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October 19, 2018

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission of New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

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Me Anne-Marie Beaudoin
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DELIVERED VIA EMAIL

Dear Sirs/Mesdames:

**Re: Canadian Securities Administrators Notice and Request For Comment
Proposed Amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and to Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations*
Reforms to Enhance the Client-Registrant Relationship**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments in regards to the Canadian Securities Administrators' ("CSA") Notice and Request For Comment regarding the proposed amendments to National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and to Companion Policy 31-103CP *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (collectively, the "CFRs").

1. About Advocis

Advocis is the association of choice for financial advisors and planners. With more than 13,000 members across the country, Advocis is the definitive voice of the profession, advocating for professionalism and consumer protection. Our members are provincially licensed to sell life, health and accident and sickness insurance, as well as by provincial securities commissions as registrants for the sale of mutual funds or other securities. Members of Advocis are primarily owners and operators of their own small businesses, creating thousands of jobs across Canada. Advocis members provide advice in several key areas, including estate and retirement planning, wealth management, risk management, tax planning, employee benefits, critical illness and disability insurance.

Professional financial advisors and planners are critical to the ongoing success of the economy, helping consumers to make sound financial decisions that ultimately lead to greater financial stability and independence both for the consumer and the country. No one spends more time with consumers than advisors and planners, educating them about financial matters and helping them to reach their financial goals. Advocis works with decision-makers and the public, stressing the value of financial advice and striving for an environment in which all Canadians have access to the advice they need.

2. Our Comments

Overall, we are supportive of the CFRs. We appreciate the careful and deliberate work and expansive stakeholder engagement undertaken by the CSA as this project has evolved from 2012's release of Consultation Paper 33-403 and 2016's Consultation Paper 33-404, culminating in June's proposal of the CFRs. We believe that the CSA got the CFRs largely "right" in furthering our shared

goal of investor protection while ensuring the reforms are workable and allow for a healthy and functional financial services sector that can continue to serve investors of all income and wealth levels.

Our overarching concern with the CFRs remains the same as we expressed in our response to Consultation Paper 33-404[1]: regulatory initiatives such as the CFRs seek to incrementally professionalize aspects of advice-giving, but they are necessarily incomplete because they attempt to layer their proposals on top of a product-based framework that does not reflect modern advice-giving or the way that modern consumers see their advisors, or access financial advice, today.

Instead, we remain steadfast in our call for a fundamental re-think of financial advisor regulation that would see regulation aligned with the consumer's perspective. We call for the professional recognition of financial advisors, detached from product sales, with higher proficiency standards and a voice for advisors in their own professional regulation.

We reiterate our position in **Appendix A** to this submission.

We also have certain specific concerns about this iteration of the CFRs that we raise in this submission:

i. The Narrow Focus on Costs, not Value

The CFRs put a tremendous amount of emphasis on product cost. We are concerned that, given the wording in the CFRs, the CSA expects stakeholders to put an overemphasis on product cost such that "lowest cost" becomes the *de facto* proxy in determining whether a product recommendation is in the client's best interest.

While financial advisors understand that a product's cost is an important factor to consider, it is just one of many factors at play in determining whether a particular product is "best" for that client. These additional factors include the client's personal risk tolerance, time horizon and financial objectives, in conjunction with the characteristics of the product, such as its structure, strategy and tax treatment, and a consideration of the fund manager's experience and past performance. The skilled analysis of these qualitative factors is an area where investors can significantly benefit from the judgment of a professional advisor.

[1] Available at https://www.advocis.ca/regulatory-affairs/RA-submissions/2016/160930-Advocis-Response-to-CSA-33-404-v5.pdf.

Advisors typically do not receive recognition for their skill and care in making qualitative judgments, particularly in regard to judgments aimed at avoiding risks from coming to fruition. For example, in recommending a swap or other derivative, if an advisor recommends Product A over Product B because he believes Product A's counterparty is less likely to default, and that judgment proves correct, that non-event benefits the client but goes unnoticed. But if Product A comes with a slightly higher cost, under the tone of the CFRs, that cost difference invites criticism that the choice was not in the client's best interest.

The decision of a professional advisor acting in good faith to exercise his or her judgment in recommending a product or strategy should be accorded respect, and not unfairly second-guessed, after-the-fact, based on an argument that lower-cost plausible alternatives may have existed. We recommend the CSA put less emphasis on the narrow concept of cost and more emphasis on the holistic concept of value: the right question to ask is "how does the value that investors receive in the form of professional financial advice compare to the cost that those investors pay for that advice?" We discuss the value of professional financial advice in **Appendix B** to this submission.

While fee disclosure and an element of transparency can help investors shop for value, it can be risky to place too much focus on costs alone. A focus on cost instead of value can incentivize a "race to the bottom", where firms cut any services not tied to the disclosed cost. This also encourages the use business models that focus on account volume rather than quality of advice and service.

A focus on cost can also create regulatory risk, as firms striving to compete on cost alone may reduce the time and resources that they spend on tracking, managing and communicating about compliance matters. Firms may also be tempted to delegate more work to non-professionals to justify lower costs, undermining the move towards greater professionalism in financial advice, and exposing clients to a greater risk of errors and omissions.

We strongly believe that the best investor outcomes are not achieved solely through a short-sighted focus on the lowest-cost products. The best investor outcomes occur when they achieve their personal financial objectives, whether that means saving for retirement, buying a home or being financially protected from life's unexpected shocks. So the CSA's focus must be on whether investors are receiving value from the advice that they pay for; only then can we understand how investor outcomes are truly impacted and determine the best path forward.

ii. Conflicts of Interest and Best Interest Principles

We agree in principle with the CFRs that would require advisors to identify and address all conflicts of interest in the best interest of clients. However, we are concerned that the best interest obligation is fraught with ambiguity: what does the obligation really mean in the context of, say,

proprietary products, which the CSA is not prohibiting, but which arguably represent a conflict of interest between advisor/firm and client? What must the advisor do to avoid or manage such conflicts, particularly given the CFRs stance on the inapplicability of managing conflicts through disclosure alone?

And who will be empowered to judge whether an advisor's actions dutifully satisfy this best interest obligation? This is particularly worrisome when put in the context of the other CFRs that place a disproportionate (and in our view, improper) focus on costs as the dominant factor which, in the theme of the CFRs, should be driving an advisor's recommendations.

We believe that the only way to animate the best interest principles in the CFRs and make them workable is to professionalize financial advice, as described in **Appendix A**, and involve the professional college of advisors in judging whether their peers' actions were in the best interests of their clients.

A significant feature – indeed, perhaps the defining feature – of the "best interest" concept is its moral ambition, which lies in the expectation by the client of absolute good faith on the part of the advisor. In this light, the ultimate focus of the duty is trained on the advisor's motives and actions in advancing the client's overall interests, and not merely on the state of the client's accounts at any given point in time.

The duty must be interpreted by a professional college of financial advisors. We believe that advisors must be granted professional standing before a best interest duty can be implemented in the CFRs. We are opposed to a best interest duty that is interpreted and enforced by existing regulators that are not connected with the client-facing work of advisors and are therefore not positioned to understand the nuances of an advisor's real-world practice.

A best interest duty is a professional standard of care meant to ensure that a client receives the utmost in their advisor's care and judgment. It necessarily involves subjective assessments that take into account the client's objectives, risk tolerance and financial position, as well as the market conditions known at the time and projected out into the (sometimes distant) future. The breaching of a best interest obligation creates significant ramifications for the client, advisor, and the reputation of the industry as a whole, so a fair hindsight determination of whether a decision was in the client's best interest requires an understanding of the real-world practice dynamic in play when the advisor made that decision.

A best interest duty interpreted and enforced by a professional body would be enriched by the first-hand knowledge of its practicing member advisors, some of whom would serve as members of the profession's hearing tribunals. As in the case of any profession, it is the professionals within it who are best suited to understand how the concept should be applied to their peers. This flexible and

evolving approach would be the ideal way to address novel situations or evolving market conditions.

It would be manifestly unfair to apply a best interest duty to a profession while failing to involve members in their own regulation. Critically, we draw attention to the fact that there is no other profession, whether it be law, medicine, or so on, whose members are subject to a best interest duty but who are not accorded professional standing and given a voice in their own regulation. Senior regulators or ministries in those industries recognize they have an important role to play in setting the basic framework, but they cannot, should not and do not attempt to regulate the nuances of the professional-client relationship or judge whether a professional's actions were in the best interests of the client. Instead, they respectfully defer to accredited professional regulatory bodies, such as the College of Physicians and Surgeons or the association of Chartered Professional Accountants.

iii. The Role of Disclosure

We have two specific comments about the role of disclosure in the CFRs: 1) We are concerned that the CFRs will result in a disclosure regime that will overwhelm investors with too much information; and 2) we believe the CSA should recognize that disclosure can still be an effective and sufficient cure to address certain conflicts of interest.

Information overload

The CFRs speak to an obligation to disclose all conflicts of interest to an investor where a reasonable person would expect to be informed of such conflict. We believe this section should be amended to specify that the disclosure obligation should relate to material conflicts of interest, rather than all conflicts of interest regardless of their materiality.

Without a *de minimis* threshold applying to this obligation, compliance therewith would be extremely burdensome. More importantly, excess disclosure would detract from the CFRs' other objects that disclosure be prominent and timely. Too much disclosure has been shown to result in "information overload" that detracts from investors' absorption of the material information that investors really should understand.[2] Regulators', advisors' and investors' collective focus should be on client absorption of material information.

[2] See, for example, *Information Overload: How it Hurts Investors*, available at: https://www.investopedia.com/articles/financial-theory/11/negative-impact-of-information-overload.asp.

The OSC's own report on behavioural insights[3] supports the concept of information overload. For example, one of the report's key findings is that "[w]e often behave less rationally when we are given too much information, feel especially emotional or when social factors are a salient part of our decision-making context."[4] In furtherance of this finding, the report cites that "[l]engthy disclosure and large amounts of fine print result in 'overload' and 'accumulation' problems for many people. Overload arises when disclosure is too extensive and too complex, while accumulation problems refer to the ongoing daily, weekly, monthly and yearly receipt of so many disclosures that people cannot keep up with nor understand."[5]

Disclosure can still be a cure

The CFRs state that disclosure cannot be a cure to addressing conflicts of interest in the best interest of clients. We agree that for certain conflicts of interest, disclosure itself may not be sufficient – but to say that disclosure itself can *never* be a cure is a marked departure from existing practice and we believe taking this approach would be a disservice to consumers and industry alike.

We urge the CSA to amend the CFRs to explicitly recognize that disclosure can be an effective cure to conflicts of interest in some cases. What is most important here is that professional and accountable financial advisors be charged with exercising professional judgment as to whether a conflict is effectively addressed through disclosure alone, or whether additional measures are necessary to serve the best interest of the client.

iv. Relationship Disclosure

Public availability of firm fees

The CFRs would require firms to make publicly available information that a reasonable investor would consider important in deciding whether to become a client of that firm, including a description of the charges and other costs to clients associated with its products, services and accounts. The CFRs propose to include a firm's current fee schedule in this information.

We disagree with this expectation. A firm's fee schedule consists of sensitive information that the firm should not have to make public for competitors. This information should also not be available to the entire universe of investors, as many firms specialize in certain registrable activities and the general public would not be suitable clients for the firm. Further, full service firms compete on

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[3] *Behavioural Insights: Key Concepts, Applications and Regulatory Considerations*. OSC Investor Office. March 29, 2017. Available at: https://www.osc.gov.on.ca/documents/en/Securities-Category1/sn_20170329_11-778_behavioural-insights.pdf.
[4] *Ibid*. at p.7.
[5] *Ibid*. at p. 26, citing Omri Ben-Shahar and Carl E. Schyneider, *More Than You Wanted to Know: The Failure of Mandatory Disclosure*, (2014) Chapter 1.

many dimensions and not on price alone, which makes pure cost comparisons unhelpful or misleading – so we urge the CSA to avoid placing an overemphasis on cost, as we believe it has in relation to some of the other CFRs. Instead, information about the costs associated with a particular firm, as well as details of its service offerings, should be fully disclosed to actual clients at the point of sale.

Non-pecuniary referral swaps
We believe that relationship disclosure should be broadened to require advisors to disclose referral arrangements where no monetary amounts are exchanged, but where the compensation comes in the form of reciprocal referrals, such as between advisors and realtors, lawyers or accountants. Reciprocal "referral swaps" should be considered a form of compensation and disclosed as a working relationship. This is also a way for advisors to share with their clients that the advisor can make introductions on their behalf, if required, for other professional services.

v. Know Your Client

We appreciate the CSA's recognition that the know your client ("KYC") process must be flexible and tailored to the needs of the specific client and the nature of that client's relationship with his or her advisor. However, we are concerned with the expectation that the advisor act when he or she *reasonably ought to know* of a material change in the client's circumstances. Ultimately, the information that an advisor has concerning the client can only be put forth by that client. By creating an expectation that an advisor act when he or she *ought* to know of a material change, the CFRs are creating an unreasonable and unfair expectation on advisors that is subject to hindsight interpretation.

We also wish to raise the point that the KYC process is an imperfect exercise: frequently, the KYC process results in a client profile that does not mesh with the client's risk tolerance or the risk exposure needed to reasonably achieve their financial goals. For example, a 50-year old client who is behind his retirement savings needs may need to consider riskier options than his KYC risk tolerance would otherwise suggest. Our point is that KYC is an important process, but it is not itself determinative of what is right for a client; the professional advisor's skill and judgment remain an important factor in steering client outcomes.

Regarding the frequency of KYC updates, we understand based on the CFRs that, unless one of the specified events occur, a three-year cycle for KYC updates is acceptable. We would note that this cycle may not be applicable in certain situations, such as for an exempt market product with a five-year lock-in period. It is important that the CSA take a pragmatic and flexible approach to KYC and other registrant obligations.

vi. Know Your Product

The CFRs related to the know your product ("KYP") obligation require firms to be able to understand how products on their shelf compare with similar products on the market. We believe that this requirement will create the unintended consequence of lessening investor choice, as firms will need to pare down their shelf in order to be compliant. It is not realistic to expect dealers to complete a review of literally thousands of products on the market. Further, ongoing due diligence on closed offerings is of little value for illiquid offerings that have stopped raising capital.

If dealers approve fewer products in response to an increased regulatory burden, the products that are still prioritized are likely to be those that are appropriate for high net-worth individuals or those that are appropriate for the greatest number of their clients. A decrease in product shelf diversity could disproportionately impact lower net-worth individuals and make it a challenge for dealers and advisors to offer products that will meet the unique needs of certain investors, including those who have historically been excluded from the market.

If KYP requirements are too onerous, it could also be difficult for new, innovative products to find space on dealers' shelves. This could have a further negative impact on product diversity, as well as a broader chilling effect on innovation in the product market. Relatedly, the proposed KYP rules could reduce or suppress entirely some dealers adding to their product shelves some future important CSA advancements; recent examples of CSA advancements include the October 4, 2018 announcement on Alternative Mutual Funds[6] and the offering of ETFs by MFDA dealers.

An environment where dealer staff shy away from accepting something new has long term impacts on the investor experience and the overall health of the industry: advisors who understand the CSA advancements will not be able to offer those products unless their dealers accept the KYP responsibilities for all advisors in their firm. Specialized course offerings across the industry may be a solution so that each advisor can prove their knowledge in a subject, rather than blanket KYP policies on dealers. Otherwise, the long term impact may be that future CSA advancements get wholly ignored because of the training costs and obligations arising from the KYP CFRs.

The implementation costs of the KYP CFRs will disproportionately burden smaller, independent firms that have fewer resources to respond to the changes. This would be a competitive advantage to the larger, vertically-integrated firms, further consolidating market power in bank-owned

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[6] CSA Notice of Amendment, *Modernization of Investment Fund Product Regulation – Alternative Mutual Funds,* October 4, 2018. Available at: http://www.osc.gov.on.ca/documents/en/Securities-Category8/csa_20181004_81-102_alternative-mutual-funds.pdf.

entities. The loss in firm diversity is poor for the vibrancy of the investment sector, with consumers suffering from reduced choice and competition.

With respect to registered individuals, the requirement to compare products with similar ones on the firm's shelf also incents dealers to narrow product offerings; doing so assists their advisors manage their own compliance obligations. All this would make retail investors worse off. We ask that the CSA re-think the CFRs related to KYP obligations to make them more workable for smaller and larger industry actors alike.

vii. Referral Arrangements

We agree that the CSA must address the issue of non-registrants receiving fees for referring clients to registrants. This issue raises questions about regulatory arbitrage, the supervision and oversight of those receiving referral-based compensation and whether consumer protection is compromised. At the same time, the proposed prohibition would create significant impacts on existing business arrangements: as you are aware, many financial services sector entities have developed businesses based on existing regulatory practices and there are clear arguments to be made that many clients benefit from these existing practices.

We believe that the issue of referral arrangements – including the question of who should be able to collect referral fees, and what the quantum and duration of those referral payments should be – is so significant, and creates so many implications, that it warrants its own, standalone consultation that is separate and apart from the consideration of the other CFRs. Doing so would give stakeholders a proper opportunity to consider this issue from all angles.

3. Conclusions and Next Steps

Given the critical importance of the advisor-client relationship to investor outcomes and welfare, we believe that reforms are necessary to ensure that investors get the utmost from their advisors in skill, judgment and care. We believe the CFRs make important progress in that regard, and we are generally supportive of the CSA's work in this regard.

We do have concerns regarding the CFRs' inordinate focus on low cost as proxy for what is best for a client; the relationship is much too nuanced and holistic to be reduced to one single metric. We also have concerns about the application of best interest principles to the suitability and conflict-of-interest obligations; we believe the CSA must give advisors themselves a role in determining peer compliance with this expectation. The referral fees matter is a very complex one, which we believe warrants its own thoughtful and deliberate consultation.

Ultimately, the CFRs are aimed at enhancing professionalism in the financial advisory industry. We wholeheartedly agree with that objective. But we believe that for true professionalism to take hold, regulators must be willing to detach advisor regulation from its product-based roots. Instead, advisor regulation must reflect the holistic, relationship-based experience that consumers enjoy today. To achieve this, regulators must be willing to grant financial advisors official professional recognition and a voice in their own regulation, like so many other professions enjoy.

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We look forward to working with the CSA as it works to finalize and implement the CFRs. Should you have any questions, please do not hesitate to contact the undersigned, or Ed Skwarek, Vice President, Legal and Regulatory Affairs at 416-342-9837 or eskwarek@advocis.ca.

Sincerely,

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

Al Jones, CFP, CLU
Chair, National Board of Directors

APPENDIX A

THE NEED TO PROFESSIONALIZE FINANCIAL ADVICE

We believe that there are legitimate concerns about the quality of financial advice and the proficiency and conduct of those who purport to provide this advice to consumers. These concerns absolutely need to be addressed. But rather than attempting to layer patchwork solutions on an outdated regulatory structure, we believe it is time for a fresh start and for all financial services sector participants to fundamentally re-think the regulation of financial advice and recognize its evolution into a true profession.

The securities regulatory framework is based on an obsolete understanding of financial advice

The largest challenge with any attempt to modernize advisor regulation by making incremental changes within the existing regulatory framework is that the framework itself is fundamentally outdated – it is a relic of a time when the advisor was seen as merely a transactional salesperson, or as a cog in the distribution chain of the large product providers who dealt with retail investors on a discrete basis or maintained only very limited relationships with them.

This is reflected in a regulatory structure that is based on product – insurance, mutual funds and other securities all have their own rules, with surprisingly different requirements and expectations amongst them. The structure maintains a stubborn adherence to the traditional "pillars" of the financial system, each with their own regulators and self-regulatory organizations ("SROs") that stand guard over their respective domains. This structure creates silos that make a financial product's sector of origin a defining characteristic of the consumer's experience.

But to consumers, these are all financial products, and with continuous product innovation and convergence, it is ever harder for consumers to see the differences between them and unreasonable for industry and regulators to expect them to do so. Consumers have moved beyond the pillar/silo mindset to simply consider whether a particular product, regardless of sector, can help them achieve their financial objectives. According to the OSC's own Fair Dealing Model, "an industry that is no longer product-based becomes problematic, in a way, for product-based SROs."[7]

The role of the advisor has evolved as well. Perhaps once, advisors were primarily the gateway to product. But today, if access to product is all that consumers are looking for, it is far easier to simply transact directly with a manufacturer on the internet. Instead, the primary role of the modern

[7] Ontario Securities Commission, *The Fair Dealing Model* (January 2004), http://www.osc.gov.on.ca/documents/en/Securities-Category3/cp_33-901_20040129_fdm.pdf.

advisor is to offer holistic financial guidance to clients through relationships that last years or even decades. These relationships of trust ensure clients' financial preparedness for life's major events – such as marriage, home ownership, the raising of children, and even death, through trust and estate matters. In fact, in a 2015 survey of investors working with a financial advisor, 88 per cent responded that they see advisors more as advice providers than as salespeople.[8]

The holistic role of the modern advisor is more relevant than ever, as we find ourselves in an economic climate wherein governments, facing their own fiscal constraints, expect Canadians to become increasingly self-reliant so as to not rely on social safety programs that may not be as accessible as they were for previous generations. But the sustained low-interest rate environment has made private saving through traditional "safe" channels, such as bonds and GICs, incapable of providing the returns necessary to finance lifecycle objectives, particularly retirement. Arguably, the greatest risk that consumers face is not losing their money in the marketplace, but running out of money before the end of their lives.

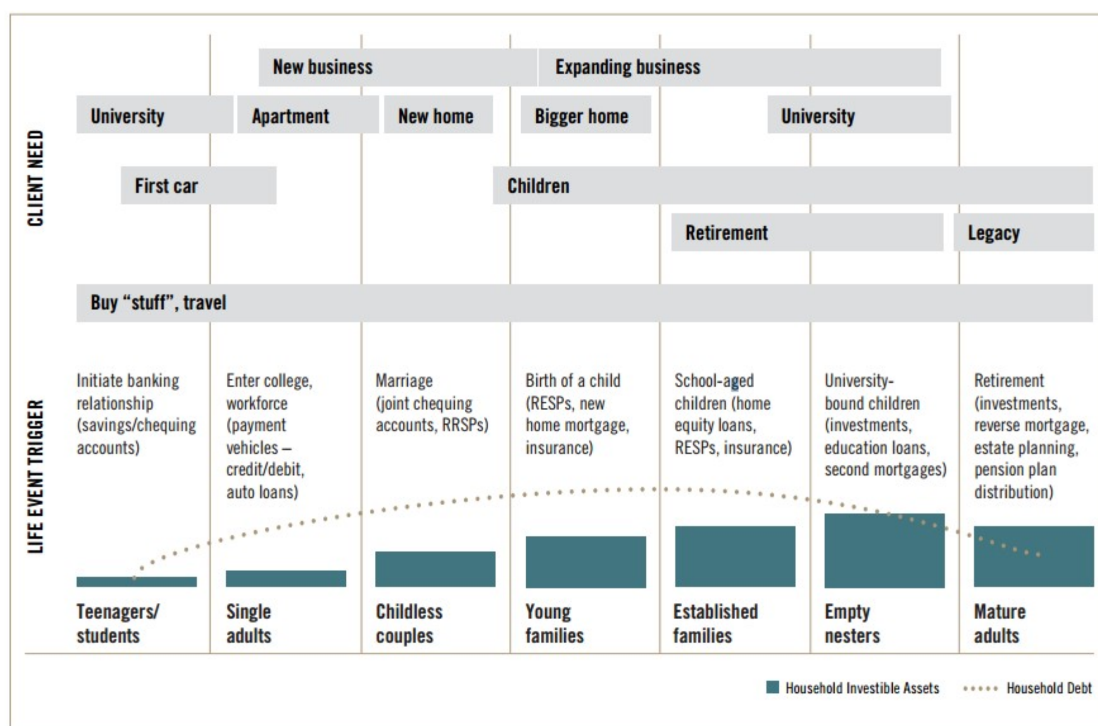

FIGURE 1: THE FINANCIAL ADVICE LIFECYCLE[9]

[8] Advocis, *Investor Insights on the Financial Advice Industry* (November 2015), http://www.advocis.ca/pdf/Consumer-Voice-2015.pdf.
[9] PricewaterhouseCoopers LLP, *Sound Advice: Insights into Canada's Financial Advice Industry* (July 2014), http://www.advocis.ca/sareport.pdf at p. 116.

Consequently, retail investors must look to higher yield options, including investments in securities products; once the domain of the wealthy or sophisticated, securities products are now firmly entrenched in the mass market. But securities have not gotten any simpler in response – in fact, product development and diversification has only increased the complexity of the offerings. So professional advisors must have the ability to understand and explain these products to their clients. After all, it is the financial advisor that serves as the "face" of the entire securities industry – from the regulators, to the manufacturers, fund managers and dealers – to the majority of the public. So now, more than ever, the professionalism of that advisor must be beyond reproach.

The existing framework puts consumers at risk

Given this critical role, retail investors should be able to trust that their financial advisors are proficient in core advice competencies, up-to-date in their knowledge, and compliant with the highest standards of conduct and ethics. While many advisors meet these expectations, there are inevitably some who do not – and due to persistent gaps in the current regulatory framework, retail investors are unnecessarily exposed to risk. There are four major sources of this risk:

(i) Anyone can call him- or herself a financial advisor and offer financial advice, including planning.

Across Canada, other than Quebec, anyone, regardless of their training, experience or education, can hold themselves out to the public as a "financial advisor," financial planner, investment advisor, or countless other titles. Neither the title of "financial advisor" nor the scope of the work under that title is protected in law, so there is nothing to prevent an unscrupulous, incompetent or merely inexperienced individual from calling themselves a financial advisor and offering what is purported to be financial advice to the public, even if they have no training, experience or financial acumen.

This is a significant risk that must be addressed; time and again, consumer surveys have shown that most consumers mistakenly believe that titles such as financial advisor are regulated and someone holding themselves out as such has earned the right to do so through education and experience. In professional principal-agent relationships, consumers routinely put their faith in the title as a proxy for expertise, but unlike doctors, lawyers or architects, anyone can claim to be an advisor or offer financial advice and planning — which leaves the public needlessly vulnerable to incompetence or outright fraud.

(ii) Existing regulation focuses on products, at the expense of proper regulatory oversight of the most critical retail financial relationship — the ongoing relationship between financial advisors and their clients.

As discussed above, much of our existing regulatory framework does not reflect the daily reality of how most consumers access financial advice and planning. Existing regulation is often based on the type of product being sold to the retail consumer. And while existing regulators are adept at regulating their member dealers or brokers, including regulating the constant product innovation in the industry, they do not have a collective focus on the retail consumer's overall advisory experience.

Considering the issue from the consumer's perspective puts the problem into stark relief: many advisors hold multiple licenses which allow them to provide consumers with risk management and wealth solutions from across the insurance, mutual fund and securities sectors. As a practical matter, most consumers do not conceive of the retail financial services industry as structured in such rigid "silos." Nor should they be expected to understand the legal rules and regulatory processes which have produced this model.

Instead, consumers work with their advisors to develop holistic financial strategies that reflect their particular needs or circumstances. They do not accept piecemeal advice which reflects the regulatory happenstance of how our system developed. Above all, consumers want assurances that their advisors are professional, knowledgeable and accountable, so that their advisor can provide the complete coverage they need across all product categories.

Most consumers are not particularly interested in knowing that product *x* comes from the insurance universe and product *y* comes from the mutual fund universe. But, in the current regulatory framework which is predicated on product sales, it is often the case that the advisor-client relationship is not governed by a single regulatory entity, but by a combination of them. The result is that the protections which consumers do receive vary widely, as they are based on the sector from which the product originates. We have seen the importance of this distinction coming to light if problems arise, leaving consumers confused and disappointed.

We believe that consumers should enjoy the comfort and security that comes with knowing that stringent and uniform protective safeguards govern their relationships with their advisors, regardless of whether, and what type, of product is involved. Consumers deserve access to formally professionalized advisor-client relationships which are not dependent on distinctions that do not reflect their advisory experience.

Underpinning the advisor-client relationship with professionalism is to accord that relationship a level of legal recognition and consumer protection which is much more fundamental than that

offered by product regulation. For example, minimum and uniform standards of ethical and professional conduct and other professional safeguards should be in place across all retail-facing subsectors of the financial services industry. There should be an overarching code of conduct and an industry-wide requirement to maintain errors and omissions insurance.[10]

This sectoral approach also reveals why the existing regulatory framework cannot effectively regulate today's holistic advisory relationships. Certain stakeholders may suggest that regulation of financial advisors should fall under the auspices of existing regulatory bodies, and it is true that in recent years, these bodies have given greater attention to the advisory relationship — for example, through the Client Relationship Model reforms of the CSA. Despite this laudable effort, existing regulators are structurally limited by their jurisdictions of authority; for example, even if an insurance regulator were to completely overhaul its expectations of licensees, those changes would only impact the consumer's relationship in regard to his or her purchases of insurance products — leaving the consumer's experience with mutual funds unaffected.

In an ideal world, all regulators would set comparable standards so that the client would be equally protected, regardless of the product's origination. But a century of experience and general common sense tells us that when you have multiple regulators that were created on the basis of regulating products, not advice, which already have standards that (in some cases) vary widely from each other, coordinating policies on financial advice is nearly impossible. And even if regulators did manage to agree to a uniform set of policies, those policies would do nothing to capture those individuals who are not registered at all, such as a fee-only planner who does not sell product.

(iii) There is no firm, clear, and universal requirement for advisors to keep their knowledge up-to-date.

One of Advocis' core membership requirements is that advisors keep their knowledge up to date by completing continuing education courses each year, including courses on professionalism and ethics. But for the same reasons discussed above, the regulatory requirements for continuing education are completely variable based on the product's sector of origination. For example, Ontario requires that life insurance licensees commit to 30 hours of continuing education every two years, without requiring a minimum learning component on professionalism or ethics. Several provinces do not have any CE requirements with respect to insurance licensees. And while IIROC has continuing education requirements for registered representatives, the MFDA is only now trying

[10] Current requirements to maintain errors and omissions insurance vary by province, industry sector and product type.

to develop a more structured program, with nothing yet in place.[11] And those advisors who are not registrants with any regulator have no continuing education requirements whatsoever.

An advisor who does not keep his or her knowledge current is an advisor who fails to properly serve their clients and very likely puts their clients at risk. Moreover, the fields of knowledge with which an advisor should be familiar are continually expanding. Competition in the industry is fierce, so product change and innovation is a constant. Therefore, static knowledge quickly becomes obsolete, which impedes the ability of advisors to act in the best interests of their clients. Advocis believes that all individuals who offer financial advice and planning to retail consumers should be required to complete continuing education on a regular basis, with an emphasis on education related to professionalism and ethical conduct.

(iv) There is no effective, industry-wide disciplinary process.

The majority of advisory relationships are beneficial to the consumer, but some inevitably do not work out as anticipated by one or both of the parties. Sometimes, this is a result of negligence, incompetence or fraud on the advisor's behalf. Accordingly, the industry requires a strong and effective disciplinary process, one which will ensure that those advisors who have committed misconduct are appropriately disciplined, and which will also protect the public and deter other advisors from similar misbehavior.

Insurance regulators, the MFDA or IIROC are each empowered to impose a variety of sanctions, including the stripping from an advisor of his or her license or registration. However, the limitations of the existing product-based regulatory framework become most apparent when considering the gaps which open when one considers the practical impact of having three regulatory authorities investigate and act on matters of discipline: each regulator's enforcement powers are limited to its respective sector.

Suppose, for example, an advisor engages in misconduct so egregious in the course of selling a mutual fund that the MFDA determines he or she is unfit to work in the fund industry and, as a consequence of this finding, it revokes his or her registration. In such a case, there is nothing to prevent this same advisor from continuing to provide advice, and sell segregated funds through his or her insurance license.

[11] On June 22, 2015, the MFDA launched a consultation to consider whether it should require mutual fund dealer representatives to fulfill continuing education requirements. Online at mfda.ca/regulation/bulletins15/Bulletin0644-P.pdf.

We believe this sector-hopping represents unacceptable consumer risk. The type of serious misconduct which warrants an advisor's outright expulsion from one sector, such as fraud or gross negligence, is clearly indicative of that advisor's inadequate commitment to ethical and professional conduct. This is not a sector-specific concern. It is, rather, an industry-wide concern that puts consumers at risk.

Permitting such an advisor to continue to offer "advice" to any consumer is a disservice to the public. And even if that advisor is eventually identified and removed by other regulators in their respective sectors, that person can simply continue offering advice on an unlicensed basis since the scope of work is not protected: for example, he or she could "advise" clients to invest in an affiliate's Ponzi scheme.

Also currently lacking is an effective, accessible and industry-wide mechanism through which the public may easily verify their advisor's credentials and disciplinary history. While several regulators, SROs and industry bodies do maintain websites where the public can search for information on their advisor, the information they have is confined to the particular entity's sector. As discussed above, the general public does not understand the difference between the various regulatory bodies and is not likely to canvass the registries or databases of each regulator to investigate a potential advisor.

In the example above, if a prospective client were to review their advisor's credentials and work and disciplinary history solely through the insurance regulator's website, the client would not be informed of the advisor's expulsion from the mutual funds sector. The client might then mistakenly believe that the advisor's overall disciplinary history was clean.

Advocis strongly believes that consumers should have a one-stop access point for reviewing a prospective advisor's complete disciplinary history that is not limited to the domain of one sector's regulator. It must also capture those individuals who offer advice and planning without the sale of product who are therefore not registered with any existing regulator. That is, rather than being based on today's *ad hoc* and largely archaic regulatory structure, this critical consumer tool must be reconceived at the level of the advisor-client relationship.

These four major shortcomings of the existing regulatory framework expose consumers to unnecessary and unacceptable risk. They arise from the fact that current regulation does not reflect the modern, holistic and cross-sectoral approach to financial advice and planning that most consumers want and need. But these risks are largely addressable with minimal disruption to the retail financial services sector if the proper regulatory solution is put in place. It is to such a solution that this submission now turns.

The solution: Raise standards and make financial advice a profession

Fortunately, the solution to these problems is simple, straightforward, and does not require significant government resources to implement. What it does require is a willingness to fundamentally re-think the regulation of financial advice, taking it away from its product-based roots and aligning it with the client relationship-centric model that reflects how most consumers now access financial advice and products.

The solution envisions recognizing the provision of financial advice as a true profession, through the creation or accreditation of a professional body that regulates financial advisors and the practice of financial advice in the public interest. The professional body would be responsible for the licensing, registration, conduct standard-setting, investigation and disciplining of financial advisors. This would be akin to how other professional bodies operate, such as the College of Physicians and Surgeons of Ontario and the various provincial law societies.

The following is a high-level overview of the defining characteristics of the professional body.

(i) Mandatory membership.

Just like the professional bodies for engineers or accountants, the solution requires that anyone who holds himself out as a financial advisor, or who is in the business of offering financial advice or planning services to the retail public, be a member in good standing of the professional body for financial advisors.[12] The membership requirement would cross traditional product sector boundaries, capturing everyone who offers retail-level financial products and services – thus introducing a unified oversight of all retail client-facing advisors, including financial planners. The professional body would establish initial and ongoing proficiency standards required to achieve membership. In contrast, the CSA's recommendations would continue to leave advisor oversight under the auspices of organizations such as the MFDA, IIROC, the OSC, and other sector regulators, thus maintaining much of the current *status quo*.

(ii) Meaningful titles and designations.

As noted above, we recommend that the terms "financial advisor" and "financial planner" be defined and a number of today's leading designations be granted proficiency recognition by the

[12] Certain exemptions could apply to the mandatory membership requirement, such as professionals licensed by another recognized body that offer financial advice as ancillary to their main service offering, such as lawyers or real estate agents. It may also be desirable to distinguish between the holistic full-service financial advisor and those who purely offer one-time transactional services, such as discount brokers.

professional body. The professional body would be able to develop categories of membership, as conceptualized in Figure 2. The basic principle should be that an advisor cannot hold him- or herself out to the public in a manner that deceives or misleads – or could reasonably be expected to deceive or mislead – a client or prospective client with regard to the advisor's proficiency, qualifications, and product or service offering.

FIGURE 2: FINANCIAL ADVISORS AND SPECIALIZATIONS.

A depiction of the interrelationship between the total population of financial advisors and prominent specialist subgroups. For example, advisors who are CLU®, CH.F.C.® or CFP® designation holders are members of specialized groups within the larger population of financial advisors. Overall, the field of financial advice in Ontario is populated with a range of designations, including a number of popular, long-standing financial planning designations.

(iii) Enhanced proficiency and continuing education requirements.

We recommend the establishment of a mandatory minimum baseline of skills, education and other competencies which all financial advisors, including financial planners, would be obligated to meet. The professional body would develop harmonized and universal requirements for advisor skill and competency regardless of product sector, instead of leaving responsibility for their oversight dispersed across various regulatory, self-regulatory and industry bodies. Continuing education

would be a mandatory requirement, including content dedicated to topics on professionalism and ethics. The professional body would administer, monitor and enforce continuing education requirements designed to ensure that all financial advisors maintain a high standard of proficiency. It would also require member advisors to maintain errors and omissions insurance to protect the clients they serve. Advisors should be required to have errors and omissions insurance for all products and services that they offer.

(iv) An enforceable code of conduct.

The professional body would have, at the cornerstone of its commitment to professionalism, a code of conduct that inculcates ethical norms in individual advisors and an ethical culture in their firms. The code would include, *inter alia*: the prioritization of the client's interests; the duties surrounding conflicts of interest; the duty to provide competent service; the duty to act with honesty and integrity; the duty to preserve and protect client confidentiality; and the duty to cooperate with the professional body and regulators.

The code of conduct would be backed by a complaints, investigation and disciplinary process that empowers the professional body to suspend or cancel the advisor's membership. What is unique about this is that because membership in the professional association is mandatory across product sectors, discipline or suspensions are not limited to one product sector. Instead, they address the more serious issues of negligence, incompetence or fraud directly.

(v) An accessible, consumer-facing central registry.

The professional body would maintain a public-facing database whereby consumers can conduct a "one-stop" check of a prospective advisor's credentials and disciplinary history. Unlike the registries maintained by existing regulators and SROs, which only contain information pertaining to the advisor's activities in the regulator's or SRO's respective sector, the professional body's registry would be based on the conduct of offering advisory services to the retail public. It would therefore transcend product sectors, addressing the "sector hopping" problem of miscreants. This focus on scope of work and conduct would also capture those advisors and planners who are currently not registrants of any regulator.

(vi) Specializations within general financial advice.

In their response to the Consultation Paper, some stakeholders may argue for professionalization of the industry as we have, but may wish to restrict it to financial planners. From our perspective, it is evident that a broad, rather than a narrow, approach is needed: it is in the best interests of consumers that all individuals who offer financial advice to the retail public be included. If the CSA

focuses on financial planners exclusively, it will fail to address the consumer protection concerns that are the impetus behind the Consultation Paper.

We are able to provide a unique perspective on this matter: our association consists of members who have acquired financial planning designations (amongst other advanced designations) and members who do not have such designations. We have concluded that financial planning is unavoidably and inextricably a part of the larger practice of providing financial advice. This is clear upon even a cursory review of the requirements stipulated in the rules, policies, bulletins and notices of provincial securities regulators, the MFDA, and IIROC.

We do not assert that all financial advisors are engaged in financial planning at the same high level as those who have attained specialized designations. But the reality is that a financial advisor must perform certain basic planning components whether or not he or she also has a financial planning designation as part of the existing Know Your Client ("KYC") and Know Your Product ("KYP") rules, as well as the various prescribed suitability requirements. In fact, the reforms in the Consultation Paper would further strengthen the planning components that all advisors must undertake.

Beyond financial planning, within the broad pool of financial advisors, there exist many other industry-developed designations which enable a financial advisor to further specialize in the more detailed aspects of various dimensions of financial advice, such as taxation, estate planning, and health insurance, for example. The financial advice sector is depicted in Figure 2. All financial advisors (the largest of the Venn circles) must possess a basic skill level to engage in the provision of financial advice to the retail public.

Within the total advisor population, we see the ongoing development of more stringent specializations with respect to certain sub-fields of advice; these sub-groupings reflect specializations which go beyond the benchmark of skills which the average financial advisor would be required to meet. These specializations are useful to many consumers – and at times are necessary for those clients who present their advisors with more complex advice and planning goals and objectives.

So, within the overall group of financial advisors, there are smaller subgroups of specialists who operate in advanced disciplines. Such specialization is common in established professions; indeed, it is analogous to the medical profession, where all doctors must meet a minimum standard to be called a medical doctor or MD. But within the field of MDs, there are smaller groups who have specialized. Every member of the profession is a doctor, but only those who have completed additional training and coursework are allowed to use designations which identify their specialization, such as cardiologist and oncologist.

To further the analogy, consider a proposal to regulate only the subgroup of advanced specialists, as opposed to the entire group of medical doctors. Such an option would be a wholly inadequate policy response: the risk to consumers would be overwhelming if anyone could hold out as a doctor and operate largely or completely unregulated. Similarly, to regulate only financial advisors who have completed a specialized designation program would be a wholly inadequate policy response, as this too would expose consumers to risk.

(vii) Securities advisor representation in their own regulation.

One of the hallmarks of a true profession is involvement of members in their own regulation – this is true of lawyers, doctors, dentists, architects and so on. Involving members allows the professional body, including the government to which the body ultimately reports, to leverage the vast accumulated knowledge and real-world experience of the membership to set policy in a way that is more likely to achieve its objectives.

Securities advisors are currently "regulated without representation." The CFRs would unfortunately maintain advisor oversight in the hands of the MFDA, IIROC, and so on, so that advisors would continue be regulated by entities that do not consider the advisor-client relationship as merit-worthy of the same level of regulatory respect as is applied to the lawyer-client relationship or the social worker-client one. Indeed, these organizations often do not fully understand what advisors do in their day-to-day client interactions.[13] Finally, securities advisors lack true standing and "voice" in these organizations. For example, neither the MFDA nor IIROC mandate the presence of securities advisors on their boards of directors.[14]

The professional body would have a board of directors comprised of securities advisors, members of the public, and government appointees, among other persons. The mandate of the body would be, first and foremost, the regulation of financial advisors and the provision of financial advice in the public interest. The professional body, through its board, would report directly to the provincial finance minister, rather than indirectly through a product regulatory body. As financial advice has evolved into a true profession, it is time to give professional financial advisors a dedicated voice in their own regulation.

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[13] While branch managers and other dealer staff receive and review paperwork documenting the advisor-client interaction, it is usually only the advisor that has a direct relationship with the client. As with any in-person, face-to-face interaction, there are many nuances that are difficult or impossible to distill into writing. The advisor's ability to understand the "human" elements in a client interaction is critical to the quality of that relationship.

[14] Contrast the approach of the regulation of securities advisors to that of insurance advisors. In certain provinces, there are Insurance Councils with board positions specifically reserved for insurance licensees, nominated by industry and elected by industry licensees. For example, Alberta's life insurance council contains representation from both life insurance companies and agents; the Council Directory is available at: http://www.abcouncil.ab.ca/who-we-are/council-directory/.

In summary, the solution provides benefits to all market participants: first and foremost, consumers would benefit from knowing that all advisors meet baseline proficiency requirements, just as they do with their architects or engineers. They would also benefit from the simple way to verify their advisor's credentials and disciplinary history without having to navigate the maze that is the current regulatory landscape. Finally, they would enjoy the support of a disciplinary system with teeth: it would be a system that actually protects the public, rather than potentially off-loading one sector's problem onto another sector and a new set of unsuspecting consumers.

Financial advisors would also benefit from enhanced public trust, status and confidence as true professionals, and we know that our members would be very supportive of unethical colleagues who tarnish their collective reputation being removed once and for all. The government would benefit from enhanced consumer outcomes, including reduced public financial reliance, and the expertise and support of the professional body in crafting and implementing their policy agenda. Product providers and distributors would benefit from the professionalism of the advisors who represent their companies to the public on a day-to-day basis.

APPENDIX B

THE VALUE OF PROFESSIONAL FINANCIAL ADVICE

What modern financial advisors do (and don't do)

In participating in many consultations with regulators, politicians and consumer groups, what we have come to realize is that there is a misunderstanding of what exactly it is that modern financial advisors actually do.

Traditionally, financial advisors were seen as providing two key services for their clients:[15]

Seeking *alpha*, excess returns relative to a benchmark. Described in a layperson's terms, this is stock picking. Outdated depictions portray individual stockbrokers as the go-to person for insights on the next "sure thing", but this just doesn't happen today. The search for superior returns through active means is now an incredibly complex matter, built on research reports, quantitative analysis and sophisticated algorithms, with the data parsed by entire teams of analysts.

Asset allocation and portfolio construction. This is a technical task to ensure that an investor's portfolio is adequately diversified in line with the investor's risk tolerance, liquidity needs and long-term financial goals. Portfolio optimization work is also largely the domain of computer automation today.

So neither of these traditional services are particularly dependent on the advisor any longer. Instead, the key value that advisors create has to do with **behaviour modification**: advisors can create a real and measurable shift in client behaviour towards prudent long-run financial planning, saving and (critically) investing that sets clients on the right path towards retirement readiness. This view is borne out by a 2015 survey of investors working with a financial advisor, which found 88 per cent of respondents see their advisors more as advice and guidance providers than as salespeople.[16]

This behavioural change has been called the *gamma factor*[17] by commentators. It is not one single action, but the culmination of day-to-day behaviours driven by a holistic and mutually accountable relationship between the client and advisor over the course of many years. The gamma factor is not

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[15] Henri-Paul Rousseau, *Why Banning Embedded Sales Commissions Is a Public Policy Issue*, The New Paradigm of Financial Advice Conference: Toronto, March 31, 2017.

[16] Advocis, *Investor Insights on the Financial Advice Industry*, November 2015. Available at: http://www.advocis.ca/pdf/Consumer-Voice-2015.pdf.

[17] See, for example, Morningstar Investment Management, *Alpha, Beta and now…Gamma*, August 28, 2013. Available at: https://corporate.morningstar.com/us/documents/ResearchPapers/AlphaBetaandNowGamma.pdf.

an effect that is observable instantly, but one that strengthens over course of time, and it is difficult to capture the impact of any one particular action at the time it is undertaken. But the sum of these shifts brought about by the advisor's work creates **real and significant** benefits to client welfare.

The CSA has seemed reticent to acknowledge the value of behaviour modification; in casually dismissing the CIRANO Studies,[18] the CSA has stated that that the superior outcomes enjoyed by advised clients are "not [brought about] by better returns due to advisor skill".[19] This is a very unfortunate and narrow view, exposing the regulators' improper focus on alpha as its chosen, yet flawed, metric to judge value.

We firmly argue that behaviour modification is a skill, and a very difficult one to achieve at that. Changing the public's natural disposition from apathy and present consumption and convincing them to delay gratification, save and invest for the future is a daunting task – particularly when the benefits of doing so are decades down the road and are not guaranteed. We note the OSC itself has recently published Staff Notice 11-778 *Behavioural Insights: Key Concepts, Applications and Regulatory Considerations*,[20] a report detailing how leading practitioners and regulators around the world are using behavioural insights to address capital markets issues and improve outcomes for investors. The report highlights how investors are prone to make irrational decisions based on emotions and other psychological factors.

This includes the common problem of recency bias, the assumption that what has occurred recently will continue to do so indefinitely; this bias causes ill-advised investors to liquidate their portfolios at the bottom of a financial crisis, buy individual stocks at a market peak after they've become popularized 'media darlings', or assume that certain asset prices (such as housing) will rise forever. We know how disastrous irrational emotion-driven investing decisions can be, and how many investors will never recover from them.

The authors of *Nudge*, a leading book on behavioural economics, opine that standard theories about retirement savings are based on two incorrect assumptions: that investors are able to calculate how much they need to save for retirement, and that they have the willpower to stick to their plan – day to day, and even in the face of crisis. They argue that neither is generally true.[21] An

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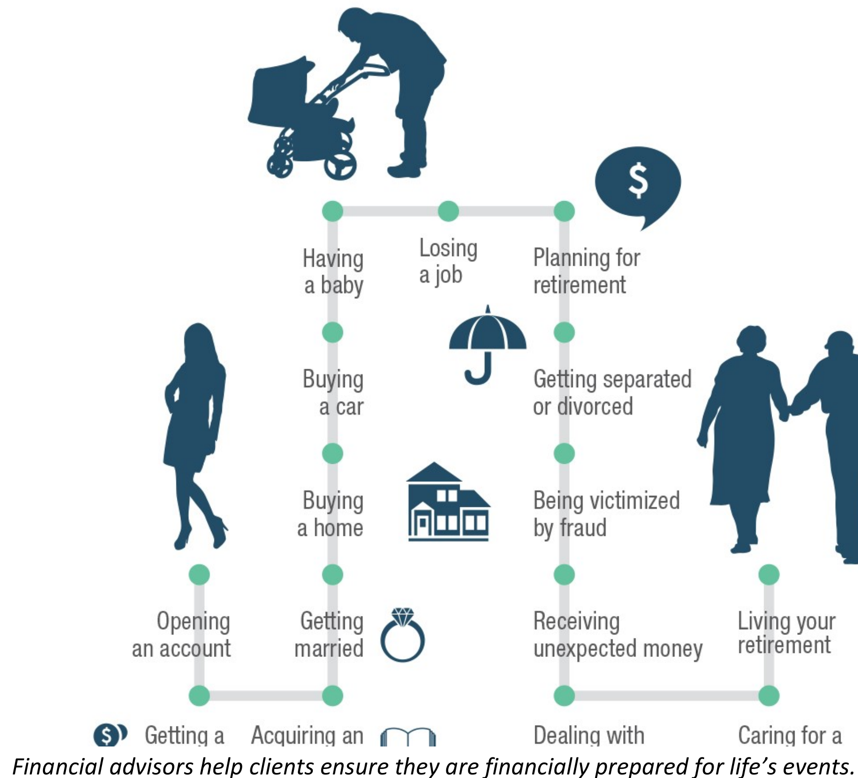
[18] *Infra*, note 34.
[19] CSA Consultation Paper 81-408 *Consultation on the Option of Discontinuing Embedded Commissions*, available at: http://www.osc.gov.on.ca/documents/en/Securities-Category8/sn_20170110_81-408_consultation-discontinuing-embedded-commissions.pdf at p. 126.
[20] *Supra*, note 3.
[21] Richard H. Thaler and Cass R. Sunstein, *Nudge: Improving Decisions about Health, Wealth, and Happiness*, Penguin Books, 2009.

advisor's ability to overcome these real, and major, behavioural deficiencies and set investors on a steady path towards retirement security is the key component of the gamma factor.



Financial advisors help clients ensure they are financially prepared for life's events.

Trust drives the gamma factor

What drives advised consumers to overcome their natural predisposition against long-term thinking and complex-sounding risk-bearing assets? It is the trust forged between client and advisor. In fact, consumers cite 'trust' as the most important factor in seeking a financial advisor,[22] with evidence showing that households with lower financial capability need to trust their financial advisor in order to invest in risky assets.[23] Further, the level of trust consumers express about advisors increases after actually working with an advisor by about 30%,[24] demonstrating the positive outcomes that consumers enjoy from the experience.

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[22] Jeremy Burke and Angela A. Hung, *Trust and Financial Advice*, RAND Corporation, January 2015.

[23] Dimitris Georgarakos and Roman Inderst, *Financial Advice and Stock Market Participation*, Goethe University, 2014.

[24] Claude Montmarquette and N. Viennot-Briot, *Econometric Models on the Value of Advice of a Financial Advisor*, Le Centre interuniversitaire de recherche en analyse des organisations, July 2012 (hereafter, "2012 CIRANO Report") at p.36.

Trust can only be forged between an advisor and client through a holistic relationship – not a transactional one. Perhaps once, advisors were primarily seen as a gateway to product. But today, if access to product is all that consumers are looking for, it is far easier to simply transact directly with a manufacturer on the internet.

Indeed, the primary role of the *modern* advisor is to offer holistic financial guidance to clients through relationships that last years or even decades. These relationships ensure clients' financial preparedness for life's major events – such as marriage, home ownership, the raising of children, and even death, through trust and estate matters, and it is through these experiences, shared over many years, that trust is created. Without trust, the gamma factor cannot be realized.

The qualitative components of the gamma factor

In developing the relationship of trust, advisors provide their clients with (*inter alia*):

- Knowledge – including an understanding of financial instruments, investment strategies, and insurance products;
- Experience – on market trends and behaviours, including on the nature of economic cycles;
- Discipline – through savings and investment behaviour, helping clients stay on plan during volatile markets;
- Peace of mind – evidenced by consumers' high levels of trust, satisfaction and confidence in their financial advisors; and
- Access to additional services – with tax strategies warranting particular mention given the huge importance of taxation in financial planning.[25]

These salutary benefits manifest themselves in many ways.

Advised households are more likely to have, and stick to, a financial plan. According to IFIC's 2012 *The Value of Advice Report*,[26] investors with financial advice are more than 1.5x more likely to maintain a long-term investment strategy relative to those without financial advice. And investors with a written financial plan are almost twice as likely to rebalance appropriately during a bear market than investors without a written plan. Having a financial plan creates a critical accountability mechanism that makes achieving long-run financial goals more realistic.

[25] PricewaterhouseCoopers LLP, *Sound Advice: Insights into Canada's Financial Advice Industry*, July 2014. Available at: http://www.advocis.ca/sareport.pdf.
[26] https://www.ific.ca/wp-content/uploads/2013/02/IFIC-Value-of-Advice-Report-2012.pdf/1650/.

Advisors help consumers invest confidently. In the 2016 IFIC/Pollara Investor Survey,[27] respondents said that they would have limited confidence choosing mutual funds without the help of an advisor. The majority (56%) say they would feel 'not very confident' or 'not confident at all', while only 3% would feel completely confident. A separate report prepared for the Financial Consumer Agency of Canada found that "financial confidence has important effects on retirement preparedness among seniors and near-seniors" but that "high knowledge alone is not enough to lead to financially desirable behaviours."[28] Given the importance of investing in risk-bearing assets to retirement readiness, advisors are a crucial link in enabling access for mass market consumers to the growth potential of investments.

Advisors help reduce consumer anxiety about money. A 2014 survey of Canadians by Leger Marketing found that financial anxiety is the number one source of stress.[29] In the study, 42% ranked money as their greatest stress, far more than work (23%), personal health (19%) or relationships (17%). 87% of respondents wished they had made better financial decisions earlier in life, including saving and investing more. A separate study found that those who engage with a financial advisor have a significantly higher overall sense of financial well-being[30] and are more likely to experience positive emotions about their finances.

The result is retirement readiness. Research reveals that having a financial advisor makes a major impact on retirement readiness. A study by McKinsey and Company shows that households that do not have an employer pension plan, but are nevertheless on track to maintain their standard of living in retirement, are twice as likely to use financial advice (49% use rate) compared to those households that are not on track (27% use rate).[31]

And according to the Financial Consumer Agency of Canada's *Canadian Financial Capability Survey*,[32] retirees who frequently sought financial advice reported a standard of living that met or exceeded their expectations at a higher rate than those retirees who did not seek advice; and near-retirees (defined as working Canadians aged 55 or greater) who frequently sought advice on financial matters reported higher levels of assets in their RRSPs, TFSAs, and other account balances.

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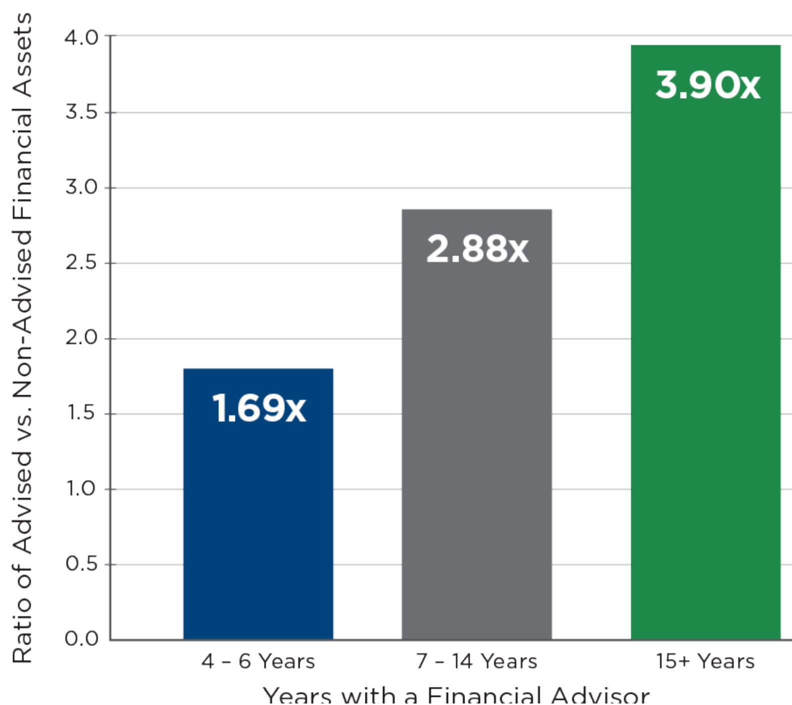
[27] https://www.ific.ca/wp-content/uploads/2016/09/IFIC-Pollara-Investor-Survey-September-2016.pdf/15057/.
[28] The Social Research and Demonstration Corporation, *The role of financial literacy in financial decisions and retirement preparedness among seniors and near-seniors*, May 2016.
[29] http://www.fpsc.ca/news/publications-research/how-is-financial-stress-affecting-canadians.
[30] John Ameriks, Andrew Caplin and John Leahy*, Wealth Accumulation and the Propensity to Plan*, Quarterly Journal of Economics (2003); and Annamaria Lusardi, *Explaining why so many households do not save*, University of Chicago (2000).
[31] McKinsey & Company, *Building on Canada's strong retirement readiness*, 2015.
[32] Simhon, Y, *Financial Literacy and Retirement Well-Being in Canada: An Analysis of the 2014 Canadian Financial Capability Survey*. Paper presented at the 50th Annual Conference of the Canadian Economics Association, Ottawa, Canada (June 2016).

Consumers overwhelmingly credit their advisors for these positive outcomes, with 82% saying that advisors are responsible for helping them achieve their savings and investment habits.[33]

The value of advice, quantified

These qualitative benefits translate into quantifiable impacts on client wealth accumulation. According to the updated 2016 CIRANO Report,[34] advice has a positive and significant impact on wealth accumulation, relative to non-advised persons. Households with four-to-six year long advisory relationships accumulated 69% greater assets, and households with 15+ year advisory relationships accumulated 290% more assets, relative to non-advised peer households.



Vanguard, the major fund manufacturer that is known for championing a low-fee message, conducted its own study which found that financial advice creates real value.[35] It found that, over time, advisors add about 3 percentage points of value in net portfolio returns per year. More importantly, Vanguard sees meaningful value in the behavioural coaching (or gamma) element of

[33] Pollara, *Mutual Fund Investors Perceptions of Mutual Funds and the Mutual Fund Industry*, 2016.
[34] Claude Montmarquette and Nathalie Viennot-Briot, *The Gamma Factor and the Value of Financial Advice*, CIRANO, August 2016 (the "2016 CIRANO Report", and together with the 2012 CIRANO Report, the "CIRANO Studies").
[35] Vanguard Canada, *The added value of financial advisors*, May 2015. Available at: https://www.vanguardcanada.ca/documents/added-value-of-advisors.pdf

an advisor's work – so even after accounting for the fees that necessarily must be paid to an advisor (as no professional works for free), there is additional value for investors when they obtain professional advice.

The 2016 CIRANO Study considered an additional intriguing variable: what happens when households with financial advice discontinue their use of that advice, and branch out on their own? Does the behavioural coaching learned from their time with an advisor persist beyond that relationship? That is, once the behaviour is learned, can it be retained by investors acting alone? Simply, no. Between 2010 and 2014, households that discontinued the relationship with their advisor accumulated 45% less additional assets than households who continued their relationship.[36]

From this, it is clear that the gamma factor is not a one-time event that, once experienced, forever alters the client's behaviour for the better. Instead, the advisor's work must be ongoing, continuously pushing back against human inclinations (of excessive present consumption, poor savings discipline, costly emotional investing decisions and so on) that would undo the good work achieved during the advised period – the advisor is providing value in every year of the relationship. This finding also explains why the positive impact of financial advice, as quantified in the CIRANO Studies, grows in magnitude with the duration of advice.

[36] *Supra*, note 34.