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To: Ontario Ministry of Finance

Submitted by email: Fin.Planning@ontario.ca

Subject: Consultation – Regulation of Financial Planners

Independent Financial Brokers of Canada (IFB) is pleased to provide our comments to the Ministry on its proposals to establish a framework to regulate financial planners.

IFB is a national, professional association representing approximately 3500 financial advisors. IFB is the only association committed to exclusively representing independent advisors – those who have chosen to be self-employed so they can offer clients advice and products from a range of providers.

The majority of IFB members are licensed in Ontario as securities registrants (most often for mutual funds) and life insurance, although many are licensed or hold credentials that enable them to offer other financial services to consumers such as GICs, scholarship plans, exempt market products, and financial planning. It is not uncommon for IFB members and their firms to be licensed in other Canadian jurisdictions as well as Ontario. Therefore, regulatory solutions which are national in scope are preferable to ensure consumers, and those that advise them, are subject to similar treatment regardless of their residency.

Having said that, IFB welcomes initiatives which lead to a higher standard of consumer protection and increased transparency, so consumers seeking the services of financial firms and advisors can make more informed decisions, appropriate to their personal circumstances. This benefits not only consumers, but the financial services industry as a whole.

IFB has been involved in these discussions since early 2014 when we attended and made representation at the Ministry's roundtable. Following that, we participated in the in-person and formal consultation processes held by the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives (Expert Committee) in 2016. In each of those previous representations, IFB supported clarity around the use of the term 'financial planner' and financial planning, and restricting use of the title to those with the appropriate credentials or accreditation to support their knowledge.

Below we address the Ministry's specific proposals.

Proposal to restrict the use of the 'Financial Planner' Title in Ontario

The paper proposes 6 standards for a credential to qualify to be recognized:

- a. A focus on financial planning to ensure the Holders of a recognized credential would be able to meet a wide range of consumer needs;
- b. An education or course requirement to ensure Holders have a solid educational grounding in the area of financial planning;
- c. An examination requirement that will serve as an objective measure of the Holder's mastery of the course material;
- d. A code of ethics or standards, which will ensure that Holders are required to act in an ethical manner and follow a standard of conduct in their dealings with clients;
- e. A continuing education requirement which will require that Holders keep up to date with changes as the marketplace evolves; and
- f. A disciplinary process and mechanism for revoking the credential when warranted. The disciplinary process results must be publicly reported and easily accessible for consumers, in a timely fashion.

Questions:

1.1 What changes, if any, would you suggest to the credential recognition standards above?

The requirement for a credential to have "a focus on financial planning" is too broad. The paper does not propose a definition of Financial Planning. Without that, IFB remains concerned that restrictions around what constitutes financial planning will fail to recognize the existing requirements for licensed financial advisors to comply with their broad obligations under both securities and insurance regulations, such as Know Your Client and ensuring recommendations to clients are suitable. To comply, advisors are required to perform financial planning activities which include understanding and collecting information on a client's personal and financial situation, their objectives for the investment or life insurance product, needs analysis, time horizon for the investment and risk tolerance.

Due to the breadth of these financial planning activities, IFB, in previous submissions, has supported adopting a definition of financial planning; carving out financial planner regulation which applies to holding out as a Financial Planner; and/or applies to those who prepare detailed financial plans for clients.

In our submission to the Expert Committee, IFB recommended using the definition of [financial planning](#) recognized by the Financial Planning Standards Council (FPSC) and Institut québécois de planification financière (IQPF)¹. This definition encompasses the holistic, comprehensive review of a client's circumstances that is expected of professional financial planners.

¹ Financial Planning Standards Council, Canadian Financial Planning Definitions, Standards & Competencies March 2015. https://issuu.com/fpsc/docs/fpsc_definitions_en_web

Many advisors will already be subject to the credential recognition standards listed above, either as regulated entities, or members of professional associations or professional bodies. Recognizing this, it will be important that the financial planning framework not add a duplicative layer of regulation, or additional costs that must be borne by the advisor. In the alternative, the government should explore opportunities to standardize some of these requirements to reduce the potential for duplication and cost.

There is no mention that the credentialing body have a public interest mandate. We support this requirement to ensure the focus is clear.

1.2 To what extent do specific credentials currently used in Ontario meet the credential recognition standards?

IFB is not a credentialing body, therefore, we cannot comment on the various credentials currently offered and their standards. Certain credentials, like the CFP, seem obvious but there may be others that could qualify immediately, or in relatively short time by applying more rigorous standards.

The financial planning framework would need to address how other professionals, for example accountants, who provide similar services, or provide financial planning that is ancillary to their practice, would be treated.

1.3 What impact would the requirement to hold a recognized credential have on individuals currently operating as financial planners in Ontario?

1.6 What would constitute an appropriate transition period to allow individuals operating as financial planners in Ontario to attain a recognized credential once the proposed framework has been implemented?

The increased complexity of financial products and consumer demand for more comprehensive advice have led many financial advisors to obtain designations or credentials to differentiate themselves or their firms, as well as to demonstrate an increased level of professional proficiency. However, some licensed and unlicensed individuals will be forced to either obtain the appropriate credentials or discontinue holding out as a financial planner. Financial services industry regulators, government agencies and other industry/consumer partners will need to undertake a communications program to inform advisors and the public about the change, and its effective date.

IFB will defer commenting on a reasonable transition period until the details of the framework are closer to being finalized.

1.4 What impact would the requirement to hold a recognized credential have on internationally-trained professionals who relocate to Ontario and wish to operate as financial planners?

1.5 Are there any particular foreign credentials that would meet the proposed credential recognition standards?

IFB has no comment on these questions.

1.7 Do you believe that the proposed credential requirement for financial planners would benefit consumers of financial planning services? If not, how would you alter the framework to improve consumer protection?

IFB supports the credential requirement for financial planners who wish to hold themselves as such, as it will provide more clarity for consumers. If, however, the rules on who can call themselves a financial planner become mired in a broad set of credentials and similar sounding titles, the clarity for consumers will be lost and there will be little movement forward. Any approved credential should demonstrate that it meets, or surpasses, the acceptable standards identified in the framework.

IFB believes any one providing financial advice or planning to consumers for remuneration should be required to carry professional liability (errors and omissions) insurance. Financial advisors who are licensed by IIROC, or are life/health insurance agents are required to carry E&O. Currently, MFDA licensed advisors do not have this mandatory requirement, nor do unlicensed financial planners. Liability insurance is common for professionals who deal with the public, including other professions like doctors and lawyers. E&O provides consumers with complaints, recourse to restitution without the time and expense of litigation. Often complaints are resolved successfully and fairly such that further action is not required. We believe this is a gap in the consumer complaint process that could easily be rectified. IFB sponsors an E&O insurance plan for individual advisors and firms and would be pleased to assist the Ministry with further information.

Regulation of Titles

The paper identifies a number of titles that used in association with ‘Planner’ would be prohibited.

2.1 Is the proposed list of prohibited titles appropriate? Why or why not? Would you add or remove any titles from the list?

2.2 Is the proposed general prohibition on the use of other misleading titles appropriate?

2.4 Prohibited titles would need to be reviewed on a periodic basis to ensure the list remains current and appropriate. What would you consider to be an appropriate review period?

We will address these questions together.

While IFB appreciates the desire for the framework to add clarity for consumers, it is our view that a principles based approach is preferable to a list of prohibited titles. In 2001, when the CSA drafted 33-107 – Proficiency Requirements, it looked at restricting the title of financial planner, and considered using the phrase “or any other similar title” as an anti-avoidance measure. However, it proposed allowing the use of “insurance”, “investment” or “securities” as these relate to product and licensing. While this could be re-considered, we think this approach still has limitations that principle-based guidance does not.

Securities regulation prohibits licensees from holding out in a manner that could be, or is intentionally, deceptive or misleading with regard to their proficiency, qualifications or designations. Life insurance regulation related to the suitability of a life insurance agent includes a prohibition against misrepresentation. This type of principles-based guidance balances the need for flexibility to deal with diverse situations and future changes, which a static list cannot, yet puts the onus of compliance on the

regulatory body, and its licensees. The test in this case is whether the public is unduly relying on a title for which the advisor has no demonstrable proficiency or license.

We think a more valuable approach to address misuse of titles, and one that would more effectively address consumer confusion, is for the framework to prohibit the use of corporate titles that do not reflect the individual's role or position, for example "vice-president" which may lead consumers to have undue confidence in the advisor's seniority within the corporation. IFB commented on this in our response to the Expert Committee, and we reiterate it here. The test we proposed was whether the individual has the ability to influence the management and direction of the firm. If not, the title should be disallowed.

IFB would support a review of the framework to ensure it remains current and appropriate, rather than reviewing a list of prohibited titles, for the reasons identified above. Similar to other legislation, a 5 year review would seem appropriate.

2.3 How should the use of the title "Financial Adviser" or "Financial Advisor" be treated under the proposed framework outlined in this paper?

IFB believes that any one holding out as a financial advisor/adviser should be licensed. We would support a broad prohibition on anyone calling themselves a financial advisor if they are not duly licensed. However, unlike financial planner, which carves out a specific specialty, financial advisor is a commonly used generic term. Today's financial advisor is more likely to hold multiple financial licenses, for example, for both mutual funds and life insurance. There has also been an increased focus on the provision of wealth management advice, in addition to product recommendations, resulting in broader use of the term 'financial advisor'.

IFB has not supported restricting the title of financial advisor for these reasons. As well, since licensees can be securities registrants, regulated by IIROC or MFDA, or life insurance agents regulated by FSCO, these advisors are already subject to ongoing scrutiny and their files audited by each of their respective regulatory bodies, dealer/MGA firms, and insurance companies.

Proposal to Create a Central, Publicly-Accessible Database of Financial Planners

3.1 What information should be included on the central database?

IFB supports the creation of a central database of properly accredited financial planners. The information should be available in a way that is easily navigated by consumers. It should include the planner's name, location, license information, and complaints or disciplinary history, including sanctions or revocation of the credential, where proven. It could also include the designation or accreditation that permits the planner to participate in the registry (e.g. CFP). It should provide information and links that direct the public on how to make a complaint.

3.2 Do you foresee any specific concerns with the creation or maintenance of a central database?

The concern with any database is maintaining the accuracy of the information. Who will be responsible for creating it and maintaining it? How frequently will it be updated to add/delete Planners and disciplinary action?

There will be a cost to creating and maintaining the database. Who will pay for it? Financial planners who are otherwise licensed by securities or life insurance regulators already pay a provincial licensing fee(s), E&O insurance and have other costs of conducting business. Many will have annual dues payable to maintain their license or ensure their accreditation status remains in good standing. IFB is concerned that if costs become prohibitive, the framework will have the unintended consequence of creating a barrier to either maintaining one's professional financial planning accreditation or one's securities/life insurance license. Either is likely to lead to reduced access to advice – especially independent advice (since they bear their own costs) – for consumers.

Other Question

4.1 In recent years, there has been rapid growth in the creation and provision of technological innovations related to financial planning. Would the proposals outlined impact the creation and provision of these more innovative aspects or kinds of services? Is so, how?

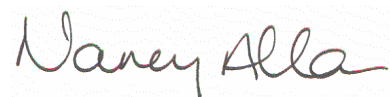
There is no doubt that financial services will continue to be impacted by rapid advancements in technology. The financial planning framework and credentialing process must be flexible enough to respond to and accommodate these changes. Financial planners already compete with online providers of financial planning software which allows customers to create a plan, and the growth of the robo-advisor network which has created opportunities for advisors to deal with wider wealth management strategies through referrals.

While investor protection must remain the focus of regulation, regulatory bodies will have to be flexible, adaptable and nimble. If the proposed system is structured to reflect today's business models, it will reduce the innovative solutions that could otherwise promote greater financial inclusion for consumers, by broadening their access to financial planning professionals and financial planning software. The intersection of financial services, consumers, and advice is likely to deepen as a result of technological advances.

IFB appreciates the opportunity to contribute to the development of a framework to ensure consumers are better protected when seeking the services of a professional financial planner. We look forward to working with government and ministry officials as the process moves forward.

If you have questions on our comments or wish to discuss please contact myself or Susan Allemang, Director Policy and Regulatory Affairs (email: sallemang@ifbc.ca).

Yours truly,



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