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Robert Day
Manager, Business Planning
Ontario Securities Commission
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Toronto, Ontario M5H 3S8

rday@osc.gov.on.ca

Dear Mr. Day:

Re: Ontario Securities Commission Draft Statement of Priorities for Fiscal 2011/12

Thank you for the opportunity to comment on the Ontario Securities Commission's (OSC's) Draft Statement of Priorities 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 members are individuals, the majority of whom 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.

Almost all Advocis members are regulated under 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. The following specific comments relating to these priorities are in respect of the areas that coincide with the priorities of Advocis and those that directly impact our members.

Our comments concerning the OSC's Key Regulatory Priorities for 2011-12 are set out below.

OSC Priority No. 1. Better demonstrate our commitment to investor protection

We welcome the OSC's commitment to requiring that investors receive "better and not just more information."

We believe it is essential for the OSC to commission independent research into how investors actually use information, and how "better information" can improve investor decision-making and outcomes.

We also welcome the OSC's commitment to identify and address investor protection issues to help retail investors get useful and un-conflicted advice in their interactions with market participants. We believe that associations such as our own that represent financial advisors and promote proficiency, professionalism and accountability, have an important role to play in helping retail investors get useful and un-conflicted advice. We would welcome the opportunity to consult with the OSC in this regard.

We agree the OSC should "monitor developments among international regulators while adapting their principles and programs as needed." However, we would suggest that the OSC should also not rush to adopt programs that have been designed for very different circumstances, and perhaps as important, should assess the outcomes of initiatives in other markets before adapting them.

Intermediary conflicts of interest

The draft Statement of Priorities notes that potential intermediary conflicts of interest in the distribution of products make it even more important for the OSC to focus on assisting and protecting investors.

Conflicts of interest are inevitable in the business of selling investment products to consumers. The conflicts are real, not potential. Intermediaries and regulators have always sought to address ever-present conflicts, so that investors are treated fairly. Intermediaries earn their living selling to consumers, and at the same time seek to provide value and to treat consumers fairly.

We believe that existing distribution arrangements have served consumers well, and that the risks of intermediary conflicts are well-managed by existing regulation.

Advocis supports the OSC's continuing efforts to ensure that conflicts of interests are managed in the interests of the consumer. The Client Relationship Model (CRM) is a major regulatory initiative aimed at addressing intermediary conflicts through disclosure that has yet to be fully implemented.

We believe that associations for financial advisors such as Advocis, that promote ethical standards, professionalism and accountability to clients, help to ensure that financial advisors give priority to the interests of clients.

Investor Education

We welcome the OSC's commitment to support investor education. Our member financial advisors probably spend more time and effort than any other group, in educating investors across Canada about financial matters and investments.

We also welcome the OSC's commitment to investigate mechanisms to return recovered funds to investors.

Consult with financial advisors

Finally, with regard to OSC Priority No.1, we believe the OSC would enhance its ability to protect investors, by communicating with financial advisors.

The OSC in its Statements of Priorities in 2008 – 2009, 2009 – 2010 and 2010 – 2011 articulated a commitment to identify timely issues and deal with them in a timely way, by consulting and collaborating with “investors, issuers, intermediaries, other industry participants”.

We note that the Draft SOP for 2011 – 2012 deletes the commitment to consult and collaborate with investors, issuers, intermediaries, other industry participants and professionals.

While we do not take the absence of an express commitment to consultation to mean that the OSC no longer intends to consult, we believe that the OSC should include in the Draft SOP an express commitment to consult with everyday consumers, with financial advisors and with associations that advocate on their behalf.

While we welcome the recent efforts on the part of the OSC to consult with investors and investor advocates, we believe the OSC also should commit to more meaningful consultation with financial advisors and their advocates, and should encourage the SROs to do so as well.

We believe consultation, to be meaningful, should take place at an early stage in the policy development process, well before the Request for Comment stage where regulatory staff are substantially committed to an approach. Consultation, if it is to be meaningful, must begin early in the policy development process, and must be ongoing. Consultation at the Request for Comments stage usually is too little, too late, coming at a point when regulatory staff has already made up their minds about the problems they propose to address, and about how they propose to apply the regulatory tools at their disposal to address the problems.

We believe that financial advisors can offer valuable insights to the OSC and the SROs. Financial advisors are the main point of actual interaction between investment and mutual fund dealers and their clients. No single stakeholder group spends more time interacting with and educating retail investors, than financial advisors. The associations that advocate for financial advisors should be consulted by the OSC and the SROs and invited to contribute to the policy development process.

OSC Priority No. 2. Intensify Operational, Compliance and Enforcement efforts to be more effective in addressing not only breaches of the Securities Act but also by vigorously promoting public confidence in the markets by addressing issues that negatively affect market integrity

We welcome the OSC's emphasis on risk and outcomes-based compliance, and on making investigations and proceedings more timely. The reputation of Canada's capital markets has suffered due to the perception that enforcement is inefficient and ineffective. The ability in some instances of a small number of individuals to evade timely retribution undermines the good reputation of thousands of financial advisors, and undermines investors' trust in our financial system.

We believe that the commitment of financial advisors to the promotion of proficiency, professionalism and accountability through associations such as Advocis, can help the OSC and other financial market regulators and SROs across Canada to build public confidence and trust.

OSC Priority No. 3. Modernize our Regulatory systems and approaches

We agree it is important for the OSC to respond effectively to emerging issues and trends in product development, distribution models, trading programs and market structures, and also to monitor developments among international regulators while adapting their principles and programs as needed.

Prior to the recent global financial crisis, market intermediaries around the globe issued complex new instruments in vast quantities, engendered immense systemic risks and caused considerable harm. We would hope that international cooperation among financial regulators and intelligent coordinated oversight will help avert damaging financial crises in the future.

New financial instruments and structured products have implications for retail investors. Complex new products make it all the more important for investors to have access to knowledgeable professional financial advisors.

For example, some new investment fund and deposit products offer the investor a limited guarantee on returns, but only if the investment is held to the end of a specified period, and the underlying investments remain sound. Some of these new products mirror elements of annuities, yet in reality are structured as a debt instrument which expose the investor to the insolvency risk of the originator. Such products require independent financial advice to ensure the consumer understands the complexities of these investments. Increased competition between financial sectors is resulting in product convergence. These products are, of necessity, highly complex and the suitability of including such products in the asset mix of the average investor requires professional advice.

We believe capable professional advice is crucial to ensuring that investors understand the risks and suitability of such products and are able to make informed choices. Access to detailed disclosure about risks is not sufficient.

We accordingly submit that the OSC, in considering the investor protection implications of new retail investment products, should consider the very positive role that professional investment advisors can play in ensuring that investors are able to make sound decisions.

OSC Priority No. 4. Pursue a Coordinated Approach to Securities Regulation

We continue to join the Province of Ontario in supporting the ongoing harmonization and modernization of regulation in Canada through the CSA, while also seeking to bring about a Canadian Securities Regulator.

We believe the new Canadian Securities Regulator should have the following features, characteristics and priorities:

- Principles-based, proportionate regulation;

- Re-assessment of the role of SROs (MFDA and IIROC) and of the regulation of financial advisors;
- Wide stakeholder consultation, including an Advisor Panel to ensure that small securities registrants have a clear advisory voice in the development of policy.
- Respect for provincial insurance regulation of the distribution of segregated funds.
- Accommodation for advisor incorporation.
- Meaningful provincial involvement in policy development.

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

Sincerely,



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



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