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Álvaro del Castillo
Acting Director, Industrial and Financial Policy Branch
Ontario Ministry of Finance
Office of Economic Policy, Industrial and Financial Policy Branch
Frost Building North, 4th Floor
95 Grosvenor St
Toronto, ON M7A1Z1

Dear Mr. del Castillo,

**Re : TRADE AND COOPERATION AGREEMENT BETWEEN
ONTARIO AND QUEBEC**

Advocis is pleased to participate in consultations with officials from Ontario and Quebec to further the objectives established in *The Trade and Cooperation Agreement between Ontario and Quebec* ("*The Trade and Cooperation Agreement*" or "*Agreement*"). Advocis' interests in this agreement are in respect of the financial services chapter (Chapter 7 Financial Services) and in particular issues related to financial services distribution regarding life and health insurance and securities, licensing and education requirements of life and health insurance agents and securities representatives, appropriate consumer protection measures, consumer education and financial literacy, and consumer choice and access to professional financial advisors.

Advocis, The Financial Advisors Association of Canada, is the largest and oldest voluntary professional membership association of financial advisors and financial planners in Canada. Our association was founded in 1906, as the Life Underwriters Association of Canada. We have more than five thousand members in Ontario who provide comprehensive financial planning and investment advice, retirement and estate planning, risk management, employee benefit plans and disability coverage, to over a million households and businesses across Ontario. Advocis has relatively few members in the province of Quebec, which is a function of the regulatory framework regarding professional designations and the provision of financial advice in that province.

Our members are provincially licensed to sell life and health insurance, and registered as mutual funds and securities advisors. Advocis members are primarily independent owners and operators of small businesses, entrepreneurs who create thousands of jobs across Canada. Advocis members are also employed by medium and large-sized financial services firms.

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. Our 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.

The *Agreement* has as its goal the formation of an economic partnership, the reduction of barriers (to the greatest extent possible) to the movement of persons, goods and services and to investments and investors between Ontario and Quebec, and enhance regulatory cooperation through greater transparency, dialogue and consultations. The *Agreement* recognizes that full harmonization between the two jurisdictions is not possible and this is reflected in the articles entitled, *Limited Objectives*. The limited objectives provide that measures in place in either jurisdiction that are inconsistent with the *Agreement* are permissible if they are based on consumer protection. Within the financial services sector this would include protection of investors, financial market participants or persons to whom a fiduciary duty is owed by a financial institution.

Annex 7.7 of the *Agreement* entitled, *Cooperation and Coordination Items*, establishes those areas where Ontario and Quebec will, over the next twenty-four (24) months, establish work plans as it relates to the financial services sector. There are a number of areas where we would like to provide the Ontario government with our views. Specifically, work plans are being developed with respect to a collaboration on financial and consumer literacy initiatives; harmonization of credit union regulation in several areas; a draft reciprocal agreement that would allow Quebec *caisses populaires fiderations* and Ontario credit unions and leagues to do business in either province; and, insurance distribution regulation, including the harmonization of education requirements for insurance agents.

Comments:

I. Collaboration on Financial and Consumer Literacy Initiatives

We believe that any examination of the financial sector should consider how to enhance the level of financial literacy among consumers. The federal government has established the Task Force on Financial Literacy to review and make recommendations to the federal minister of finance on how to improve financial literacy among Canadians. We believe that Ontario and Quebec, in developing a work plan with respect to financial and consumer literacy, should coordinate their efforts with the federal initiative.

Collaboration on financial literacy initiatives should be a priority under the *Agreement* going forward, and Advocis would appreciate the opportunity to be actively involved in financial literacy initiatives. Professional financial advisors are a vital part of the financial services

marketplace. It is extremely important that a strong and healthy financial advisory sector continues to serve the needs of Canadian consumers. Consumers need professional financial advice in order to reach their financial goals. Public policy should foster an expansive role for professional financial advice to help Canadians meet their financial goals. Canadians should not be expected to serve as their own financial experts but should have the ability to obtain professional financial advice. In our view, this directly supports the priority of raising financial literacy of Canadians.

II. Regulation of Credit Unions

Annex 7.7 (1) and (2)

- 1. The Parties agree to undertake periodic reviews of legislation in a coordinated timeframe and to share information with an intent to promote harmonized approaches to regulation in the following areas:**

...(d) insurance...

- 2. The Parties agree to develop within twenty-four (24) months from the entry into force of the Agreement, work plans regarding:**

(b) the harmonization of credit union regulation in several areas..."

Advocis has been engaged for a number of years on the issue of insurance sales through banks and credit unions. We have participated in policy consultations at both the federal and the provincial level, as governments have considered requests from the bank and credit union sectors to permit in-branch sales of insurance. We have undertaken considerable research concerning consumer and small business attitudes on these issues. The research supports the decisions of federal and provincial (including Ontario) governments not to expand in-branch sales of insurance.

Ontario has recently gone through a review of its credit union legislation with many of the amendments having come into effect on October 1, 2009. Ontario also completed a consultation in 2005 regarding whether to expand credit union powers to permit in-branch sale of insurance. Ontario subsequently concluded that the consumer protection provisions that restrict in-branch sales of insurance in credit unions should remain in place. The federal government also concluded that banks should not be permitted to sell insurance in-branch and should not be permitted to share customer information with their insurance subsidiaries.

This is a sound policy decision of the Ontario government based on strong consumer protection principles which should be maintained when the review of the credit union legislation is conducted pursuant to Annex 7.7 of the *Agreement*.

The grandfathering provision that exists in the Quebec regulatory framework (at section 573 of *An Act respecting the distribution of financial products and services* (the "Act") and *Order in Council respecting insurance products distributed by credit unions* R.Q. c.D-9.2, r.1.7) should not be used as a basis to change the existing regulatory provisions in Ontario that appropriately restrict the selling of insurance in-branch. These provisions are needed to ensure a level playing field in Ontario and ensure consumers are adequately protected.

It is important that *The Trade and Cooperation Agreement* should not minimize in any way existing consumer protection measures in Ontario. Further, to use *The Trade and Cooperation Agreement* to introduce in-branch retailing of insurance through credit union branches in Ontario would ignore the purpose of Articles 5.7(2) and 7.6 of the *Agreement*. These articles provide that the parties to the Agreement can circumvent the broad requirements for harmonization that the Agreement aims to achieve in very broad terms. Article 5.7 sets out the general right for either party to avoid harmonization based on what are termed 'legitimate objectives'. A legitimate objective, under Article 5.7 would include matters of consumer protection. Chapter 7 of the Agreement deals more directly with matters relating to financial services, and builds upon the legitimate objectives contained in 5.7. Article 7.6 *Limited Objectives* provides that in addition to 5.7, each party may maintain and adopt measures deemed appropriate for prudential reasons, such as protecting investors, financial market participants, policy-holders, policy claimants and for insuring the integrity and stability of a party's financial system.

III. Education Requirements for Insurance Agents

Leveling the playing field for insurance agents and financial planners

3. The Parties agree to develop within twenty-four (24) months from the entry into force of the Agreement, work plans regarding:

...(e) insurance distribution regulation, including the harmonization of education requirements for insurance agents;...

We have identified some specific issues that we believe should be addressed, with a view to removing barriers and leveling the playing field for insurance agents and financial planners in both Ontario and Quebec.

The overriding goal of the parties that is embodied in the Agreement is to work together to reduce and eliminate existing barriers and to avoid imposing new barriers to trade in goods and services and the movement of persons and investment.

It would be consistent with the goals of the Agreement, for the parties to work together to level the playing field and eliminate barriers to insurance professionals and financial planners from each jurisdiction being able to offer services to clients in the other jurisdiction.

The key elements in this process would appear to include harmonization of requirements, and recognition or acceptance of courses, credentials and qualifications that are substantially equivalent in both jurisdictions.

We encourage Ontario and Quebec, in order to harmonize the education requirements for insurance agents, to evaluate their respective educational requirements for insurance agents, with a view to identifying courses, credentials and qualifications that are substantially equivalent in both jurisdictions, and if possible, harmonizing the requirements.

Initial Proficiency

Advocis supports harmonization efforts with respect to intermediary licensing so that agents in one province can conduct business in another province without undue burden. This is also

beneficial for consumers who may move to a different province and who have a relationship with their existing financial advisor that they wish to maintain.

The Reliance Model for Reciprocal Licensing, introduced in 2006 by the Canadian Insurance Services Regulatory Organizations (CISRO), represented a major step towards promoting increased harmonization among the provinces and territories in licensing insurance agents and brokers. Regulators in other jurisdictions may rely on the requirements of an agent's home jurisdiction, with the option to request that an agent or broker meet further requirements specific to the non-resident jurisdiction.

All jurisdictions except Quebec accept the Life License Qualification Program (LLQP) as their proficiency requirement. The LLQP consists of a pre-licensing course and an examination. Quebec requires candidates who have less than five years experience to pass a series of five mandatory examinations, which all Quebec life insurance agents must pass. It is important that all of these examinations are available in the English and French languages at all exam locations and at all times, or else it raises an additional barrier to entry. If a candidate does have at least five years experience, the agent must pass an examination of the Conseil on legislation and regulations.

Ontario simply requires that the person have an LLQP or equivalent. Therefore, Quebec applicants who wish to obtain a license in Ontario do not experience the same barrier to entry as licensees from Ontario experience trying to obtain entry into Quebec. We believe that these requirements be considered with the view of removing any undue burdens for advisors.

Continuing Education

Mutual recognition of continuing education credits for life licensees should be explored as part of the work plan in order to facilitate harmonization of standards.

Access to quality advice from a financial professional is crucial to consumers making sound financial decisions. Advocis' commitment to professional excellence places a high value on continuing education. Advocis members are required to earn 30 continuing education credits each calendar year. This applies to all Advocis members, even those residing in jurisdictions without any continuing education requirements for licensing purposes.

Ontario requires that insurance agents complete 30 hours of continuing education every two years. In the license renewal application, an agent will be asked to complete a statutory declaration to confirm that they have met this requirement. The Financial Services Commission of Ontario (FSCO) does not pre-approve or recommend continuing education courses. Course providers and insurers will indicate if their programs meet the requirements and the number of applicable hours.

FSCO conducts audits of continuing education declarations. Agents must keep their continuing education receipts from continuing education providers in case they are requested by FSCO to substantiate their statutory declaration.

Ontario does not impose any further continuing education requirements on a non-resident agent who has met the continuing education requirements of his or her home jurisdiction. This does not apply, however, to non-resident agents from jurisdictions that do not have continuing education requirements. Therefore, non-resident agents from Quebec would not have any

additional continuing education requirements imposed on them in order to continue their meet their licensing requirements in Ontario.

Quebec's *Regulation of the Chambre de la sécurité financière respecting compulsory professional development*, R.Q. c.D-9.2, r.1.4.02 governs continuing education requirements in the Province of Quebec. It requires that the agent, in a two-year period, complete 30 hours of continuing education that has been recognized by the Chambre de la sécurité financière. The Chambre has a process for recognizing the training session to be provided or that has already been provided by an entity.

The 30 hours of continuing education must be 10 professional development units ("PDUs") (one hour of training) in general subjects, 10 PDUs in general subjects, 10 PDUs in compliance with standards, ethics or professional practice and 10 PDUs in each sector for which they hold a certificate issued by the Autorité des marchés financiers (for example, 10 hours in insurance of persons and 10 hours in group insurance of persons). Every two years, the agent must enter their proof of attendance in the recognized training activities via the website of the Chambre de la sécurité financière or physically send a copy of the vouchers to the Chambre if unable to enter them electronically and the agent must keep a copy of the voucher for a further two year period.

The Chambre will provide equivalency for CE credits taken in another jurisdiction. Agents are required to make up any difference in the number of hours between their home jurisdiction and Quebec. This would require the Ontario agent to complete courses which fall within the categories that the Regulation requires (10 in general subjects, 10 in ethics and 10 in each sector such as life insurance) as well as ensure that the continuing education training they have undertaken is recognized by the Chambre. Ontario non-residents who wish to maintain their licence in Quebec will have to comply with Quebec's requirements in order to maintain their Quebec licence in good standing.

The issue of mutual recognition of continuing education credits obtained in the non-resident jurisdiction should be explored in the work plan in order to reduce the regulatory burden on Ontario agents. We believe that education credits earned in a home jurisdiction should qualify for any top-up requirements of the other jurisdiction.

Another issue that should be explored is the development of a harmonized approach for the tracking of continuing education credits earned.

Recognition of Financial Planning Designations as Substantially Equivalent

Quebec regulates financial planning by requiring individuals who hold themselves out as financial planners or by certain other titles, such as financial advisor, personal finance planner, private wealth advisor, etc. However, Ontario does not regulate financial planning. Financial planning oversight is done by professional standards-setting bodies. Thus, there are requirements in Quebec that will apply to Ontario individuals who wish to hold out as financial planners in Quebec, but there are no similar requirements that could serve as barriers to Quebec residents holding out as financial planners in Ontario. In our view, the recognition by Quebec authorities of specific professional designations as substantially equivalent to the Planificateur financier designation, should be explored. For example, the Chartered Life Underwriter (CLU) designation is an estate planning designation that is well recognized in the insurance industry and the Certified Financial Planner (CFP) designation is a widely held and accepted financial planning designation outside of Quebec.

If the equivalency of these designations were recognized by Quebec authorities, Ontario-licensed insurance agents, for example, who wish to be permitted to hold out as financial planners when dealing with clients in Quebec, and who already hold one of the “recognized” designations, would not be required to also obtain the Planificateur financier designation. They would be obliged to meet all other Quebec requirements that apply to financial planners.

We have identified the following specific items that we would ask the parties to consider in order to remove barriers and level the playing field for insurance agents and financial planners in both Ontario and Quebec:

- That Quebec should consider accepting widely recognized financial planning designations as being substantially equivalent to the Certificate in Financial Planning (Planificateur financier [Pl. fin.] designation), sponsored by the Institut québécois de planification financière (IQPF) for the purposes of being licensed as a financial planner in Quebec, such as:
 - Certified Financial Planner™ (CFP™), sponsored by the Financial Planners Standards Council
 - Chartered Life Underwriter (C.L.U.), issued by the C.L.U. Institute and Advocis, the Financial Advisors Association of Canada.
- Confirm that an individual who holds the Chartered Life Underwriter (CLU) designation that is issued by the C.L.U. Institute meets the educational requirements for obtaining the C.L.U. title in Quebec, pursuant to sub-section 3(b) of the “Regulation governing the titles of registered life underwriter and chartered life underwriter” (the “Regulation”), made pursuant to An Act respecting the distribution of financial products and services, (R.S.Q., c. D-9.2, s. 313, 1st p., subpar. (3)) [See below: Quebec Requirements for the title Chartered Life Underwriter];
- Permit Ontario residents who are licensed insurance agents, who meet Quebec requirements for the purposes of dealing in insurance with Quebec residents, to use a C.L.U. credential issued by the C.L.U. Institute (without being required to qualify for the title CLU pursuant to Quebec law), in client communications such as letterhead, business cards and permitted business signs, business listings and advertisements, in the course of their dealings with clients in Quebec; and
- Confirm that the use of a C.L.U. credential in client communications as described above, by an Ontario resident who is a licensed insurance agent, who meets Quebec requirements for the purposes of dealing in insurance with Quebec residents, would not amount to holding out as a financial planner requiring registration under Quebec’s regime for the regulation of financial planners.[See text below, concerning the Quebec regulation regarding the obtaining in Quebec of the titles “Registered Life Underwriter” (RLU) and Chartered Life Underwriter (CLU).]

Quebec Requirements for the title Chartered Life Underwriter

By way of background, set out below is a brief outline of the Quebec regulation regarding the obtaining in Quebec of the titles “Registered Life Underwriter” (RLU) and Chartered Life Underwriter (CLU).

In Quebec, the “Regulation governing the titles of registered life underwriter and chartered life underwriter” (the “Regulation”), made pursuant to An Act respecting the distribution of financial products and services, (R.S.Q., c. D-9.2, s. 313, 1st p., subpar. (3)), prescribes the requirements that an insurance representative must meet in order to obtain the titles “Registered Life Underwriter” and Chartered Life Underwriter.

Section 3 of the Regulation sets out the requirements for obtaining the title CLU. An applicant must either pass certain prescribed courses, in a university program in insurance, or, pursuant to sub-section 3(b) of the Regulation, the courses offered by the Canadian Association of Insurance and Financial Advisers (CAIFA) [succeeded by the CLU Institute] “pertaining to the same subjects as those listed in subparagraphs i to xiv of paragraph a, insofar as the representative was otherwise unable to have access to those courses in his (or her) region.”

We do not know whether the relevant Quebec authorities (IQPF and the Chambre de la sécurité financière) accept the courses offered by the CLU Institute as prerequisites for the CLU designation, as courses “pertaining to the same subjects as those listed in subparagraphs i to xiv of paragraph a”, for the purposes of obtaining the title of CLU in Quebec.

Thank you for providing us with the opportunity to present our views with respect to these important issues.

If you have any questions, or would like to discuss any of the matters raised in our submission we would be pleased to do so.

Sincerely,



Greg Pollock
President and CEO



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

C.c. Gordon Jansen, Senior Policy Advisor & Team Lead Trade & International Policy
Branch, Ministry of Economic Development and Trade