



Advocis
390 Queens Quay West, Suite 209
Toronto, Ontario
M5V 3A2

T 416.444.5251
1.800.563.5822
F 416.444.8031
www.advocis.ca

Steve Howard, CA
President and Chief Executive Officer
E-mail: showard@advocis.ca

June 11, 2007

Mr. Robert Day
Manager, Business Planning
Ontario Securities Commission
20 Queen Street West
Suite 1900, Box 55
Toronto, Ontario M5H 3S8

Dear Mr. Day:

Re: Ontario Securities Commission's Draft Statement of Priorities for 2007/08

Thank you for the opportunity to comment on the Ontario Securities Commission's (OSC's) draft statement of priorities for fiscal 2007/08.

Advocis, the Financial Advisors Association of Canada, is a national professional association that is committed to preparing, promoting and protecting financial advisors in the public interest. We do this by providing a professional platform including career support, designations, best practices direction, education, timely information and professional liability insurance. This strengthens the relationship of trust and respect between financial advisors and their clients, the public, and government. Advocis is Canada's oldest and largest voluntary professional membership association of financial advisors representing life and health insurance licensees, and mutual fund and securities registrants across the country.

While the majority of Advocis members are regulated under a provincial insurance regulatory regime, they are also regulated by 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. Our attached comments focus on the goals relating to the priorities of Advocis and those that directly impact our members.

We look forward to working to help the OSC achieve its objectives for the coming fiscal year and into the foreseeable future. Please do not hesitate to contact me if you have any questions regarding our comments on the draft statement of priorities.

Yours truly,

A handwritten signature in black ink, appearing to be "S. Howard", written over a horizontal line.



The Ontario Securities Commission's Draft Statement of Priorities for 2007/08:

Advocis' Submission to the Ontario Securities Commission

June 2007

Goal 1 Identify the Important Issues and Deal with Them in a Timely Way

We are encouraged that the OSC will consult and collaborate with industry participants and academics to identify and address important issues, and work to harmonize, streamline and modernize securities laws and regulations. It is our hope that the OSC, and through its various affiliations such as the Canadian Securities Administrators (CSA), recognize the value of stakeholder input at every stage of the policy development process.

Advocis believes that effective public policy requires clearly identifying issues or problems and then using appropriate methods to address or resolve them. To help identify important issues, we encourage the OSC to consult with relevant stakeholders who understand the business and who may bring a unique perspective to an issue. We believe that such stakeholders are an excellent resource that the OSC should consult more frequently, particularly during the early stages of policy development. Not only will such industry consultation lead to more effective and efficient policies and practices but it will garner more support among market participants. Unfortunately, and to the detriment of the industry and investors, there have been situations in the past where the conceptualization of regulatory policies appears to have taken place in a closed environment made up almost exclusively of regulators, without the benefit of broad industry input.

Advocis wishes to contribute to the consultative process to ensure that its views and concerns are appropriately addressed. We believe this will be beneficial to the OSC, as it will have the opportunity to consider input from the largest, broad-based group representing Canada's financial advisor community. The professional financial advisor provides guidance and advice to consumers as they interact with financial institutions, access financial instruments and plan for their futures. Having the views of financial advisors reflected in the OSC's deliberations is crucial, as financial advisors are frequently the direct link to consumers.

Moreover, Advocis brings a unique and valuable perspective to the policy discussion at a time when regulators are looking for ways to harmonize, modernize, and streamline regulation. As a majority of our members are self-employed independent financial advisors, dual-licensed for life and health insurance and mutual funds, are not direct participants of the capital markets, and are regulated by provincial insurance regulators, the issue of convergence in the financial services industry is important to them. As many of our members are subject to two provincial regulatory regimes (insurance and securities) we would like to see cross-pillar regulatory harmonization that is principles-based and not administratively costly or burdensome for our members.

Goal 2 Deliver Fair, Vigorous and Timely Enforcement and Compliance Programs

Advocis supports enforcement of regulatory policies and rules that provide protection to investors and foster confidence in the integrity of the capital markets in Ontario. Devoting more resources to enforcement related to market conduct and pursuing harmonization of enforcement practices across Canadian jurisdictions wherever possible will assist the OSC in achieving its goal.

Harmonization of enforcement practices includes strengthening the OSC's relationship with the self-regulatory organizations (SROs), specifically the Mutual Fund Dealers Association (MFDA) and the Investment Dealers Association (IDA) for the purpose of ensuring that securities laws and principles are accurately reflected in SRO policies and rules, and appropriately and consistently applied. We note that the interests of dealers and advisors are

often very different, and SROs do not always reflect the interests of advisors as their direct members are the dealer firms.

While Advocis believes that strong enforcement contributes to consumer protection, and we encourage the Commission to increase transparency of its enforcement activities where warranted through timely and effective communication, this objective must not compromise the OSC's role of providing fair and thorough investigations into cases against market participants.

Similarly, with respect to fair enforcement, we believe that a risk-based approach to investigation and enforcement targeting all market participants as a result of "bad behaviour" by a few individuals will not necessarily reduce the incidents of "bad behaviour" throughout the securities industry and will do little to promote investor confidence in capital markets. This only serves to add undue hardships on advisors who are in compliance with securities rules.

Goal 3 Champion Investor Protection, Especially for Retail Investors

Advocis is committed to enhancing consumer protection. We are encouraged by the OSC's goal to champion investor protection, particularly through investor education and initiatives that improve the advisor/retail investor relationship.

Advocis supports meaningful disclosure to retail investors that is easily understood, relevant to the transaction, mitigates real or potential conflicts of interest, and is easily comparable in a vast marketplace of financial products.

In this regard, we are pleased that the OSC is working within the Joint Forum of Financial Market Regulators on a proposed framework for point-of-sale disclosure that will propose clear, concise and plain-language product disclosure for investors in mutual funds and segregated funds. This initiative will likely help investors make more informed decisions with respect to the risks associated with financial products.

Advocis has been actively participating with the Financial Services Commission of Ontario (FSCO) and the OSC in their efforts through the Joint Forum to harmonize point-of-sale disclosure for Individual Variable Insurance Contracts (IVICs) and mutual funds. This is an important national initiative, thus it is important that the Joint Forum get significant "buy in" from all key stakeholders before finalizing a mandated point-of-sale disclosure template for IVICs and mutual funds.

Advocis believes that the Joint Forum would benefit from a roundtable industry consultative approach to determine the most appropriate disclosure format for the point-of-sale documents. We understand that the Joint Forum will be issuing a consultation paper on this and it is hoped that a common, cost-effective approach can be agreed upon.

Advocis believes that one of the most effective ways to protect consumers is to ensure that they receive professional financial services advice. Advocis takes the view that professional financial advice is delivered by an accredited financial advisor who has a professional designation, adheres to a professional code of conduct, maintains membership in a recognized professional body, subscribes to practice standards, acquires meaningful continuing education credits and maintains adequate errors and omissions (E&O) insurance coverage to protect both the consumer and the financial advisor.

Finally, Advocis believes that E&O insurance enhances investor protection by providing investor access to timely and affordable means of redress and restitution since the intermediary (which the consumer deals with directly) is held accountable. We note that the CSA's proposed registration reform rule [National Instrument 31-103] goes in the opposite direction of raising the professionalism of financial advisors through a principles-based regulatory platform and by delegating prescriptive rule-making authority to the SROs, and we will be providing our comments on this matter to the CSA in a separate submission.

Goal 4 Support and Promote a More Flexible, Efficient and Accountable Organization

Advocis supports the OSC's goal to make better use of its resources and believes that this could be achieved by reviewing its approach to public policy and its policy development process, including deciding what and how it will regulate.

While Advocis is a strong supporter of consumer protection, we believe that regulation is not always the most effective and efficient way to achieve this objective. We believe that when addressing emerging market developments, private-sector solutions should be considered before regulation. Not every investor "violation", whether it be real or perceived, can or should be remedied with a regulatory rule or policy.

Effective public policy requires identifying the problem or issue "correctly" and then using appropriate methods to address or resolve it. In some cases, there may not be a "problem" or issue that needs to be addressed. Moreover, regulators who initiate policy without input from market participants during the early development stages risk incorrectly defining the problem and hence implementing ineffective policies.

While we recognize the benefits of a proactive regulatory approach to prevent, detect and deter harm to investors and the overall market, we believe each regulatory initiative needs to be weighed against the risks of over-regulation and the imposition of unnecessary administrative burdens and compliance costs on market participants and ultimately investors. The overall cost of regulation is an important issue of increasing concern for our members.

We therefore encourage the OSC to consider the current cost/benefit analysis process to ensure that a robust review of the impact of proposed regulation on all stakeholders is completed before regulatory changes come into effect. The analysis should also consider alternative approaches, such as a principles-based approach to regulation. Moreover, we believe that the cost/benefit analysis should be shared with market participants to help them understand the rationale for any increased regulation.

In addition to consulting with industry participants, the OSC may find operational efficiencies in inter-provincial harmonization initiatives, and by adopting regulatory approaches taken by securities commissions in other provinces, provincial insurance regulators, and securities regulators in other countries.

Advocis supports principles-based regulation, where possible, which places greater reliance on principles and outcome-focused, high-level rules as a means of achieving regulatory objectives, and less reliance on prescriptive rules. The Financial Services Authority (FSA), the UK's integrated regulator for financial services, is moving away from a regulatory regime that has been prescriptive and rules-based, and towards one that is more principles-based. According to the FSA, prescriptive standards have not prevented misconduct.

Advocis believes that prescriptive rules that do not directly ensure enhanced consumer protection, impose additional regulatory burdens and costs on our small business members. These added costs make it more difficult for our members to compete against larger financial institutions, potentially resulting in fewer independent advisors in Ontario and ultimately less choice for consumers.

As outlined in its April 2007 paper: *Principles-based Regulation – Focusing on the Outcomes that Matter*, the FSA notes the rationale for its proposed new approach:

Past experience suggests to us that prescriptive standards have been unable to prevent misconduct. The ever-expanding rule books of our predecessor bodies and our consolidated Handbook, designed to prevent misdemeanor, have not stopped further misselling, market misconduct or other detriment. Instead we believe that detailed rules have become an increasing burden on our own and the industry's resources.

We note that principles-based regulation has also been used successfully in the regulation of insurance products in Canada, and we encourage the OSC to consider adopting more principles-based regulation in Ontario in an effort to reduce the regulatory burden on its own resources and those of financial advisors.

Advocis believes that the policy development process needs to be improved so that investor and advisor concerns are properly ascertained and addressed, otherwise investor service and delivery options will diminish to the detriment of the investor.

Advocis will make every effort to increase regulator sensitivity to ensure that the investor is well served and that regulators develop regulation that truly reflects the interests and needs of investors and advisors. In this regard, Advocis will continue to identify issues that its members and other market participants believe are important, including the policy development process itself, and bring them to the attention of regulators and legislative bodies. Moreover, we will continue to encourage the various legislative bodies to ensure that regulators broadly consult with industry stakeholders in the policy development process and incorporate their views into regulations where possible.

* * * * *