence that absent a prescriptive policy response, harm will be done to the market or consumers.

In a PBR environment the idea is for the regulated industry itself to design the detailed rules and procedures that will permit the standards set by the principles to be achieved. It is expected that such guidance would come from industry associations, professional bodies or groups of firms.

We urge FSCO to continue to engage industry associations and professional bodies such as Advocis to develop the guidance to meet the expectations for a given principle.

Regulatory Recognition of Industry Practices

Another aspect to the PBR approach to regulation is providing regulatory recognition to industry guidelines and practices. Industry Guidance is information created, developed and freely issued by a person or body, other than the regulator, which is intended to provide guidance to the industry about the provision of the regulation. FSCO should examine the use of Industry Guidance in the Ontario insurance market and distribution system. FSCO should examine providing regulatory recognition to Industry Guidance if it is consistent with an established regulatory principle as professional associations, such as Advocis, play a significant role in helping the industry develop suitable practices to meet their regulatory obligations.

Partnership and Quality Service

As a key stakeholder, Advocis is supportive of FSCO's culture of partnership and dialogue with the Ministry of Finance, consumers, pension plan beneficiaries and other stakeholders such as Advocis as it fulfills its mandate. We are in agreement that in order to effectively achieve its regulatory goals, it is essential that FSCO have strong working relationships with stakeholders. As FSCO develops stronger relationships and communications with its stakeholders, it will enhance FSCO's understanding of the issues that those stakeholders face in that particular regulatory sector in which they operate and the role that industry associations, such as Advocis, play in that regulated sector. We would be pleased to discuss with FSCO how to further improve these processes so that FSCO can further advance its mandate and vision of protecting the public interest and enhancing public confidence in the regulated sectors and supporting a strong financial services marketplace.

We commend both FSCO and the CCIR for continuing their tradition of consulting with stakeholders at the early stages of policy development. We believe that this is extremely important, since it is in the early stages of developing new policy where stakeholder input is the most valuable. It is our hope that other Canadian regulators will follow the example set by insurance regulators as a model for undertaking meaningful public consultations with consumers, financial advisors and other market participants.

FSCO's Strategic Priorities

FSCO has identified the following key strategic priorities which will guide FSCO in achieving its goals:

- i. Conduct FSCO's activities in accordance with risk-based principles.
- ii. Continuous improvement in the delivery of our services.
- iii. Foster a coordinated national approach to regulatory issues.

Harmonization and a Coordinated National Approach

We commend FSCO for supporting the development of harmonized regulatory solutions through its participation with national organizations such as the Joint Forum, the Canadian Insurance Services Regulatory Organizations (CISRO), the Canadian Association of Pension Supervisory Authorities (CAPSA) and through the CCIR. It is through the continued participation and efforts in these organizations that the regulation of financial services intermediaries across Canada will have a greater degree of consistency so that unnecessary regulatory burdens will not be placed on those participants who operate in more than one province or who are dual-licensed. Advocis has participated with FSCO in its efforts through these national organizations.

As a national organization, Advocis supports efforts to achieve a national approach to regulation, to the greatest extent possible. We urge FSCO to work with the Joint Forum, CCIR and CISRO, along with other national industry associations such as Advocis, in order to achieve a national approach to regulation and the implementation of that approach, to the greatest extent possible.

We have noticed that while there has been much progress on developing, through these national organizations, a harmonized approach to regulation, when it comes to implementation, each province tends to develop a unique regulatory regime which does not mirror the harmonized solution proposed by the national organization.

We believe it is important that individual regulators within these umbrella organizations follow the recommendations, where appropriate and applicable in their respective jurisdictions, if national harmonization is to be achieved. We suggest that FSCO, as a leader in these organizations, develop formal standards and guidelines to ensure that a harmonized approach is taken, where appropriate. If this does not occur, it defeats the main objectives of these initiatives and dilutes the effectiveness of coordinating regulatory bodies. In addition, it creates an uneven playing field as intermediaries in some jurisdictions are regulated differently than intermediaries in other jurisdictions within Canada.

Joint Forum

Examine the responsibilities of investment product manufacturers, intermediaries and consumers to ensure consumers are offered suitable products and are able to make informed decisions.

Advocis would be pleased to contribute to the work of the Joint Forum and looks forward to contributing as a stakeholder on this initiative as it proceeds.

CCIR

Review, with CISRO, the regulation of managing general agencies, wholesale agencies *wholesale brokers and third party administrators* to identify and address risks to consumers, regulatory gaps, and legislative and regulatory barriers.

The Agencies Regulation Committee of the CCIR has become active in examining the managing distribution channel. Advocis has been participating with other industry stakeholders in an Agencies Regulation Committee Working Group headed up by CAILBA in order to assist the Agencies Regulation Committee of the CCIR in its examination of MGAs. Advocis provided

the Committee with a written submission describing the roles and responsibilities of the advisor and the MGA. Reports have also been submitted by other industry stakeholders. Advocis also has participated in a meeting with the Chair of the Committee to discuss its submission.

Advocis is pleased to provide information to the Committee that will assist it to better understand the managing general agencies distribution channel for life and health insurance to determine whether there are, in fact, any risks to consumers or regulatory gaps or legislative and regulatory barriers that need to be addressed.

FSCO's Strategic Priorities and Our Focus Areas

Advocis urges FSCO, to include as one of its focus areas, the review of the regulatory system for the sale of incidental insurance products in Ontario in light of the recommendations made by the CCIR-CISRO Incidental Selling of Insurance (ISI) Working Group in their Final Report dated November 2008. We would also urge FSCO to make recommendations to the Ontario government as to how to regulate ISI so that the regulatory gap which has developed can be addressed and in order that there is adequate consumer protection.

As a first step, we would urge FSCO to utilize the work of the Canadian Council of Insurance Regulators (CCIR) which indicated in the ISI Working Group Final Report dated November 2008 that it would establish a new committee to determine what further statistical information is required to further assess the conduct of this business and enable regulators to make timely and effective regulatory decisions. The report of this committee was to be reviewed by CCIR at the end of 2009. In addition one of the key recommendations of the Final Report was that the CCIR should obtain statistical information on incidental insurance products and related complaints and that a fuller statistical assessment be considered through requiring changes in the annual filings of insurers and sellers of ISI or through a market survey of insurers involved in ISI. Accordingly, as part of its first steps, we urge FSCO to work closely with the CCIR in ensuring that this information is obtained and the work of the new committee remains a priority. The following specific comments relating to these priorities are in respect of the areas that coincide with the priorities of Advocis and that directly impact our members.

Improve compliance with the Mortgage Brokerages, Lenders and Administrators Act, 2006

Review Continuing Education needs for life insurance agents, mortgage agents and brokers to ensure consumers are served by intermediaries with up-to-date skills.

Advocis supports educational requirements that allow regulators and consumers to have confidence that agents have the necessary knowledge, skills and abilities, stay compliant with the changing regulatory framework and better assist their clients in developing the financial literacy and necessary knowledge to make informed decisions about their financial future.

The CLU Institute has recently developed a CE Accreditation Tool and CE Accreditation Service which is leading edge and sets a new standard for the accreditation of continuing education courses.

The CE Accreditation Service is an impartial review of CE programs to ensure a clear standard of educational quality has been met. An Accredited CE program has been reviewed against the

Practice Guidelines for Financial Advisors and Planners¹ and has been determined to be current and relevant for financial advisors and planners. The CE Accreditation tool will provide protection for the Canadian consumer of financial services as the CE that will be accredited will help financial advisors and planners to:

- Develop their knowledge, skills and abilities;
- Stay compliant with the changing regulatory framework; and
- Better assist their clients in developing the financial literacy and necessary knowledge to make informed decisions about their financial future.

To have an accredited CE program will mean that it has met a clear standard of educational quality, has been reviewed against the competencies contained in the Practice Guideline and is relevant to today's financial advisors and planners². We believe that this should be the standard against which all continuing education programs are reviewed for accreditation purposes.

As part of your review of continuing education needs, we would be pleased to discuss how the CE Accreditation Tool and CE Accreditation Service can be utilized to ensure that consumers are served by intermediaries who have up-to-date skills.

We would also like to explore with you how FSCO could give appropriate regulatory recognition to professional designations such as the CLU, RHU and CFP when determining the number of hours of continuing education that are required to maintain one's life and health insurance license, as is done by the BC Insurance Council. A licensee who has a CLU (for example) in good standing, is "exempt" from Council's continuing education requirements. This gives appropriate recognition to the CE obtained by the designee.

Modernize FSCO's market conduct policies and procedures to provide a more consolidated and consistent approach to handling market conduct complaints

We agree that market conduct related complaints can be indicative of evidence of potential problems in the marketplace. The modernization of policies and procedures in relation to the handling of such complaints will improve delivery of FSCO's services to consumers and help achieve its mandate of protecting the public interest and enhancing public confidence in the regulated sectors.

We believe that communicating with industry about the nature of consumer complaints received can help FSCO in achieving its mandate as any potentially systemic problems may be more easily identified and addressed.

¹ By working with a Development Group and an External Review Group, the Practice Guidelines for Financial Advisors and Planners, the CLU Institute developed the Practice Guidelines for Finance Advisors and Planners. The Practice Guidelines include a Practice Competency Framework and a Practice Behaviour Framework which jointly delineate the knowledge, ability and behaviour that are necessary for financial advisors and planners to perform their job duties and associated tasks both competently and ethically.

² The Continuing Education Accreditation Advisory Council, an independent body, will maintain and develop the Practice Guidelines and review the criteria for CE Accreditation on an ongoing basis in order to ensure that emerging issues are carefully considered and that the review instrument content and procedures remain valid, reliable and fair.

Modernize and strengthen Ontario's pension system

Advocis has been actively engaged in the review of Ontario's pension system and the public policy discussion regarding reforms to the retirement income system.

Advocis has established a Retirement Income Adequacy Committee whose mandate is to identify retirement and pension issues that are of concern to Canadians and to promote a sound retirement income system in Canada including reforms to improve retirement income adequacy for Canadians now and in the future.

Develop and host information sessions for pension plan administrators to raise awareness of legislative requirements and promote compliance

We support the communication of legislative requirements and the promotion of compliance to pension plan administrators. We trust that the information sessions will deal with both defined benefit plans along with Capital Accumulation Plans such as defined contribution plans and would include promotion of compliance with the CAP Guidelines.

In closing, we would be pleased to discuss our comments with you and look forward to working with FSCO to support its mandate of providing regulatory services that protect the public interest and enhance public confidence in the regulated sectors. If you have any questions, please do not hesitate to contact us.

Yours sincerely,



Greg Pollock
President and CEO



Terry Zavitz, CFP, CLU, RHU, GBA, EPC
Chair, National Board of Directors