



**Steve Howard, CA**

*President and CEO*

Email: [showard@advocis.ca](mailto:showard@advocis.ca)

VIA E-MAIL

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Mr. Jim Hall, Chair

Joint Forum Sub-committee on Practice

Standards for the Sale of Products and Services in  
the Financial Sector

Joint Forum of Financial Market Regulators

Joint Forum Project Office

5160 Yonge Street 17<sup>th</sup> Floor Box 85

North York, Ontario, M2N 6L9

Dear Mr. Hall:

Thank you very much for your invitation to comment on the information that the Task Force of the Joint Forum of Financial Market Regulators has prepared on the principles and practices for the sale of products and services by all financial intermediaries. We were very pleased to have an opportunity to meet with the Joint Forum Task Force members on March 6 to discuss these issues. Our own thoughts continue to evolve and we share with you today, our current thinking. In doing so, we look to continue our dialogue with you, in order that together we can establish a model that promotes the interests of consumers and welcomes the initiatives that professional advisors have established and are considering.

Your Principles and Practices for the Sale of Products and Services in the Financial Sector document indicates that, since regulations vary by jurisdiction, type of intermediary and regulator, the Joint Forum's objective will be to apply best practices and principles in the form of minimum standards on a voluntary basis to the conduct of all financial intermediaries in their dealings with consumers of financial products and services. This is a positive step and we commend you for it.

As we mentioned in our meeting, in our view, your initiative will be better received and more effective, if it takes into account the efforts that are forthcoming from industry participants themselves. In particular, the role that associations are now playing and could further play needs to be considered even further. So too, does the role of designations.

As progressive as your proposals are with reference to the current regulatory paradigm, without these considerations, we feel your proposals are inherently limited because they focus on a transactions-based model, rather than considering the nature and role of advice in the support of consumers. Simply put, our suggestion of incorporating within your model the role of designations and the associations that support them establishes a direct accountability between the consumer and the individual providing advice. This accountability would be established by embedding appropriate designations as a requirement to “hold out” the ability to offer prescribed advice – that is to say advice in the areas of portfolio management, complex investing, financial planning and advanced life underwriting.

Advocis members have adhered to a code of professional conduct for many years. Currently, Advocis is developing a series of “Best Practices” manuals to encode the elements of regulatory compliance and define such generally accepted practices that would serve as the application standards for investment advice, financial planning and insurance underwriting. We believe it is through such a body of knowledge, widely recognized within the industry, that true references of appropriate, consistent compliance can be upheld. We are at the early stages, and the project will pick up steam as we go and the industry recognizes the true depth and benefit of our efforts. In the manuals prepared to date, each of your nine principles is referenced. In these manuals, we have taken the approach that we will set out not only what advisors “must do” (regulatory compliance) but also what they “should do” if they want to practice at the highest level. Furthermore, these codified practices provide a means of objectively evaluating practice readiness and continuing education requirements.

The fundamental element in the advisor-client relationship is the letter of engagement and disclosure. This document clearly sets out what services the client is to receive, whether any conflicts exist and the method of advisor compensation that will be employed. A significant portion of the manuals is devoted to this topic. Advocis would be pleased to provide copies of these manuals to the Joint Forum as they become available. What we would prefer, however, is to consult with us as to how to leverage the higher standards that the 16,000 or so Advocis members have already committed to, rather than trying to regulate them through a lower common denominator.

Although we support your approach to travel the voluntary route in terms of the code of conduct, we are concerned that financial intermediaries that do not belong to an industry association will essentially “fall through the cracks”. In our view, the best way to ensure that this does not happen is for all intermediaries to earn one of several approved designations, within a certain time period after they begin their practice.

We would like to stress that in our model the education entities – particularly the FPSC, Canadian Securities Institute and the CLU Institute should have one singular focus – the maintenance of the standard for those who hold out that they are qualified to give advice in the respective areas. The

associations that provide member services or promote member interests should have discrete mandates. None of the parties in the industry today need be disadvantaged by such a shift. It is merely necessary that a group such as yours, which has already demonstrated its leadership interests, take the further step to partner effectively with those associations.

I recently wrote about the joint forum's initiatives and Advocis' designation-based approach in the CEO's Comments in our monthly Forum magazine. I have included a copy of my article for your review.

We support the ideas that you have presented in the Consumer Guide to Financial Transactions and have no problem with the approach that you are suggesting in the Industry Examples.

We hope that our comments are helpful. We appreciate being included in your consultation process.

Thank you again for this opportunity to comment on these issues that are of importance to all our 16,000 members and 10 million clients across Canada.

Sincerely,

A handwritten signature in black ink, appearing to be a stylized 'A' followed by a flourish.

CEO's Comments  
By Steve Howard

## All Roads Lead To Rome

It's funny how things connect. Sometimes everything keeps coming back to the same point. That is what is happening with the Chartered Life Underwriter (CLU) designation these days. Instead of Rome, all roads seem to be leading to the CLU.

Advocis met recently with representatives of the Joint Forum of Market Regulators. This group represents insurance, investment, and pension regulators across the country. They are asking the associations that support advisors to voluntarily adopt codes of conduct and best practices. No problem. Advocis is already there. But we asked, "Shouldn't your regulatory model recognize that many people in this industry have already committed to professional practice in their fields of activity?" For example, the CLU for insurance, the Certified Financial Planner (CFP) for financial planning, and other various designations in respect of securities. Doesn't it make sense for regulators to partner with the professional commitment that such members are already demonstrating rather than seeking to lay another level of compliance on them? "Good question," they said. "We'll think about it."

We work at being good friends and neighbours with our colleagues at the Financial Planning Standards Council (FPSC). Insurance concepts are an integral part of the financial planning process, but the CFP only goes so far; the CLU goes the rest of the way for advisors looking to specialize in advanced insurance and estate planning matters. Strengthening the CLU Institute – in fact, making the CLU Institute as vibrant and distinct a body as the FPSC – seems to make sense. We make good partners, the FPSC and the CLU Institute. Just like for CFPs, the Code of Professional Conduct for CLUs could rest with the designation. The designation is the key in how you hold out to the public. Protecting the public through the regulation of holding out is how we can partner with the regulators.

The Bank Act opens up in 2005. Will the banks be allowed to sell insurance products? The same arguments that caused the Association to fight so vigorously against this 10 years ago still apply. We cannot accept tied or coercive selling. It's not in the consumer's interest. Could we, however, accommodate the banks' interest in selling insurance by insisting that such sales occur only under the auspices of CLUs – who, as part of the Code of Professional Conduct, would be bound to place the client's interests at the forefront through the practice of objectivity and integrity? No forced selling, just professionalism.

What would really cap all this off is if the securities side of the equation could get onto the same page. That way, the map of the world becomes really clear. To hold out as a financial planner, one should have a CFP. To hold out as an insurance professional, one should have a CLU. To hold out as an investment specialist, one should have a Fellow of the Canadian Securities Institute (FCSI).

Is all of this a pipe dream? Maybe. I do know that if you want to find your way in the world it's a good idea to have a map and a destination. Right now, all roads lead to the CLU and the CLU Institute.