

To Paige Ward, General Counsel, **Mutual Fund Dealers Association of Canada** and Anne Hamilton, Senior Legal Counsel, **British Columbia Securities Commission**

December 6, 2016

### **The Proposed Amendments to MFDA Rule 1.2.5 (Misleading Titles Prohibited)**

The Institute of Advanced Financial Planners (the IAFP) appreciates this opportunity to comment on the MFDA's Proposed Amendments to their rule limiting use of the title "Financial Planner". The IAFP fully supports the Amendments' intent to reduce confusion in the marketplace and the risk of a consumer of financial planning services being misled. However, we have some questions and concerns about the proposed amendments, and offer some suggestions to modify them.

As you know, the IAFP is the national body which grants the Registered Financial Planner (R.F.P.<sup>®</sup>) designation - the longest-standing and most stringent financial planning designation in Canada. R.F.P.s have been successfully self-regulating since 1987 when they were established by the Canadian Association of Financial Planners.

Over the past 30 years, our organization has provided a distinctly useful and authoritative perspective on how to best protect the interests of Canadian consumers of financial planning services. Since its inception in 2002 following the bifurcation of the *Canadian Association of Financial Planners*, the IAFP's mission statement 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, the IAFP supports the initiative of the *Ontario Ministry of Finance Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives*, and we have also provided comments to the *Expert Committee* on their Preliminary Policy Recommendations. We believe that ensconcing use of the "financial planning" title in law is preferable to various industry regulators imposing rules piecemeal as it applies to their various jurisdictions, both regional and product-specific.

Indeed, many financial planners have a voluntary designation like the CFP or R.F.P., but are not licensed to sell products and therefore would be entirely exempt from any regulatory oversight should the MFDA and/or other licencing bodies become responsible to sanction the title of "financial planner".

Our reasoning is that financial planning is a profession, and not an industry or a trade. It encompasses a wide range of industry-related activities such as investment advice. However, true financial planning is a comprehensive process that must precede and contemplate any industry-related activities in order to provide sound advice and avoid the conflicts of interest that can sometimes skew a product-licensed financial advisor's judgement.

Therefore, we agree 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 that includes a well-defined level of fiduciary responsibility. That standard is key, as are continuing educational, practice and other requirements that are carefully monitored and enforced.

### **The IAFP's R.F.P.<sup>®</sup> Designation Sets the Standard in Canada**

Like the FPSC and IQPF, the IAFP grants its 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 professional services covered by appropriate errors and omissions insurance.

R.F.P.s are first and foremost financial planners, capable of providing impartial, comprehensive advice for complex cases. They stand out from all other financial planners in three important ways:

1. R.F.P.s are **actively engaged** in the profession of financial planning as their **primary vocation**, and not just something they do occasionally.
2. R.F.P.s must annually **commit to using the most comprehensive planning process** in the profession (based on the “Six-Step Process”) with each of their clients.
3. R.F.P.s are dedicated to the highest standards of professional practice, including the **most specific standards of analysis** in the following **six required subject areas**:
  - Financial assessment (net worth and cash flow)
  - Tax planning
  - Investment
  - Insurance and Risk
  - Retirement and Financial Independence
  - Estate planning

As you can see, these six areas match the six specified in your Proposed Amendments. R.F.P.s must affirm each year that they offer planning advice from this comprehensive perspective, which takes into consideration all six of these areas, the impact of one area on another, and the relevance to their clients’ specific needs. Furthermore, they are required to identify and explain all negative aspects and risks of their recommendations. (This practice standard is unique to the R.F.P. designation.)

To become an R.F.P., applicants must prove their competency by submitting a sample of an actual comprehensive financial plan for peer review to ensure it complies with the IAFP’s demanding standards. They must also pass an ethics exam and a full-day technical examination to demonstrate their ability to apply a broad range of knowledge to unique, complex financial planning cases.

All R.F.P.s must provide assurance on an annual basis that they are staying up-to-date by meeting or exceeding Continuing Education requirements, which are currently the most stringent of any financial planning designation. Specifically, at least one course in professional ethics must be completed each year as well as other studies that address at least two of the six technical areas mentioned above.

Also, the R.F.P. and CFP designations are distinguished from others by the requirement that designation holders disclose their compensation to clients. R.F.P.s are further required to put the terms of every engagement in writing to ensure the client's agreement before offering billable services.

### **For-Profit versus Not-for-Profit and the Public Interest**

In the MFDA's Bulletin #0673-P (Appendix A, page 2) it was noted that "with respect to the CFP and RFP [sic], that these designations endorse a best interest standard and are offered by not-for-profit corporations". We at the IAFP feel that both of these factors provide a significantly higher level of assurance to the consumer. Without a best interest standard, there is no requirement for the planner to put the client's interest first, and no consequence for doing otherwise.

As not-for-profits, these two organizations (along with the IQPF and Advocis) have the advantage that their fundamental purpose is the preservation of a professional standard, as opposed to the generation of profit for shareholders, maximized by issuing as many designations as possible.

As an illustration of how this profit motive can conflict with upholding a professional standard, the for-profit Canadian Securities Institute cannot provide a complete list of current PFP designees. Many past PFP holders continue to use the PFP letters after their name *with no monitoring, no restrictions, and no ongoing requirements*. Here is an excerpt from the CSI's website at [https://www.csi.ca/student/en\\_ca/pfp/faq.xhtml](https://www.csi.ca/student/en_ca/pfp/faq.xhtml)

*Why are there 2 standards for the PFP/PFP® designation? Why are those with the "old" PFP not required to renew their licence or fulfil CE requirements?*

The "new" PFP® was created to meet the evolving needs of the industry. CSI consulted with industry stakeholders to develop the current program. Legacy PFP holders followed a learning path that was accredited in leading towards the original PFP designation. They may continue to use the letters, but do not have the explicit right to use the trademark and are not eligible to receive any kind of benefits unless they meet the new standard.

This shows that the profit motive can be a damaging influence in your endeavour to protect consumers, who rarely look beyond the number of letters after a service-provider's name, let alone differentiate between a PFP and a PFP®.

A further concern about the PFP designation is its inadequate continuing education requirement of only 12 hours annually, with no requirement to distribute those hours across the six discipline areas necessary for competency in comprehensive financial planning. This forms the basis for our recommendation that the PFP be removed from your list of qualifying designations in Schedule A.

We also question Advocis' commitment to protecting the public interest, even though they purport to be a non-profit organization that protects consumers. From 2004 until 2015, their

CH.F.C. designees were allowed to continue using that title without any annual requirements or any need to comply with a code of ethics. As far as we know, there was no monitoring of CH.F.C designees whatsoever. Yet many active practitioners continued to use the letters after their names on business cards, letterhead and correspondence, and to benefit from Advocis' public statement that “The Chartered Financial Consultant (CH.F.C) designation is a financial planning designation that specializes in wealth accumulation and retirement planning. A CH.F.C. designation holder is an expert in retirement planning and capital accumulation strategies.”

Furthermore, regardless of the quality or content of the experiential or education/examination requirements of these designations and others, we question the CSI's and Advocis' rigour and will to maintain a professional standard by monitoring compliance to, and enforcing their code of ethics. Even though these organizations may have disciplinary processes in place, their websites offer no indication that any of their thousands of designees has ever been sanctioned or had a designation removed.

Both the IAFP and the FPSC offer a public complaint process and disciplinary procedures that have been used to sanction designees who have transgressed. These designations were designed specifically for financial planners (versus advisors). As such, they represent a professional standard that exemplifies and promotes a comprehensive approach to financial planning.

### **Keeping it Simple and Practical for Canadian Consumers**

As proposed by Ontario's *Expert Committee*, we suggest you give some consideration to a Central Registry of financial planners. If a Central Registry is not practical, then we suggest you reduce the number of eligible designations currently on your list. Otherwise, a typical consumer would need to check with each and every applicable designating organization to determine if the financial planner in question is or is not a designee in good standing.

*Section III B. (Effectiveness)* of your Proposed Amendments states that the amendments should result in an end product that is “simple and effective”. In that vein, we recommend making your list more practical for consumers by removing the CIWM designation, which essentially qualifies for the list on the basis that a CIWM designate already has the CFP designation. This makes it not only a redundant item on the list, but also complicates any situation where a person holding the CIWM may have been sanctioned by the FPSC but not the CSI (or vice versa).

Both organizations have a different code of ethics and a different disciplinary process. The CIWM “Designation Ethics Committee” is not made up of CIWMs as one might expect. CSI's website states that it is eight individuals who “hold a CSI designation” (e.g., their PFP or CIM) “and/or are appointed by a CSI Advisory Council”.

Furthermore, maintaining the CIWM only requires twelve hours of continuing education annually, and these hours do not have to be distributed amongst the six disciplines essential to maintain the competency of a true financial planner. Therefore, the CIWM does not meet your requirement that continuing education is specifically related to *comprehensive* financial planning proficiencies. And, the CIWM professional standards do not demand a comprehensive approach to client engagement. R.F.P.s who also have the CIWM designation will affirm its value, but generally do not consider it a financial planning designation.

We suggest further reducing your list of designations by eliminating the CLU designation. While the CLU qualifies in many respects as a financial planning designation, it does so essentially by virtue of the fact that the CFP designation (or educational equivalency) is an *optional* prerequisite. The add-on CLU portion is limited to the insurance and risk element of financial

planning, i.e., designed for insurance specialists versus comprehensive financial planners. If a designee qualified for the CLU by already having a CFP designation, then including the CLU on your list is redundant. If a CLU qualified by other means, there is no objective assurance that they have the necessary financial planning competency set.

Furthermore, since there is no requirement for a CLU to take a comprehensive approach in all client engagements, including the CLU designation on your list may lead to consumers who are looking for broad financial planning services being directed to an insurance specialist who is not required to take a comprehensive approach to the client's financial planning needs.

Finally, for the sake of consistency with other designations in your Schedule "B", we would like to see our designation acronym shown with the Registered Trademark symbol, i.e., R.F.P.<sup>®</sup>

We hope you find these recommendations constructive and helpful. Please contact me at (250) 413-3230 if any of the above comments require clarification.

Yours truly,

Institute of Advanced Financial Planners

A handwritten signature in blue ink, appearing to read 'LD', with a long horizontal flourish extending to the right.

Lenore Davis, CFP, R.F.P.  
Chair