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June 28, 2010

Ms. Louise Levonian  
Assistant Deputy Minister, Tax Policy  
Department of Finance Canada  
140 O'Connor Street  
Ottawa, ON  
K1A 0G5

Dear Ms. Levonian:

**Re. Status of Financial Services Under the Excise Tax Act**

Advocis, on behalf of its members, is seeking clarification and confirmation from the Department of Finance of its long-standing policy intent that services performed by intermediaries in the financial services sector that have traditionally been considered exempt supplies of "financial services" under the *Excise Tax Act*, continue to be "financial services" and exempt from GST.

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 across Canada 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.

The Minister of Finance released a statement on March 26, 2010 in response to wide-spread concern from industry and tax experts about the uncertainty, confusion and expansion of the range of financial services that would no longer be exempt from GST given the December 14, 2009 Federal News Release and Backgrounder issued by the Department of Finance, the draft legislation contained in the federal budget (and now contained in Bill C-9) and GST/HST Notice No. 250 (the "CRA Notice").

The Minister confirmed that the Federal News Release and Backgrounder, which outlined the changes to the definition of "financial services", was intended to address the uncertainty arising from certain court decisions and not as a change in policy. In particular he stated:

"Businesses need clear GST rules. The proposed changes contained in the Notice of Ways and Means Motion tabled in the House of Commons on March 22, 2010 are designed to confirm our long-standing policy intent and restore the situation that existed prior to the court decisions. We are not imposing new taxes."

The Minister's statement also indicated that the CRA is reviewing and updating the CRA Notice.

The Minister has indicated that the intention of the Department of Finance is simply to clarify the definition of financial services as a result of the court cases and that there was no intention to change tax policy.

The CRA has inserted the following statement to the front of the CRA Notice: "Given the recent tabling of Bill C-9, the Jobs and Economic Growth Act, outlining proposed amendments to the GST/HST treatment of financial services on March 29, 21010...the CRA will be reviewing and updating this notice to reflect policy intent and the proposed legislation."

Accordingly, Advocis seeks confirmation and clarification that the services provided by its members that have traditionally been considered to be "arranging for" under paragraph (l) of the definition of financial service in the *Excise Tax Act*, will continue to be "financial services" and exempt from GST. Such services relate to the "arranging for" the purchase or sale of a financial instrument or insurance product and services, and would include trailer commissions, front-end load commissions and other fees that the advisor receives as a result of his or her services to the consumer. These services (for example, trailer commissions and front-end load commissions) should be contained within a revised CRA Notice which clearly indicates that they are exempt from GST.

In addition, Advocis urges the government to amend the draft legislation so that the legislative amendments conform to the long-standing policy intent. Amending the draft legislation will avoid a revised CRA Notice which could have a broad interpretation of the legislation as it now stands and which results in significant consequences for financial advisors and to Canadian investors, who will otherwise be subject to an increased tax burden.

We would be pleased to meet with you to review this matter at the earliest opportunity as the government's tax policy with respect to financial intermediaries is of great concern to our members and their clients.

Yours sincerely,



Greg Pollock  
President and CEO



Terry Zavitz CFP, CLU, RHU, GBA, EPC

c.c. The Honourable James Flaherty, Minister of Finance  
c.c. Mr. Ivan Bastasic, Director, Financial Institutions and Real Property Division, CRA