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REGULATION OF FINANCIAL PLANNERS – CONSULTATION PAPER

PURPOSE

The government of Ontario is committed to strengthening consumer protection in the financial services sector. As part of this commitment, the Ontario Ministry of Finance is seeking your input on the regulation of financial planners in the province. We welcome comments from a wide range of stakeholders including consumers, consumer advocates, credentialing bodies, individuals operating as financial planners and financial services industry associations.

This consultation paper includes specific questions related to:

1. Restricting the use of the title ‘Financial Planner’ to those individuals holding a recognized financial planning credential;
2. Prohibiting the use of titles similar to ‘Financial Planner’; and
3. Creating a central database of financial planners.

Your input is important to us. It will be considered carefully as we work to build a stronger regulatory framework to ensure the long-term financial well-being of Ontarians.

ISSUE

Currently, consumers seeking financial planning services in Ontario confront an array of titles and credentials related to financial planning. A mystery shopping exercise conducted by investment industry regulators in Ontario found 48 different titles used across various industry platforms¹. However, these titles and credentials may not accurately reflect an individual’s qualifications or expertise. This, in turn, makes the process of obtaining qualified financial planning services unreasonably complex, as consumers are forced to decipher and evaluate the

¹ Mystery Shopping for Investment Advice: Insights into Advisory Practices and the Investor Experience in Ontario, <http://www.osc.gov.on.ca/documents/en/Securities-Category3/20150917-mystery-shopping-for-investment-advice.pdf>

multitude of titles and credentials in the marketplace. Ontarians may reasonably assume that titles are already restricted, or that particular titles necessarily convey expertise. Taken together, these issues represent a clear consumer protection concern in how Ontarians plan for their financial futures.

BACKGROUND

In April 2015, the government appointed an independent Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives (Expert Committee). The Expert Committee was tasked with reviewing the regulatory framework relating to financial planning and advisory services in Ontario. The Expert Committee's final report was released in March 2017². The report recommended that the government create a harmonized regulatory framework for financial planning and advisory services, which would include restricting the use of titles and establishing proficiency requirements. Following the 2017 Ontario Budget, the Ministry of Finance worked with Ontario's financial services regulators to evaluate the Expert Committee's recommendations and advise the government on how best to enhance the existing regulatory framework.

In the 2017 Ontario Economic Outlook and Fiscal Review, the government announced its plan to develop legislation that would regulate financial planners in Ontario. Under the proposed framework, financial planners would be required to meet specified proficiency requirements. Additionally, the government indicated that it will take steps to reduce consumer confusion created by the wide variety of titles used in the financial services industry by restricting the use of titles related to financial planning. The government committed to consulting with stakeholders in shaping the proposed framework.

This document represents an initial step towards fulfilling this commitment. The questions below relate to the key elements of the proposed framework. Other aspects of the proposed framework remain under development. The government will ensure that stakeholders have the opportunity to provide further input as it develops other aspects of the framework.

² Final Report of the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives. <https://www.fin.gov.on.ca/en/consultations/fpfa/fpfa-final-report.html>

PROPOSALS

Proposal to Restrict use of the ‘Financial Planner’ Title in Ontario

The Expert Committee noted that, with the exception of the mortgage brokering sector, there are currently no uniform regulatory standards for the use of titles in the financial services sector. This creates a lack of consistency which allows individuals to use the title ‘Financial Planner’ without necessarily having the expertise to provide financial planning services. In their report, the Expert Committee articulated the impact this has on consumers: “Titles and credentials are intended to give an impression of expertise and instill consumer trust. When these titles or credentials are not backed up by real expertise, this trust may be misplaced.”³

The proposed regulatory framework would restrict the use of the title ‘Financial Planner’ to individuals holding a recognized financial planning credential. This would close the gap that currently allows the unregulated use of the title “Financial Planner”. Financial planning credentials would be required to meet strict recognition criteria (described below). This would ensure that all individuals using the title “Financial Planner” in Ontario have the training and expertise to provide financial planning services.

There are a number of credentialing bodies that provide education or training related to financial planning. In its final report, the Expert Committee noted that the requirements to attain and retain these credentials can vary considerably, with some credentials significantly more robust than others. For consumers, it can be difficult to differentiate between various credentials and know whether their Financial Planner is well-qualified.

For a credential to be recognized under the proposed framework, it would be required to meet specific standards for recognition. The government proposes the following as the standards for recognition:

- a) A focus on financial planning to ensure that holders of a recognized credential (Holders) 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 Holders’ mastery of 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

³ Final Report of the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives, Page 29. <https://www.fin.gov.on.ca/en/consultations/fpfa/fpfa-final-report.html>

- 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.

The proposed framework is expected to include a periodic review of the recognized credentials to ensure that they continue to meet these standards. Furthermore, the credential recognition standards themselves will be subject to periodic review, to ensure that they remain relevant as the financial planning discipline evolves.

For individuals currently using the title “Financial Planner”, the government will consider an appropriate transition period to allow sufficient time to acquire a recognized credential.

Questions for all commenters:

- 1.1 What changes, if any, would you suggest to the credential recognition standards above?
- 1.2 To what extent do specific credentials currently used in Ontario meet the credential recognition standards?
- 1.3 What impact would the requirement to hold a recognized credential have on individuals currently operating as financial planners in Ontario?
- 1.4 What impact would the requirement to hold a recognized credential have on internationally-trained professionals that 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? If so, please also provide the name of the credentialing organization.
- 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?
- 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?

For Credentialing Bodies: An additional questionnaire is included in the attached Appendix.

Proposal to Prohibit Titles Similar to ‘Financial Planner’

The Expert Committee identified the proliferation of unregulated titles in the financial services industry as a key consumer protection concern. They noted a recurring theme raised by stakeholders: “the multitude of titles and credentials currently used in Ontario’s financial services industry lead to confusion and jeopardize consumer protection.”⁴

These concerns would be amplified if the government restricted the use of the title “Financial Planner” without also restricting similar titles, as individuals might attempt to use these similar titles to avoid the credential requirement. For the individual credential requirement to improve consumer protection, it therefore must be accompanied by a restriction on similar titles.

Accordingly, the government is contemplating the following restrictions on the use of similar titles under the proposed framework. This list should not be considered exhaustive.

1. The word ‘Planner’ in combination with any of the following words, for use in titles, would be expressly prohibited:
 - Wealth
 - Retirement
 - Portfolio
 - Asset
 - Asset Management
 - Investment
 - Securities
 - Mutual Fund
 - Insurance
 - Mortgage
 - Money
2. The use of other titles that could mislead a consumer into reasonably believing that an individual is a financial planner would be prohibited.

The government is aware of concerns related to unregulated use of the “Financial Adviser” or “Financial Advisor” title. Accordingly, the government is soliciting stakeholder views on how this title should be treated under the proposed framework.

⁴ Final Report of the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives, Page 27. <https://www.fin.gov.on.ca/en/consultations/fpfa/fpfa-final-report.html>

Questions:

- 2.1 Is the proposed list of prohibited titles appropriate? Why or why not? Would you add any titles to the list? Would you remove any titles from the list?
- 2.2 Is the proposed general prohibition on the use of other misleading titles 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?
- 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?

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

Today, it can be difficult for consumers to easily check key information on their financial planner. Separate regulatory bodies have registries of industry participants under their jurisdiction, while some credentialing bodies maintain public databases of their members. As a result, important information about financial planners is fragmented and hard to find. This requires consumers to know where to look and what to look for, all while navigating a complex regulatory environment.

To address this issue, the government intends to create a new central, publicly-accessible database for all financial planners in Ontario. The central database will provide a one-stop-shop where consumers will be able to verify whether or not an individual holding himself or herself out as a Financial Planner holds a recognized credential. This will reduce the burden of due diligence on the consumer and promote increased consumer confidence in financial planners.

Questions:

- 3.1 What information should be included on the central database?
- 3.2 Do you foresee any specific concerns with the creation or maintenance of a central database?

Other Question

As it develops the proposed framework, the government would also welcome your input in response to following questions:

Question:

4.1 The government is committed to strengthening consumer protection while supporting innovation and growth in the financial services sector. In recent years, there has been rapid growth in the creation and provision of technological innovations related to financial planning. Would the proposals outlined in this consultation paper impact the creation and provision of these more innovative aspects or kinds of services? If so, how?

PROCESS FOR MAKING SUBMISSIONS

Written submissions addressing the questions in this consultation paper should be provided in electronic format (preferably Word or PDF) by email to Fin.Planning@ontario.ca.

Please use subject line: Consultation – Regulation of Financial Planners.

Submissions must be received on or prior to April 16, 2018.

Please note that information submitted may be subject to disclosure under the *Freedom of Information and Protection of Privacy Act*. Please do not submit personal information or specific identifying details of individuals, companies or other entities unless the specific information is already publicly available. Please also note that the submissions may be publicly-posted on the Ministry of Finance website. Please do not forward confidential information that you would not want to be made public.

APPENDIX – QUESTIONNAIRE FOR CREDENTIALING BODIES

If you are an existing credentialing body, please provide the following information:

General Information

1. How many members do you have in Canada?
2. How many members do you have in Ontario?
3. Please list the credential(s) provided by your organization.

Membership Information

4. In Ontario, what percentage of your members are not registered and/or licensed under either Financial Services Commission of Ontario (FSCO) or the Ontario Securities Commission (OSC)?
5. Does your organization focus on financial planning? If yes, please provide an explanation.
6. Are members required to renew their membership on a periodic (e.g., annual) basis?

Compliance and Disciplinary Information

7. Compliance Monitoring
 - a. Do you have a process to monitor compliance with your code of ethics or standard of conduct?
 - b. Do you conduct compliance reviews? If yes:
 - i. How many have you conducted in the past 3 years?
 - ii. Do you ever review the “financial plans” prepared for clients by your members?
 - iii. What tools do you have to deal with issues identified during compliance reviews?
8. Disciplinary Procedures
 - a. How do you handle complaints about your members?
 - b. Do you have a disciplinary process? If yes:
 - i. Please briefly explain your disciplinary process.
 - ii. How are disciplinary proceedings initiated?
 - iii. Do you have an investigatory process? If yes, please briefly explain.
 - iv. What are the possible outcomes of this process?
 - v. Who are the decision makers?
 - c. Do you have a disciplinary hearing process? If yes:
 - i. Please briefly explain your hearing process.
 - ii. Who are the decision makers?
 - iii. Are the hearings public?

- iv. Please provide examples of the results of your disciplinary hearing process.
- d. Are your disciplinary decisions public?
- e. What disciplinary action can you take against your members? (For example, can you suspend or revoke the credential, impose terms and conditions, impose fines and/or issue cautionary letters?)
- f. Is there an appeal process for your disciplinary decisions? If yes, please briefly explain.
- g. How many complaints about your members have you received in the past 3 years?
- h. Of the reviews you have conducted and/or the complaints you have received within the past 3 years:
 - i. How many have resulted in the initiation of disciplinary proceedings?
 - ii. How many have resulted in:
 - 1. The suspension or revocation of a member's credential?
 - 2. Another form of disciplinary action being taken against an individual?

Credential Information

For each credential listed in Question 3:

- 9. Does the credential have an education or course requirement? If yes, please provide a copy of the course syllabus.
- 10. Does the credential have an examination requirement? If yes, what are the examination requirements?
- 11. Does the credential have a code of ethics or standard of conduct?
 - a. If you have a code of ethics, please provide a copy.
 - b. How do you assess whether a member is following the code of ethics?
 - c. If you have a standard of conduct, please provide a copy.
 - d. How do you assess whether a member is meeting the standard of conduct?
- 12. Does the credential have a continuing education requirement? If yes:
 - a. Please provide a description.
 - b. How many hours of continuing education or professional development are required per year?
 - c. What action do you take if a member does not meet the continuing education requirement?
- 13. What is the minimum length of time in which an individual can acquire your credential(s)?

14. What is the cost to acquire the credential? Are there ongoing fees payable by members? If so, how much are these fees, how often must they be paid and how are they set?
15. Can holders of your credential be accredited by more than one organization?