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Financial Institutions Division
Financial Sector Policy Branch
Department of Finance Canada
James Michael Flaherty Building
90 Elgin Street
Ottawa, ON K1A 0G5

Sent via email: LegislativeReview-ExamenLegislatif@canada.ca

Dear Sir / Madam,

Re: Supporting a Strong and Growing Economy: Positioning Canada's Financial Sector for the Future

Thank you for the opportunity to provide comments on the Supporting a Strong and Growing Economy: Positioning Canada's Financial Sector for the Future consultation. We commend the Department of Finance for issuing this consultation prior to reviewing the *Bank Act*, the *Cooperative Credit Associations Act*, the *Insurance Companies Act* and the *Trust and Loan Companies Act*.

About Advocis

Advocis is the largest and oldest professional membership association of financial advisors and planners in Canada. Through its predecessor associations, Advocis proudly continues over a century of uninterrupted history serving Canadian financial advisors and their clients. Our over 12,000 members, organized in 40 chapters across the country, are licensed to sell life and health insurance, mutual funds and other securities, and are primarily owners and operators of their own small businesses who create thousands of jobs across Canada. Advocis members provide comprehensive financial planning and investment advice, retirement and estate planning, risk management, employee benefit plans, disability coverage, long-term care and critical illness insurance to millions of Canadian households and businesses.

As a voluntary organization, Advocis is committed to professionalism among financial advisors. Advocis members adhere to a professional Code of Conduct, uphold standards of best practice, participate in ongoing continuing education programs, maintain professional liability insurance, and put their clients' interests first. Across Canada, no organization's members spend more time working one-on-one on financial matters with individual Canadians than do ours. Advocis advisors are committed to educating clients about financial issues that are directly relevant to them, their families and their future.

Introduction

The financial sector is very sensitive to changes in the market, and properly managed businesses, provided the right regulatory environment, adjust to ensure their continued growth and prosperity. The natural operation of the market rewards successfully managed market participants, punishes poorly managed participants, and creates opportunity for new entrants when consumer needs or demands are not met. Accordingly, great care must be taken by regulators to ensure that they do not engineer the market; rather, the role of the regulator is to correct market failures in the least obtrusive way while ensuring both sound markets and consumer protections. While the role of the regulator seems simple enough, domestic and international changes do impact regulatory development, and care must be taken to ensure that any foreign regulatory trends are only adopted in Canada when the market requires direct intervention and that adoption of foreign regulatory initiatives will benefit the Canadian market, and Canadians.

Changes in demography and technology are perhaps the leading inputs that drive product development and distribution in the financial sector. Policy makers must be very careful in delineating between demographic changes which have a long and relatively predictable path, versus shorter term market factors such as oil and commodity prices and interest rates. Demographic changes as well as technological advancements certainly have greater long-term implications, but even here, with respect to technological advancements, care must be taken to ensure that advancements are driven by consumer choice and not engineered by government or regulators.

There is certainly greater fluctuation when one focuses on commodities and interest rates, and as such, care must be taken by regulators to ensure they do not mistake short-term fluctuations with long-term systemic changes. Policy and regulatory decisions that impact the nature of the market must distinguish between these short-term cycles versus long-term systemic change. Conflating short-term trends with long-term systemic changes is harmful. Viewing short-term trends such as low interest rates as grounds for major policy or regulatory shifts with respect to retail financial products and their regulation will result in greater long-term harm to the market and consumers, as it is at the point when major regulatory initiatives are undertaken to address cyclical short-term fluctuations versus long-term predictable trends that regulators start engineering the market as opposed to working within the natural market cycles. Further, regulators must recognize the ability of market participants to adjust to long-term changes as it is in the market participants' best interest to adjust as a failure to meet consumer needs will result in a loss of market share, and encourage new entrants into the market to meet consumer needs.

Advocis will focus its comments on the longer term changes taking place as a result of demographic and technological changes.

Demographic and Technological Trends

Canada is facing two major shifts. First, we are in the midst of addressing the impact of a rapidly aging population; and second, the emergence of a new generation often referred to as millennials who are embracing new technologies. These trends impact the development and delivery of financial products.

Governments and regulators have aptly identified the fintech sector as an opportunity for growth. For example, the Ontario Securities Commission (OSC), recently unveiled a new regulatory hub, known as the OSC LaunchPad. The OSC has indicated that the LaunchPad "will provide direct support to eligible new and early-stage fintech businesses that provide innovative services, products and applications of benefit to investors. The support will be tailored to each business, allowing for meetings with the OSC LaunchPad team on navigating the regulatory framework, flexibility around current regulatory obligations, or informal guidance at an early stage on potential securities regulation implications."[1] Interestingly, the regulator is prepared to work with an evolving subset within the broader financial sector, to the point of including them in the development of the regulations that will govern their actions and encourage their development.

However, experience has taught us that developments such as fintech, that includes robo-advice, should not supplant existing advice channels as a result of regulators selecting winners and losers. It is critical that regulators not only look to new innovations in the fintech sector, but look to the evolution that is taking place within the established advice channels. The same eye to including fintech in the development of regulations that will govern this emerging subsector must also be applied to the existing platforms. Absent properly regulating the existing channels and recognizing that the form of regulation must change – even to the point of self-regulation – existing regulators risk supporting one part of the sector over another with serious negative consequences for the industry and consumers. Without question, developments such as robo-advice can assist existing financial advisors in providing better service to their clients, but it simply cannot supplant the role of holistic advice that financial advisors provide to Canadians from coast-to-coast.

Challenges and Realities of Today's Marketplace

Canadians face a number of challenges that will affect their capacity to save for their future retirement. Financial literacy is at an all-time low, household debt is at an all-time high and defined benefit (DB) plans and defined contribution (DC) plans are slowly disappearing.

[1] "Regulator Unveils OSC LaunchPad, a First in Canada". Ontario Securities Commission News Release. Ontario 24, 2016. At: http://www.osc.gov.on.ca/en/NewsEvents_nr_20161024_regulator-unveils-osc-launchpad.htm

Consequently, it is estimated that more than one in five Canadian households are at risk of not being prepared for retirement as they have not accumulated enough wealth.[2] The millennial generation will not be exempt from this scenario, as millennials have the lowest level of financial literacy of any group. In Canada, a third of those between the ages of 18 and 33 have said that they are "not at all knowledgeable about retirement savings plans,"[3] but "will admit they don't know and are keen to learn." The lack of financial literacy and disappearing pension plans makes the need for financial advice ever more evident. It is by working with a financial advisor that Canadians will accumulate more wealth and be better prepared for retirement.

Since governments are increasingly constrained by growing debt and deficits, programs such as healthcare and income security can no longer continue to provide the level of support to Canadians that they have become accustomed to, nor can they guarantee a sound retirement. An ageing population will require support and guidance in planning for their future financial security and independence. The services and advice Canadians need are provided by financial advisors; Canadians working with financial advisors must be encouraged as it is a solution to the growing financial constraints that will limit governments' ability to act, and will help secure a sound financial future for Canadians.

Demographic changes spawn the development of new financial products. Products in the banking insurance and securities sectors are increasingly targeted to meet the needs of an aging and divesting sector of the population. The creation of like products from the banking, insurance and securities sectors has led to product and regulatory convergence, resulting in financial advisors having to deal with regulatory overload. Regulatory overload is a serious threat to both financial advisors and consumers that requires immediate action from all levels of government, as a failure to address this market failure will result in less access to professional financial advice, lower levels of consumer wealth accumulation, greater reliance on governments, and an increasingly dissatisfied electorate. Accordingly, regulatory policies that do not address the regulatory overload with respect to existing channels of advice, but is sensitive to the regulatory burden to new entrants, will result in an overall net negative outcome. A regulatory approach that supports the evolution taking place in existing channels, while also fostering the growth of new channels, is the outcome that regulators should be working towards.

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[2] Pierre Lortie's Study *A Major Setback for Retirement Savings: Changing How Financial Advisers Are Compensated Could Hurt Less-than-Wealthy Investors Most*, indicates that compared to the approximately 60 per cent of retirees that had a registered pension plan (RPP) in 2014, only 38 per cent of employees were enrolled in an RPP and less than 25 per cent in a DB plan. Between 2000 and 2015, private sector employees with a DB plan dropped from 22.4 per cent to 12.2 per cent. It is estimated that 25 per cent of Canadian households covered by a defined DC plan or group RRSP, and 37 per cent of mid to high-income households with no RPP will have insufficient income to retire comfortably.
Study can be found at https://www.policyschool.ca/wp-content/uploads/2016/05/financial-advice-lortie.pdf

[3] MaximizerCRM. Reaching the Millennial Investor: A guide for financial advisors. 2016. At: https://cdn2.hubspot.net/hubfs/193809/Reaching%20the%20Millennial%20Investors_ebook.pdf?utm_source=hs_automation&utm_medium=email&utm_content=38554496&_hsenc=p2ANqtz-8Qcb5TpLmqGp18vfAeExgQeFusuWqssnB9hqyvzMHf3qUEYEmnivs4doaMceJnMgyz9oFEV5CWjDNZlCbfSPwymCWS_Q&_hsmi=38554496

Regulators have demonstrated that they are prepared to take steps to foster the development of fintech companies; yet, regulators are not taking the same balanced and cooperative approach toward the evolution taking place in the delivery of professional financial advice through existing channels. We see this unbalanced approach as problematic and would encourage regulators to embrace the evolution that is taking place in product development and delivery, and work cooperatively with financial advisors, so as to offer them the same level of involvement regulators have extended to fintech companies. It is critical that financial advisors become more involved in their own profession's regulation and oversight. If regulators ignore the evolution taking place in the industry they oversee, they will become engineers of the market which leads to the introduction of moral hazards that can profoundly and negatively impact the market, consumers, and long-term government policy.

Given the low levels of financial literacy and the increased complexity of products in the marketplace, it is unrealistic for governments or regulators to view fintech as a silver bullet in delivering low cost products with the hopes of achieving policy goals of enhanced consumer wealth and reduced reliance on government programs. It is precisely when there are low levels of financial literacy and increased complexity of products that financial advice is critical to Canadians' financial well-being and wealth accumulation. According to a 2016 study by the Centre for Interuniversity Research and Analysis of Organization (CIRANO)[4], households working with a financial advisor can save up to almost four times the value of assets of non-advised households. Similarly, *Sound Advice – Study on Insights into Canada's Financial Advice Industry,* shows that advised households can save up to 4.2 times more than non-advised households.[5] *Sound Advice* and the CIRANO study confirm that Canadians receiving financial advice will have accumulated more wealth over the years, and will be better prepared for retirement.

Lessons Learned and Looking Toward the Future

The Federal Department of Finance demonstrated that it is not prepared to follow foreign international trends and regulation that may be appropriate for some jurisdictions but not suited for the Canadian market simply to be viewed as part of the "international club". Canada did not follow the lead of market movers such as the United Kingdom, the European Union, or the United States, in removing regulations that separated retail commercial and investment banking. In the view of the Department of Finance and the then Minister of Finance, doing so would not benefit Canada or Canadians, and would further introduce a moral hazard. Despite intense pressure from domestic banks and international regulators, Canada did not remove the ring-fencing that separated the assets of retail and investment banking. The outcome of staking a uniquely Canadian position that recognized the needs of the Canadian market was to avert the worst of the devastating consequences of the crippling global financial crisis of 2008.

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[4] Montmarquette, Claude and Viennot-Briot, Nathalie. *The Gamma Factor and the Value of Financial Advice.* CIRANO. August 2016. Located at: http://www.cirano.qc.ca/files/publications/2016s-35.pdf

[5] *Sound Advice – Study on Insights into Canada's Financial Advice Industry*. PricewaterhouseCoopers LLP. July 2014.

The lesson learned from the 2008 financial crisis is that "too big to fail" is in fact a concern that regulators must remain conscious of, particularly in an economy the size of Canada. While the banking and insurance sectors are important parts of the Canadian economy, they are not the only important sectors in the financial services space. The small and medium-sized (SMB) financial advice industry sector is also an important group within financial services as "SMB financial advisors serve a broad customer base, provide unique value and have a significant economic impact on Canada."[6] According to *Sound Advice,* the SMB financial advice sector in Canada has a direct economic impact of approximately $19 billion in GDP and 180,000 jobs. If we take into consideration the indirect and induced effects, "the total economic impact of the SMB financial advice industry is approximately $25 billion in GDP and 240,000 jobs."[7] These numbers demonstrate the importance of the contributions of the SMB financial advice industry sector to the Canadian economy and the value that SMB financial advisors bring to Canadian households. Any regulatory reforms contemplated by the governments must ensure that Canada maintain the appropriate balance of large, medium, and small business interests to avoid moving toward a "too big to fail" environment.

More innovative and technologically accessible products may initially seem convenient and easily available, but convenience cannot replace the holistic services and long-term relationships of trust provided by SMB financial advisors. Long-term wealth cannot be accumulated in a day or at the click of a button; time and long-lasting relationships with an SMB financial advisor will. That is why the SMB financial advice sector is so critical to the economy.

The importance of ensuring healthy competition in Canada's financial services sector is critical to the financial health of the country and individual Canadians. Advocis is concerned that provincial regulators in the financial services sector are in essence choosing the winners and losers during a period of dynamic change in the financial services marketplace. Advocis is actively working with provincial governments to address this concern. Provincial policy decisions must be of interest to federal politicians and regulators as there is a very clear overlap in the regulation of the financial sector. Provincial public policy directly treads on areas of interest for federal public policy. Banks may be federally regulated, however, many employees of banks are regulated by provincial securities regulators and self-regulatory organizations. For this reason, errant policy decisions at the provincial level that introduce market failures will distort the market that the federal regulators oversee. There is an urgent need for ministers of finance at the provincial level and federal level to meet and work together to ensure that they and their regulators are moving in a coordinated fashion and that they are working to ensure a robust and competitive financial services sector for the overall good of all Canadians.

Conclusion

With the changes in demographics, the introduction of new technologies, and the development of innovative and more complex products in the marketplace, the financial service is an

[6] Ibid.
[7] Ibid.

increasingly complex area to regulate. Governments must avoid developing financial policies that may place some market participants at an unfair disadvantage as this will not serve consumers' best interests and needs. Innovations such as robo-advice, is one example of the fintech revolution that should be encouraged and supported. But the same level of attention and support must also be accorded to the evolution that is taking place within existing advice channels.

Further, policy makers must take great care in ensuring that neither the interests of the banking or insurance sector overshadow the interests of the SMB financial advice sector. In order for Canada and all Canadians to enjoy a financially prosperous future, it is critical that policy makers ensure that a balance is maintained – "too big to fail" is a very serious concern within the structure of the Canadian financial system and it is incumbent on governments and policy makers to ensure that policies are not implemented that will disrupt the balance that currently exists.

We look forward to working with the federal government in maintaining a competitive marketplace and strengthening the financial sector. Should you have any questions, please do not hesitate to contact the undersigned, or Ed Skwarek, Vice President, Regulatory and Public Affairs.

Sincerely,

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

Wade Baldwin, CFP
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