



To the Ontario Ministry of Finance' Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives

Expert Committee:

The Institute of Advanced Financial Planners (the IAFP) appreciates the Ontario Ministry of Finance providing this opportunity to comment on the Independent Expert Committee's Preliminary Policy Recommendations issued April 5, 2016. As the Registered Financial Planner (R.F.P.) designation is the longest-standing (since 1987) and most stringent financial planning designation in Canada, and as the province of Ontario contains the greatest number of R.F.P.s, we believe the IAFP can provide a distinctly useful and authoritative perspective on how to best protect the interests of Ontario's consumers of financial planning services.

Since its inception in 2002 following the bifurcation of the Canadian Association for Financial Planning, the IAFP has had a three-part mission statement which has always included the following commitment: "To provide a level of assurance to the general public when seeking advisors dedicated to comprehensive financial planning, and capable of providing advanced financial planning solutions."

In harmony with all other members of Canada's Financial Planning Coalition, we share confidence in the following solution to the problems of incompetence and conflict of interest in the financial planning profession: To codify in law the professional certification structure, governance and oversight mechanisms that already exist in practice, but that are currently voluntary for the 22,000 certified or licensed financial planners in Canada, and make those mechanisms a requirement for all who wish to call themselves a financial planner or hold out as providing financial planning services.

To achieve that end and more, the IAFP fully supports five of the nine Expert Committee's preliminary recommendations (2, 5, 7, 8 and 9).

We also fully support recommendation 1 (a). Specifically, we believe the Holding Out provision is essential, and that the title "financial planner" and/or the service of "financial planning" should be restricted for use by only those individuals who meet a unified professional standard. However, we cannot see this intent being realized by recommendation 1 (b) because we believe regulation of financial planning should remain focused on Holding Out as opposed to adding the evaluation of services performed in the pursuit of financial planning – otherwise known as "activity". We explain this concern further on the next page.

We agree with recommendation 1 (c) in principle, but on a later page will propose what we consider to be a more practical and expeditious alternative to achieve the same ends as the new Financial Services Regulatory Authority (FSRA) described in your recommendation.

Recommendations 3 and 4 give us further cause for concern. We agree that fiduciary responsibility (SBID) is appropriate, but it should be well defined before anything in this area is passed into law. Reaching consensus on the definition and deciding who it will apply to will no doubt take considerable time, perhaps years. Otherwise, forcing a premature SBID standard risks the notion's credibility and could defeat or delay the immediate goal of regulating the financial planning profession in Ontario. We recommend your committee defer this subject to whatever regulatory body is formed to oversee financial planning in Ontario.

We fully support the intent of recommendations 6 (a) and (b) regarding the use of titles, but have some concerns about how this will be implemented based on sections 6 (c) and (d). We suggest those points require further discussion before they are put into effect.

Lastly, the IAFP is fully in favour of establishing a Central Registry of financial planners. However, if the Registry is intended to include financial advisors as well as planners, and only when the title “financial advisor” becomes an annually-granted title, we believe the public would be best served by splitting the Registry into two separate lists, with one list being only those individuals qualified to hold themselves out as credentialed financial planners.

Financial Advice versus Financial Planning

In line with the Expert Committee’s original intent, for the purposes of regulation, we believe the only effective way to protect consumers from salespersons posing as financial planning professionals is to separate sales-related advisory services from financial planning services. Almost inseparable in many practices, these two often conflicting aspects of any advisor or planner’s role must be regulated separately and in different ways.

Why? For one thing, the greater the sales commission associated with financial advice, the more likely an advisor could be tempted to put their own monetary interest ahead of the client’s. This may lead to a plethora of bad financial advice from unscrupulous or simply unqualified individuals posing as financial planners without any corresponding accountability.

Secondly, advisory services are most often delivered in isolation from a comprehensive financial plan. Planning requires a broader and more objective fiduciary duty to clients than simply providing product advice leading to a quick, isolated decision. While advice may be considered a subset of financial planning, we join most of the other stakeholders in this consultation process who believe that true financial planning does not consist of simply one type of financial advice, e.g. insurance or investment in isolation from other elements like taxes, estate law, etc.

A qualified financial planner must have some degree of competency in each of at least six disciplines in order to adequately take them under consideration on the client’s behalf. This is how the profession of financial planning transcends and encompasses the commercial activity of providing advice. At times it may not include advice at all.

If financial planning is performed as a subset of sales-related advisory services, the consumer is very likely denied the real value of financial planning. As a result, the profession of financial planning cannot effectively be regulated by an industry or product-based organization such as IIROC or the MFDA.

Another concern is any non-federal regulator that may be in the mix. A large number of financial planners serve clients across Canada. Should other provinces choose to regulate financial planning following Ontario’s lead but do it differently, it could impose multiple sets of standards on practitioners to meet the requirements for each jurisdiction. In that case, the proposed FSRA as a national precedent could create more problems than it solves for financial planners.

Industry Regulators and the Profession of Financial Planning

Therefore, we believe the only practical solution to protect the Canadian consumer and to serve the financial planning profession is for the province of Ontario to pass legislation authorizing a national body

to enforce Financial planning standards that can be made consistent with other provinces, including Quebec.

In support of this strategic scenario, the Financial Planning Coalition has already agreed upon a single, unified set of standards in the form of a joint publication of the Financial Planning Standards Council (FPSC) and Institut québécois de planification financière (IQPF) entitled “Canadian Financial Planning Definitions, Standards & Competencies”.

On the other hand, should industry regulators such as IIROC and the MFDA be asked to regulate financial planning, they would need to add the necessary expertise to oversee compliance in the much broader field of financial planning. Each organization would need to set up a new internal body to develop and agree on a set of standards suitable to their purview, hopefully in harmony with all other regulators, and enforced through a public complaint and professional disciplinary process running parallel to or in tandem with those processes established by other regulators.

All of this would have to happen before the Province of Ontario could pass informed legislation to support these SRO's new roles. We would anticipate years of logistical and legalistic delays in setting up a Central Registry administered and monitored by multiple regulators. We wonder how much this delay might cost Ontario residents and their progeny.

While current regulatory jurisdiction is relatively clear for the delivery of advice related to products and services, the comprehensive nature of true financial planning would lead to overlaps and vague or contradictory areas of compliance between regulators. A primary focus on product and sales-related activities could present blinders, conflicts or misapplications in this new realm of comprehensive financial planning with its subtleties and distinct challenges.

Financial advisors who are licensed by more than one industry regulator would presumably need to comply with multiple sets of standards and multiple disciplinary processes, perhaps simultaneously should there be overlap. Advisors under investigation would be able to play one regulator against the other, i.e., “Yes I was sanctioned by that regulator, but I was exonerated by this one,” or “I am appealing this regulator’s decision because the other regulator decided differently.”

Having a number of regulators each with multiple roles depending on their licensing responsibilities would not only duplicate or triplicate effort. It would also place consumers of unsatisfactory financial planning services in a quandary as to which organization should be approached to resolve their concerns.

Furthermore, many financial planners have a voluntary designation like the CFP or R.F.P., but are purposely not licensed to sell products and therefore would be entirely exempt from any regulatory oversight. The IAFP regularly receives enquiries from the public about how to find one of these non-licensed planners because an increasing number of consumers believe it provides added assurance of impartiality. These planners, some of the best, should not be excluded from the Central Registry, which would also deny this option from interested consumers.

In summary, the current regulatory frameworks for securities, insurance and mortgage brokering are severely limited structurally in their ability to oversee the full scope of a financial planner’s activities.

A Ready-Made Proxy FSRA

The quickest as well as most effective way to fulfill the immediate purpose of a Financial Services Regulatory Authority at minimal expense would be for the Government of Ontario to endorse and

monitor one of the existing credentialing organizations for financial planners in Ontario. Only the FPSC has the ability to serve as this provincial authority for professional oversight of *almost* all dedicated financial planners.

In this scenario, the IAFP could augment the FPSC's role as a mechanism to include the financial planners who do not have a CFP designation. (Currently, the 8% of R.F.P.s who do not have a CFP designation have proven to their peers their ability to meet or exceed the typical level of CFP competency.) Coincidentally, the name of the IAFP's Registered Financial Planner designation would serve well to describe a financial planner who is not a CFP but is included in the Central Registry. We imagine the Registry might resemble our Find a Planner public interface at www.iafp.ca/findaplanner_detailed.php

The FPSC already offers the necessary structural capacity and designation-holder base, as well as a globally-sanctioned set of practice standards for the profession that the IAFP considers a reasonable minimum to protect the public's best interest. These standards, currently voluntary for practitioners calling themselves a Certified Financial Planner, could become mandatory by decree, thereby effectively providing by proxy the desired "legal framework" for financial planning as a strong starting point towards regulating all financial planners now, and in future, all financial advisors as well.

Like the IAFP, the FPSC grants its only designation for only one year at a time, requiring ongoing assurances of compliance with not only practice standards written specifically for planners, but also adherence to a code of ethics. There are also annual requirements to maintain professional competency through practice-specific continuing education, and the requirement to have their services covered by appropriate professional errors and omissions insurance.

Also, both the IAFP and the FPSC offer a public complaint process and disciplinary procedures to sanction members who may have transgressed. These could be adapted and possibly integrated to meet Ontario's requirements. Should the Ontario government or an appointed FSRA, in their wisdom, deem these standards and disciplinary processes inadequate in achieving their vision, there would be a process to expand or (to some degree) adapt the regulatory foundation provided by these two organizations to specifically meet the needs of the province of Ontario.

Hopefully in future, these standards will apply to financial planners in other provinces as well, and the fiduciary aspects of these standards will be embraced by all Canadians who hold out as financial advisors.

Please contact me at (250) 413-3230 if any of our suggestions require clarification.

Yours truly,

Institute of Advanced Financial Planners



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