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June 6, 2011

Philip Howell  
Chief Executive Officer and  
Superintendent of Financial Services  
Financial Services Commission of Ontario  
5160 Yonge Street, Box 85  
Toronto, Ontario  
M2N 6L9

Dear Mr. Howell:

**Re: Financial Services Commission of Ontario (FSCO) - Draft Statement of Priorities and Strategic Directions for Fiscal 2011/12**

Thank you for the opportunity to comment on FSCO's Draft Statement of Priorities and Strategic Directions for Fiscal 2011/2012 (the "Draft SOP").

Advocis 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 largest association of financial advisors, representing life and health insurance licensees, and mutual fund and securities registrants across the country for over a century. 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. Almost all of Advocis' 5000 members in Ontario are regulated by FSCO.

The majority of our members carry on business as either sole proprietors or independent, small businesses. A smaller proportion of Advocis members operate under employee-employer arrangements of financial services firms. We represent advisors at all stages of the business cycle, ranging from new entrants to the industry through to mature practices led by leaders in the industry serving a significant client base.

We are focusing our comments on the following proposed *strategies* which are highlighted in the Draft SOP:

- Market conduct review of suitability of product recommendations for insurance.

- Review of provisions in the Insurance Act dealing with insurance distribution (working with the Ministry of Finance).
- Review of CCIR recommendations to reflect changes in distribution channels (MGAs).
- Five year statutory review of the Credit Unions and Caisses Populaires Act.
- Pension stakeholder outreach and education.

## **A coordinated National Approach to Regulatory Issues**

Before we outline our comments regarding FSCO's proposed strategies, we will comment briefly on the second of FSCO's three identified priorities, which is to foster a coordinated national approach to regulatory issues.

We applaud FSCO's continuing commitment to a coordinated national approach to regulation. FSCO's regulatory leadership, through its participation in the work of the Canadian Council of Insurance Regulators (CCIR), the Canadian Insurance Services Regulatory Organizations (CISRO), the Joint Forum of Financial Services Regulators (Joint Forum) and the Canadian Association of Pension Supervisory Authorities (CAPSA), helps ensure that Canadian consumers are protected by effective, coordinated regulation.

## **Market conduct review of suitability of product recommendations for insurance**

We look forward to having the opportunity to provide input to FSCO in its planned review that will focus on the role of insurance agents and companies in presenting product recommendations and helping consumers to make informed decisions, as well as on how agents and companies are contributing to financial literacy.

We find it somewhat surprising that FSCO is identifying this review as a priority, so soon after the Industry Practices Review Committee (IPRC) of CCIR and CISRO reported (in December 2008) that insurance companies and agents are serving consumers well in ensuring product suitability, disclosure of conflicts of interest and ensuring priority of the client's interest.

We also understand that as recently as last summer, reviews undertaken by the insurance regulators of a dozen insurance companies in British Columbia and Ontario, focusing on practices in the sale of segregated funds, found that best practices relating to suitability are being observed and implemented.

Making sure that consumers are served by ethical, professional advisors who give priority to the interests of the consumer, is an ongoing priority for the financial services industry in Canada and internationally, and for regulators such as FSCO. Advocis supports the principles that insurance regulators have endorsed: ensuring priority of the client's interest, disclosure of conflicts of interest and ensuring product suitability. We trust that FSCO's review of the role of insurance agents and companies in presenting product recommendations and helping consumers to make informed decisions will once again demonstrate that consumers are being well-served.

## **Review of provisions in the Insurance Act dealing with insurance distribution (working with the Ministry of Finance)**

We look forward to working with FSCO and the Ministry of Finance on the long overdue review of the Insurance Act, focusing on changes that will promote consumer protection and harmonization with other Canadian jurisdictions.

We note that the Ontario Securities Commission has more extensive powers under its legislation to make rules concerning registration requirements, than does FSCO to make analogous rules concerning licensing of insurance agents. In the case of licensing requirements under the *Ontario Insurance Act*, such powers are reserved to the Lieutenant Governor in Council. We believe that consideration should be given, during the coming review of the Insurance Act, to granting FSCO more extensive powers to make rules concerning licensing.

## **Review of CCIR recommendations to reflect changes in distribution channels**

We welcome FSCO's intention to review the work done by CCIR on the role of Managing General Agencies (MGAs) in the distribution of life insurance. Advocis has been an active participant in consultations with CAILBA and the CCIR regarding the role of MGAs. Insurance distribution has undergone significant changes, with the decline of the Career Agency model and the growing role of the MGA perhaps being most significant.

We believe the key issues raised by the growth of MGAs, concern supervision and accountability, and specifically the ability of insurers to monitor individual representatives who have contractual relationships with more than one MGA.

There are challenging issues that will need to be resolved to ensure that the evolving system of distribution, where individual agents working through MGAs are able to offer consumer access to a range of products, operates in a manner that ensures that consumers are protected.

## **Five year statutory review of the Credit Unions and Caisses Populaires Act**

In 2005, Advocis provided the Ontario Ministry of Finance with its comments on the Consultation Document for the 2005 Review of the *Credit Unions and Caisses Populaires Act* (the "Act").

In the comments, Advocis called for a fair and balanced regulatory framework for credit unions that ensures consumer protection, particularly in regard to insurance products.

We expressed the concern that the expansion of insurance retailing powers, which had been sought by the credit union sector, would not be in the interest of the consumer. We noted in particular the risk of tied selling. We also stressed that credit unions, when engaged in selling authorized types of insurance such as credit insurance pursuant to their existing limited powers, should be subject to the same licensing, supervision and market conduct requirements that otherwise apply to the distribution of insurance products.

We look forward to offering our input to assist FSCO in its review.

## **Pension stakeholder outreach and education**

We applaud FSCO's commitment to continue to enhance pension stakeholder outreach and education, through its multi-year project focusing on outreach and educational efforts targeted to pension stakeholders.

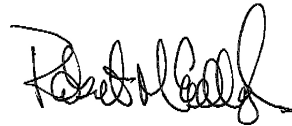
We encourage FSCO to incorporate into its stakeholder education initiatives, emphasis on the value and importance of individuals securing individualized professional financial advice. Pension savings are a vitally important part of an individual's retirement savings. Individuals who participate in pension plans should have access to professional financial advice, in order to plan for retirement and long-term financial needs.

We look forward to working with FSCO to assist in achieving its objectives for the coming fiscal year and into the foreseeable future.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a long horizontal line that ends in a small arrowhead pointing to the right.

Greg Pollock, M.Ed., LL.M., C.Dir., CFP  
President and CEO

A handwritten signature in black ink, appearing to read 'Robert McCullagh' in a cursive, flowing script.

Robert McCullagh CFP, CLU, CH.F.C., RHU  
Chair, National Board of Directors