

October 29, 2021

Financial Services Regulatory Authority of Ontario  
25 Sheppard Avenue West, Suite 100  
Toronto, ON M2N 6S6

SENT VIA ONLINE SUBMISSION SYSTEM

Dear Sirs/Mesdames,

**Re: Consultation [2021-016]  
Proposed 2022-2023 Statement of Priorities**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments in regard to the Financial Services Regulatory Authority of Ontario (“FSRA”) and its Consultation [2021-016], *Proposed 2022-2023 Statement of Priorities* (the “Proposed SoP”).

## **1. ABOUT ADVOCIS**

Advocis is the association of choice for financial advisors and planners. With over 17,000 member-clients across the country, we are the definitive voice of the profession. Advocis champions professionalism, consumer protection, and the value of financial advice. We advocate for an environment where all Canadians have access to the professional advice they need.

Advocis members advise consumers on wealth management; risk management; estate, retirement and tax planning; employee benefits; and life, accident and sickness, critical illness and disability insurance. In doing so, Advocis members help consumers make sound financial decisions, ultimately leading to greater financial stability and independence. In all that they do, our members are driven by Advocis’ motto: *non solis nobis* – not for ourselves alone.

## **2. INTRODUCTION**

We are pleased to see FSRA focus both on consumer protection and the reduction of regulatory burden. With its inclusive policy-making process, FSRA benefits by hearing from consumers and other key stakeholders. Financial advisors, in their client-facing roles, have a unique perspective to share as intermediaries between the consumer and the rest of industry.



We are also pleased to see that FSRA is encouraging technology and innovation to improve client service at a time when industry trends and consumer needs indicate a permanent shift towards more virtual client interactions.

Lastly, while we support the agent conduct and supervision initiatives that are underway or planned, we encourage FSRA to complement these initiatives with a proactive approach. We believe that many conduct issues could be avoided at first instance with stronger post-licensing training, a requirement for higher quality continuing education and the benefits of the forthcoming Title Protection Framework.

### **3. OUR COMMENTS**

We are pleased to share the following comments regarding the initiatives in the Proposed SoP:

#### **3.1 Regulatory Efficiency and Effectiveness**

##### ***Strengthen Consumer Focus***

We support FSRA's dedication to improving the consumer experience – particularly in regard to developing safeguards for vulnerable clients. We would draw attention to the recent initiative from the Canadian Securities Administrators (“CSA”) that is aimed at addressing issues such as financial exploitation and diminished mental capacity of older and vulnerable clients through two new rules: the requirement to seek a Trusted Contact Person (“TCP”) and the option to enact a Temporary Hold (“TH”) on a transaction. We would suggest that FSRA consider whether similar tools might be appropriate in the life and health sector – particularly in the context of segregated funds.

The relationship between advisors and clients is built upon trust and is strengthened over many years. As a result, advisors are in a unique position to identify signs of potential financial abuse and diminished mental capacity in their clients. However, we ask FSRA to be mindful that advisors are not formally trained in such exercises and would be acting on their observations in good faith. Therefore, if FSRA is to enact rules regarding TCPs and THs in the life and health sector, we strongly recommend that it also provide a safe harbour that will shield advisors from regulatory and civil liability when they discharge these duties. The absence of a safe harbour in the CSA's rules gives us serious pause about how widely the tools will be adopted on the securities side.

In addition, we support the strengthening and further enabling of FSRA's Consumer Advisory Panel (“CAP”). In so doing, we encourage FSRA to consider whether the perspective of consumer-facing financial advisors should be added to the CAP, as such advisors could help address confusion and misperceptions about the interface between consumers and industry.



## **Enable Innovation**

We support FSRA’s welcoming approach to innovation and technology. We are living in a time where the pace of change is only accelerating. In such a climate, it is particularly important that FSRA strikes the right balance between protecting consumers and reducing barriers that may hamper the adoption of technological tools and platforms that could benefit those consumers if they live up to their potential.

It is important to note that while we support innovation in general, those technologies that improve access to financial products do not necessarily result in better access to financial advice, which is the key driver of the modern consumer’s experience. Financial advisors play an important role in educating consumers, promoting financial literacy and providing the behavioural lifelong coaching that is the centrepiece of the modern advice relationship. We urge FSRA to be mindful of the distinction between access to product and access to advice in its support for innovation and positive consumer outcomes. By promoting and encouraging innovative technologies throughout the sector that complement the advisory relationship, FSRA can ensure that innovation truly results in enhancements to the consumer experience.

We would also like to take this opportunity to introduce Advocis’ Technology and Innovation Committee (“TIC”). The TIC is composed of tech-forward members of Advocis and its mandate is to explore the opportunities of modern technologies such as artificial intelligence and machine learning and analyze their impact on financial advice. The TIC’s research supports our advocacy efforts for a better regulatory environment as we believe that both financial advisors and consumers can benefit from technologies through greater access to financial advice, increased choice in services and a more competitive landscape. TIC members would like to extend an open invitation to FSRA to discuss the impact of technology in the life and health insurance sectors.

### **3.2 Life and Health Insurance**

We appreciate FSRA’s recent efforts in lessening the regulatory burden by consolidating and standardizing guidance in the life and health insurance sector. This is a welcome sign for industry participants. Reducing the regulatory burden enables more companies to compete. In turn, consumers benefit from the increased competition.

We also share the concerns found by FSRA in its recent reviews of life agent conduct reporting by carriers via the Life Agent Reporting Form and the delegation of advisor screening and monitoring functions through the Insurer-MGA relationship.<sup>1</sup> We support FSRA’s efforts in developing frameworks to address these concerns and delineating the roles and responsibilities shared among insurers, MGAs and advisors in furthering the Fair Treatment of Customers. We

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<sup>1</sup> FSRA, “Insurer-MGA Relationship Review Report”. At: [www.fsrao.ca/industry/life-and-health-insurance/insurer-mga-relationship-review-report#intro](http://www.fsrao.ca/industry/life-and-health-insurance/insurer-mga-relationship-review-report#intro)



would like to express our continued interest in working closely with FSRA on these issues by participating in various industry working groups.

We encourage FSRA to also take further proactive steps in preventing agent misconduct from occurring in the first place. Along with the Title Protection Framework (discussed in section 3.3 of this submission) that will promote professionalism and high conduct standards, we believe there are improvements that could be made regarding the initial and ongoing education of life and health licensees, regardless of whether they are a credentialed professional that is able to use a restricted title.

Council Rules Course: Regarding the quality of initial/licensing education, we would like to draw attention to the role Advocis has played in assisting the Insurance Council of British Columbia (“ICBC”) enhance the quality of its licensees. In 2016, Advocis was asked to help develop a program (the “Council Rules Course”) that instructs new licensees on their responsibilities under ICBC’s rules, provincial legislation and other regulatory responsibilities, including in regard to pre-signed forms, managing conflicts of interest, client privacy and confidentiality and errors and omission insurance requirements. This course requirement became effective in June 2018. In March 2019, the course became a pre-licensing requirement.

We understand that the ICBC has been very satisfied with the results of the Council Rules Course and intends to continue additional education requirements post-LLQP for its new licensees. We urge FSRA to consider whether a similar program could be implemented to boost the proficiency and ethics of Ontario’s new licensees; we would be happy to discuss how we can leverage our experience with the Council Rules Course to the benefit of Ontarians.

Accredited and Categorized CE: When it comes to ongoing learning, we believe that the existing continuing education (“CE”) requirements for life and health licensees should be enhanced.

We urge FSRA to mandate a specific obligation to complete at least one CE credit per cycle that focuses on ethics. Ethics-focused education can prepare advisors to better address challenging situations that inevitably arise in the course of a client-advisor relationship and to resolve such situations professionally and in the client’s best interests.

We also suggest that CE be accredited in order to satisfy licensing requirements. CE is intended to provide an opportunity for licensees to update their skills and knowledge in a meaningful way – but we all know that the quality of CE available on the market varies widely. Accreditation by a respected entity allows licensees to identify quality CE courses that would satisfy licensing requirements, live up to regulatory scrutiny, and teach relevant and accurate information.

In mandating accreditation, FSRA could consider other provincial models such as Alberta’s, where the Alberta Accreditation Committee approves CE course providers. Advocis’ subsidiary,



The Institute for Advanced Financial Education, is also prominent in CE accreditation through its formalized and transparent evaluation processes. By leveraging existing accreditation infrastructure, FSRA could achieve the benefits of CE accreditation with very little need for additional infrastructure.

### **3.3 Financial Planners and Financial Advisors**

We continue to support FSRA’s leadership in developing and refining the Title Protection Framework. This regulatory framework can promote confidence and reduce consumer confusion by restricting the use of the Financial Planner (“FP”) and Financial Advisor (“FA”) titles to qualified individuals who meet the minimum professional standards.

We re-emphasize that the competency profiles and qualification standards for both the FA and FP titles should equally reflect a client-centric and product-agnostic approach. As we have stated in our consultation responses,<sup>2</sup> while the scope of an FA’s immediate mandate may be narrower relative to an FP’s, the FA’s work is often deeper and more impactful within that mandate. Regardless, from the consumer’s perspective, both titles are ubiquitous and FSRA’s own research demonstrates that consumers rely on, and expect similar services and standards from, users of both titles.<sup>3</sup> Therefore, clients of both FAs and FPs must be able to enjoy substantially similar levels of professionalism, technical expertise, and knowledge.

## **4. CONCLUSION**

The year ahead promises to extend the rapid pace of regulatory change we have seen in recent times. We appreciate FSRA’s leadership in advancing consumer protection and innovation while being mindful of the burden of regulation. While we must work together to address the agent supervision issues identified in 2021, we believe that FSRA can supplement this work with a proactive approach that enhances the initial and ongoing education of life and health licensees, as well as through the forthcoming Title Protection Framework that will create meaningful professional titles upon which consumers can rely.

We look forward to further productive discussions with FSRA in 2022. Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Advocacy and General Counsel at [jryu@advocis.ca](mailto:jryu@advocis.ca).

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<sup>2</sup> Advocis, *Consultation [2021-003]: Second Consultation Financial Professionals Title Protection Rule and Guidance* (June 21, 2021). At: <http://www.advocis.ca/regulatory-affairs/RA-submissions/2021/2021-06-21-Advocis-Response-to-FSRA-TP-Consultation-%5b2021-003%5d-v6.pdf>.

<sup>3</sup> Financial Services Regulatory Authority of Ontario, *Notice of changes and request for further comment on FFTP Rule* (May 11, 2021). At: <http://fsrao.ca/industry/financial-planners-and-advisors-sector/notice-changes-and-request-further-comment-fftp-rule>, Appendix C - Consumer research for the FP/FA Title Protection Framework.



Sincerely,

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President and CEO

Rob Eby, CFP, RRC  
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