

May 3, 2022

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 [2022-007]
Proposed Principles of Conduct for Insurance Intermediaries**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments regarding the Financial Services Regulatory Authority of Ontario (“FSRA”) and its Consultation [2022-007], *Proposed Principles of Conduct for Insurance Intermediaries*.

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. COMMENTS

We support FSRA’s effort in adopting CISRO’s *Principles of Conduct for Insurance Intermediaries* (“Principles”). We agree that the Principles can further the objectives of the CCIR/CISRO’s Fair Treatment of Customers (“FTC”) guidance by focusing specifically on intermediaries. As we stated in our response to CISRO’s consultation on the Principles, we believe that certain



substantive elements of the Principles can be further enhanced.¹ In addition, we seek clarification in regard to aspects of FSRA's implementation plans for the Principles in the province.

CISRO Principles of Conduct for Intermediaries

We previously provided comments to CISRO in July 2021 in regard to substantive elements of the Principles. We note that the iteration published by CISRO in April 2022 that is the subject of this consultation remains unchanged from the previous version; therefore, our substantive comments remain the same. We provide highlights of those comments below, but we would invite FSRA to review our original submission for greater detail.

Given the utmost importance of customers' interests, we are of the opinion that this principle must be given priority as the first principle in the list. While we recognize that the sequence in which the principles are published are not intended to communicate any particular order, this symbolic change would highlight the importance of prioritizing consumers' interest – which is the overarching goal intended by regulators.

In addition, with respect to the principle of 'compliance', we believe it is important that insurance intermediaries be mandated to comply with not just the letter, but also with the spirit of the rule and law. Moving away from a narrow interpretation of law would prevent individuals from avoiding the policy intentions based on a mere technicality. This approach would be aligned with the principles-based approach that FSRA is advancing in its regulatory framework: in our submission to FSRA on April 29, we expressed our support for a principles-based and outcomes-focused regulatory approach.²

Regarding the principle of 'competence', we believe that it is necessary for intermediaries to maintain a high level of skill in addition to developing relevant knowledge. Possessing skill allows intermediaries to properly apply their knowledge when interacting with clients. Continuing education (CE) requirements are an effective way to empower intermediaries to gain competence by honing their skill and knowledge. On this note, we urge FSRA to improve existing CE obligations by mandating that CE be accredited. Accreditation enables intermediaries to identify high quality CE that can better further the principle of competence.

Lastly, we believe that there should be a higher expectation with respect to 'advice'. In recent years, consumers have shifted their expectations to expect increasing professionalism. This shift is reflected in regulatory reforms, such as the FTC Guidance, Client-focused Reforms from the securities realm, and most notably, through the implementation of the Ontario Financial

¹ Advocis, "CISRO Consultation on Principles of Conduct for Intermediaries" (July 9, 2021). At: www.advocis.ca/regulatory-affairs/RA-submissions/2021/2021-07-09_Advocis_Response_re_CISRO_Principles_of_Conduct_for_Intermediaries.pdf

² Advocis, "FSRA: Consultation [2022-006] Proposed Principles-based Regulation Approach Guidance" (April 29, 2022). At: myadvocis.ca/wp-content/uploads/2022/05/2022-04-29-FSRA-PBR-Guidance_Advocis-Response.pdf



Professionals Title Protection framework. Because of the level of trust inherent in the advisor-client relationship and the significant financial impact that quality advice has on consumers' financial outcomes, we believe that professionalism in the industry is critical and we would modify this Principle to reflect this more explicitly.

Implementation of the Principles by FSRA

We recognize it is FSRA's intention to help intermediaries achieve FTC outcomes by publishing guidance such as the Principles. We do ask FSRA to be mindful that there are now several rules or pieces of guidance that touch upon the same core themes about consumer protection and treating customers fairly: there is the CCIR/CISRO FTC Guidance, the *Unfair or Deceptive Act or Practices Rule*, and now, the Principles. Adding to the confusion, the Principles are expressly intended to fit within the "four walls" of the FTC Guidance, but are somewhat different from the latter in their focus on intermediaries.

We understand that all these pieces are intended to be helpful and complementary. However, they can also add another layer of complexity for industry participants. We caution that having these multiple pieces in force can add confusion and burden, make compliance more difficult, and ultimately undermine the objectives behind each of them.

Lastly, we ask for further clarification regarding how the Principles will be enforced. We suspect that FSRA's Life Agent Unit ("LAU") may be involved as pursuant to the Interpretation and Approach, the 'supervision process' appears aligned with Phase 4 of the *Life and Health Insurance Agent Supervision Framework*³ wherein the LAU will be scaling up the examination and review of life agents' conduct. The framework, which was published in March 2022, incorporated only the FTC guidance in the LAU's regulatory approach without mention of the Principles. We ask FSRA to clarify whether the Principles will formally make part of the LAU's Phase 4 examinations.

3. CONCLUSION

We appreciate FSRA's efforts towards integrating the Principles into Ontario's regulatory framework. We ask FSRA to consider the substantive issues we raised as part of CISRO's earlier consultation, as well as the implementation issues that are specific to this province. Should you

³ FSRA, "Market Conduct: Life and Health Insurance Agent Supervision Framework" (March 2022). At: www.fsrao.ca/media/9481/download.



have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Advocacy and General Counsel at jryu@advocis.ca.

Sincerely,

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Chair, National Board of Directors