Expert Committee to Consider Financial Advisory and Financial Planning Policy
Alternatives

c/o Frost Building North, Room 458
4th Floor, 95 Grosvenor Street
Toronto, Ontario, M7A 1Z1

Fin.Adv.Pln@ontario.ca.

Subject: Financial Planning/Advice Consultation

I thank the Committee for the opportunity of expressing my opinion on the Ontario financial advice industry.

I make my comments based on my own experience and having researched the subject for some time.

I have come to the conclusion that the fundamental issue that is the root cause of so many Canadians losing their retirement savings is that Canadians are being deceived by the financial services industry.

The cold facts are:

- The majority of Canadians trust their financial advisor (I certainly did)
- Most Canadians believe their financial advisor must act in the best interests of clients but they are actually registered as “A dealing representative – A sales person.” They do not have a legal requirement to look after a client’s best interests.
- The industry puts a spin on the services provided to deceive investors and gain their trust. You see this in titles, “Free lunch” seminars for seniors and advertising. See SIPA – Report "Lack of Truth in Advertising …" - May 5, 2015

The result of this trickery or illusion is that Ontarians place their complete trust and their life savings in the hands of a sales person. These sales persons are motivated by commission and operate in a sales environment with sales quotas and other financial and non-financial incentives. The result is that expensive products abound and portfolios are weighted with expensive, often risky products. On top of this, leveraging is encouraged to increase sales commissions and/or assets under management.

As a result many investors end up highly leveraged with expensive products (many with Deferred Sales Charge early redemption fee penalties).

Unfortunately, people are unaware of these facts and feel no need to learn more because they have been led to believe they can place their trust in the industry and its regulators. See National investment Fraud vulnerability report: BCSC 2012 http://www.bcsbc.ca/uploadedFiles/About_Us/Events/Event_Registration/2012NationalInvestmentFraudVulnerabilityReport.pdf
I am including a number of research papers that back up what I am saying. Here is my personal response to the questions posed as follows.

1. What activities are within the scope of financial planning? Is the provision of financial advice different from financial planning? If so, please explain the distinction.

Financial planning should be a plan for life’s financial events including investments, taxes, insurance and estate planning. It should result in a written plan. **Here's what an award-winning financial plan looks like** - The Globe and Mail

READ THE COMPLETE WINNING FINANCIAL PLAN BY JASON PEREIRA HERE

2. Is the current regulatory scheme governing those who engage in financial planning and/or the giving of financial advice adequate?

I believe the current regulatory system is failing to provide adequate investor protection. This goes well beyond lack of disclosure, manipulated KYCs, wrist slap enforcement penalties, exploitive complaint handling failure to investigate systemic issues and a myriad of other deficiencies.

The investment industry has proven to be incapable of managing conflicts of interests to safeguard investors. There should be a legislated fiduciary responsibility for all firms and individuals handling Canadians’ life savings. It is particularly important for retirement savings especially with the movement away from defined benefit to defined contribution pension plans. The majority of Ontarians do need financial advice but it must be provided by a fiduciary and someone with the necessary proficiency.

To what extent, if at all, should the activities of those who engage in financial planning and/or giving financial advice be further regulated? Please consider the following in your response:

   a. Licensing and registration requirements;
   b. Education, training and ethical responsibilities;
   c. Titles and designations of individuals who engage in financial planning and/or the giving of financial advice;
   d. Specific activities that should be included or excluded in a regulatory scheme;
   e. Costs and other burdens of regulation;
   f. Regulation of compensation; and
   g. Complaints and discipline mechanisms.

In a word, they should be fiduciaries if they hold themselves out as advisors. They should be professionals with appropriate proficiency and robust analytical skills. Made up titles should be prohibited.

3. What harm(s) and/or benefit(s) do consumers experience in the current environment? Please provide specific evidence to support your views where available.

This illusion of trustworthiness creates life-altering events that result in health issues, loss of hope and faith, disruption of families and marital disharmony.
Seniors are the most vulnerable. This will only get worse with changing age demographics in Ontario. These events include the selling of Off book investments, fraud, loans to advisors that are not repaid, improper commutation of Company pensions, excessive leveraging, inappropriate use of home equity loans account churning, abuse of POA etc. IIROC is even considering allowing brokers to act as executors! See Canadian Network for the Prevention of Elder Abuse ~ Réseau canadien pour la prévention du mauvais traitement des aînés http://www.cnpea.ca/ and Bad Investment Advice Can Hurt You for Life http://www.dailyreckoning.com.au/bad-investment-advice-can-hurt-you-for-life/2015/05/23/

4. Should consumers have access to a central registry of information regarding individuals and entities that engage in financial planning and the giving of financial advice including their complaint or discipline history?

This is critical. The CSA already have such a system but it needs several improvements that have been well articulated by FAIR Canada. There also needs to be such a system for those licensed to sell insurance because they too claim to be financial advisors. Regulatory arbitrage is a real threat to unsuspecting citizens.

I certainly hope the Committee will inspire the Ontario govt. to take affirmative action to protect its citizens especially seniors and other vulnerable investors.

As an added comment - An adjudication is required of the obstacles encountered when an investor proceeds through the complaint handling and resolution process.

This includes adjudication from the point of making the initial complaint to the Investment Dealer and the subsequent Dealer responses with unjustified rejections to the investors. Then, there is the ease with which the Investment Dealer, if the Dealer is owned by a Bank, can freely direct the complaining investor to file the complaint with the Bank Ombudsman for one more obstacle to be exercised.

Currently, if the complainant is still not satisfied by a Bank Ombudsman rejection, the complainant is directed to experience the discretionary freedoms of the SRA agencies of OBSI and IIROC to pick and chose which legitimate complainants' case to enforce and which to reject as being less important.

In our case, the Bank-owned Investment Dealer also put forward the proposition that if we were still not satisfied after going through the present dispute resolution process merry-go-round, we should consider litigation/civil action against them. I have the facts and evidence to support this allegation.

I hope this feedback is useful to you.

Peter Whitehouse
PeterWhitehouse@bell.net

/ Continued
Strengthening Investor Protection: Speaking with Ontarians

The Pension Fund Advantage: Are Canadians Overpaying Their Mutual Funds?
By Rob Bauer Maastricht University and Luc Kicken, October 1, 2008
Rotman International Journal of Pension Management, Vol. 1, No. 1, Fall 2008
Abstract: The institutional structure through which individuals accumulate retirement savings is an important issue. Ideally, it is expert and low-cost. This article compares the cost-effectiveness of the pension fund structure with the mutual fund structure. The authors hypothesize that the pension fund structure provides investment management services at lower cost because most mutual funds are conflicted between providing good financial results for their clients and good financial results for their shareholders. Specifically, they compare the investment performance of a sample of domestic fixed income portfolios of Canadian pension funds with those of a sample of Canadian fixed income mutual funds. They find an average performance differential of 1.8 percent per annum in favor of pension funds. This performance gap is approximately equal to the average cost differential between the two approaches. They conclude that high mutual fund fees significantly reduce the net returns of mutual fund investors.

The $25 billion annual mutual fund rip-off
http://cupe.ca/pensions/The_25_billion_annual_mutual_fund_rip-off
A comprehensive study by Canadian pension fund expert Keith Ambachsheer has found that defined benefit pension plans in Canada achieved annual average returns at least 3.8% higher than mutual funds with comparable investments. Defined Benefit pension funds outperformed the market by 1.23% per year, while mutual funds had average returns that were 2.6% below the market during the 1996 to 2004 period. Returns for most mutual investors were even less than this, as a result of sales fees and consistently poor selection of mutual funds by misinformed investors: buying high and selling low. This means that those with savings in mutual funds lost a total of about $25 billion a year from the higher management fees and lower returns compared to workplace pension funds. Higher management fees are responsible for about $15 billion of this.

Awareness and Perceptions of Financial Planners in Canada: Leger research
Key findings- 92% have heard of the title financial planners
44% believe there are regulatory standards in place for financial planners

Impact of conflicts of interest in the financial services industry. ABSTRACT: Americans are increasingly being asked to take responsibility for their own retirement
security. However, many people are ill-equipped to make financial decisions and have turned to professional financial advisors for help. While financial advisors often provide valuable services, it can be difficult for individual investors to evaluate the advice they receive and to identify when it has been influenced by a conflict of interest. In this literature review, we examine if and how financial advisors are influenced by their compensation schemes and how this influence impacts retail investors’ financial well-being. We find empirical evidence suggesting that financial advisors act opportunistically to the detriment of their clients. However, the current body of literature generally cannot account for selection issues and the intangible benefits financial advisors provide. In our broader review of conflicts of interest in the financial services industry, we find considerable evidence that investment analysts were excessively optimistic prior to regulation seeking to mitigate bias. There is mixed evidence on how this excessive optimism impacted investors, though the literature generally concludes that retail investors were more acutely impacted, as compared to institutional investors. We also find evidence that conflicts of interest extend to mutual fund management, with actively managed funds imposing sizeable trading costs and brokerage commissions which are not easily observed by retail investors. Regulation and disclosure are often suggested methods for reducing bias. We find evidence that regulation designed to mitigate conflicts of interest can help reduce the prevalence of biased advice, but regulation that penalizes bad advice may be less effective because bias may be unconscious. Disclosure is unlikely to be an effective strategy if employed in isolation, but may be an important part of a comprehensive mitigation strategy.

http://www.rand.org/content/dam/rand/pubs/working_papers/WR1000/WR1076/RAND_WR1076.pdf


RRSPs allow middle-to high-income Canadians to save for retirement while their tax rate is high, get about half their contribution back as a tax refund, and take the money out at a lower tax rate when their incomes fall. But for the 20 or some percent of Canadians approaching retirement without any savings, the RRSP is useless. For people with a bit more money who still remain in the lowest tax bracket RRSPs are no good for two reasons and advisors who recommend them to these folks are just incompetent or hooked on commissions. First, if a person is in the lowest tax bracket when they buy the RRSP and the lowest bracket when they cash it in and pay taxes on it, there are no savings. Second, RRSPs are a bad investment for low-income people because cashed-in RRSPs are treated as income when determining eligibility for government programs like Guaranteed Income Supplement, Medical Services Plan, PharmaCare, transit passes, and social housing. Author Shillington calls imminent retirees who have saved less than $100,000 "futile savers", because their savings simply reduce the amount the government spends on Guaranteed Income Supplement and other programs and don't benefit the saver.

The Costs and Benefits of Financial Advice
Abstract: We assess the value that financial advisors provide to clients using a unique panel dataset on the Canadian financial advisory industry. We find that advisors influence investors’ trading choices, but they do not add value through their investment recommendations when judged relative to passive investment benchmarks. The value-weighted client portfolio lags passive benchmarks by more than 2.5% per year net of fees, and even the best performing advisors fail to produce returns that reliably cover their fees. We show that differences in clients’ financial knowledge cannot account for the cross-sectional variation in fees, which implies that lack of financial sophistication is not the driving force behind the high fees. Advisors do, however, influence client savings behavior, risky asset holdings, and trading activity, which suggests that benefits related to financial planning may account for investors’ willingness to accept high fees on investment advice.

See TD puts the squeeze on ……if your "advisor" is not making $2000 to $2500 (per day) in sales commissions, they are being told "achieve or leave" http://www.investmentexecutive.com/-/lower-producing-advisors-under-fire?redirect=%2Fsearch “..Instead, the new grids also could lead to bad trading decisions, says one bank-owned brokerage executive who asked not to be named. Advisors who may be close to hitting the next pay scale, the executive says, could start to display behaviour that's not in the best interest of clients or the industry in order to reach that target.” Also TD Models Advisor Pay Plan – the REAL reason it does not want to get rid of embedded commissions and introduce best interest standards.... “We now have aligned ‘pay for performance’ to strategy,” states the compensation document. "We want your practice, on average, over time, to grow faster and be more productive and profitable than our competition.” http://blog.moneymangedproperly.com/?p=2967

Restoring Trust in financial services

Very interesting research paper from the UK http://www.smf.co.uk/files/2813/2317/4997/SMF0287_Trust_in_financial_services_web.pdf How does trust interact with financial services markets? What impact did the financial crisis really have on trust? And what more long-term, endemic problems in the market have driven distrust? With a major Social Market Foundation analysis of financial services markets combined with expert essays, A Confidence Crisis? Restoring Trust in Financial Services answers these questions and proposes a set of radical policy solutions to correct market failures.

Deception under Competitive Intermediation

http://www.stanford.edu/group/SITE/SITE_2013/2013_segment_8/2013_Segment_8_Papers/murooka.pdf ABSTRACT: This paper analyzes the incentives of intermediaries, such as financial advisors, mortgage brokers, or salespeople, to educate consumers who misperceive the value of products. Two types of firms sell products through common-agent intermediaries and pay commissions for sales. One type sells a transparent product, the other sells a deceptive product that has hidden fees, qualities, or risks. Each intermediary chooses which product to promote and whether to educate consumers about the hidden attributes. Each consumer visits a fixed number of intermediaries and buys one promoted item. When consumers are aware of the hidden attributes, deception does not occur and commissions are competed away. When
consumers are unaware of the hidden attributes, deception occurs if and only if the
degree of misperception is large. If deception occurs, intermediaries earn high
commissions despite competition. Further, because consumers ultimately bear the cost
of such commissions, consumer welfare in the case is lower than in an alternative case
where intermediaries cannot educate consumers. A policy regulating commissions can
lead intermediaries to reveal any hidden attributes.

CSA 2012 Investor Index

Key findings show that almost 30% of Canadians surveyed believe they have been
approached with an investment fraud at some point in their life. Over half agreed they
were just as likely to be a victim of investment fraud as anyone else. However, just 29%
of those who believe they have been approached with a fraudulent investment said
they reported the most recent occurrence to the authorities. The Investor Index also
shows that the overall investment knowledge of Canadians is low, with 40 per cent of
Canadians failing a general investment knowledge test. According to the findings, 57%
of Canadians say they are confident when it comes to making investment decisions. Yet
most Canadians have unrealistic expectations of market returns. When asked what they
think the annual rate of return on the average investment portfolio is today, only 12%
of Canadians gave a realistic estimate, while 29% provided an unrealistic estimate and
59% explicitly chose not to hazard a guess. Nearly half of Canadians (49 per cent) say
they have a financial advisor, up from 46% in 2009 and 42 per cent in 2006. However,
60% of those with a financial advisor have not ever completed any form of background
check on their advisor. Thirty-one per cent of Canadians say they have a formal written
financial plan, up from 25% in 2009. Although more Canadians have a financial plan,
they are reviewing it less frequently (78% say they reviewed their plan in the past 12
months, down from 83% in 2009). http://www.securitiesadministrators.ca/investortools.aspx?id=1011

What is the Impact of Financial Advisors on Retirement Portfolio Choices and
Outcomes? http://www.smeal.psu.edu/csfm/PERS3_201110.pdf “Although we cannot
conclude that those investing through a broker would have been better off investing on
their own, our findings suggest that brokers are a costly and imperfect substitute for
financial literacy...”

Long term issues in client-advisor relationships AND HOW TO ADDRESS THEM
WITH ACADEMIC RESEARCH: Brondesbury Research Oct. 2011

The purpose of this research is to identify areas of study that could be funded by the
Canadian Securities Institute Research Foundation (CSIRF), which would help address
long-term issues and challenges faced by the securities industry. The report is based on
30 opinion leader interviews with experts in the securities industry and related
professions. The interviews were conducted in late 2010 and early 2011. While opinion
leader interviews were the basis for our findings, reporting on their views is not the
major aim of the study. Views are only reported to the extent that they help
understand the research issues

Financial Industry Overselling Value of Advice
http://www.theglobeandmail.com/globe-investor/personal-finance/household-
finances/financial-industry-overselling-value-of-financial-advice/article5360796/
The Feeling’s Not Mutual
The High Costs of Canada’s Mutual Fund Based Retirement System
Author(s): David Macdonald February 25, 2015 Download 461.62 KB 22 pages This study compares the management fees charged by mutual funds and pension plans, and finds that high management fees will cause Canadians relying on mutual funds for their retirement income to work longer or retire with less, compared to those with pension plans. The study recommends an expansion of inexpensive workplace pension plans or public pension plans, like the CPP; and as a stopgap measure, trailers commissions—the portion of mutual fund fees that go back to the advisor—could be capped or banned entirely. - See more at: https://www.policyalternatives.ca/publications/reports/feeling%E2%80%99s-not-mutual#sthash.arTWxQGH.dpuf

Folklore of Finance: How Beliefs and Behaviors Sabotage Success in the Investment Management Industry : State Street research “To better understand the flawed beliefs and behaviors within the industry, what we describe as “folklore,” we examined the views of thousands of investors, investment providers, government officials and regulators across 19 countries over 18 months. What we learned is that true success lies beyond what the industry previously accepted. It includes not only producing alpha — perhaps more importantly, it also requires helping investors achieve their long-term goals. We’ve outlined concrete steps that the industry must take to develop a new “Folklore of Finance.”” EXPLORE THE FULL REPORT

Mis-selling through Agents http://www.eco.uc3m.es/temp/misselling%20ottaviani.pdf


Consumers Group Calls for Increased Accountability from Financial Planners: PIAC
The report concluded the time remains ripe for provincial consumer and finance ministries to work towards a regulatory framework for financial advisors and, if constructive, a regulatory regime for financial planners in each province. “PIAC continues to believe a financial advisor legal framework similar to what exists in Québec is clearly the most beneficial to consumers and should be adopted with local modifications by all provinces,” contends John Lawford, Executive Director and General Counsel for PIAC.
Advisor advocate Group illustrate harm to investors from the suitability standard

In a joint letter to SEC Chairwoman Mary Jo White and the four SEC commissioners, the groups — which include AARP, the Certified Financial Planner Board of Standards, the Consumer Federation of America, the Financial Planning Association, Fund Democracy and the National Association of Personal Financial Advisors - provide what they say is “empirical evidence” from academic research, market analysis, and observation of industry practices that illustrates the harm to investors that results from allowing brokers to give advice. “We strongly believe that in order to be meaningful and consistent with Section 913, a uniform fiduciary rule must include more than the current suitability standard supplemented by additional disclosure requirements,” wrote the groups, who dub themselves the “Friends of Fiduciary.” “Designed with a sales relationship in mind, the groups continued, “the suitability standard does not impose the same clear obligation that exists under a fiduciary standard, which requires the advisor to put the customer’s interest first.”