



Advancing Standards™

April 16, 2018

Ontario Ministry of Finance  
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Toronto, ON M7A 1Z1

Email: [Fin.Planning@ontario.ca](mailto:Fin.Planning@ontario.ca)

Dear Sirs and Mesdames:

**Re: Consultation - Regulation of Financial Planners**

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**Overview**

The Portfolio Management Association of Canada<sup>1</sup> ("**PMAC**"), through its Industry, Regulation & Tax Committee, is pleased to have the opportunity to comment on the consultation paper on the regulation of financial planners (the **Consultation**) issued by the Ontario Ministry of Finance (**Finance**).

PMAC has been engaged in the wider consultative process on this topic and made a [submission](#) on both the 2016 consultation on Financial Advisory and Financial Planning Policy Alternatives as well as [in respect of the Final Report](#) issued by the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives (the "**Final Report**").

PMAC would like to applaud the work of Finance for its leadership throughout this important and interactive consultative process which sought the feedback of a wide variety of stakeholders. We also applaud the Ontario Government's engagement regarding the recommendations in the Final Report as part of the 2017 Ontario Budget, as well as its reaffirmation of its intention to pursue a stronger regulatory framework for financial planners in the 2018 Ontario Budget.

PMAC believes that the implementation of the recommendations in the Final Report can serve to elevate, harmonize and streamline standards for the good of Canadian investors and the health of the financial services industry.

We continue to support Finance's efforts to develop legislation to regulate financial planners and, subject to the comments below, support Finance's proposals as set out in this Consultation.

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<sup>1</sup> PMAC was established in 1952 and currently represents over [250 investment management firms](#) that manage total assets in excess of \$1.6 trillion. Our mission is to advocate the highest standards of unbiased portfolio management in the interest of the investors served by Members. For more information about PMAC and our mandate, please visit our website at [www.portfoliomanagement.org](http://www.portfoliomanagement.org).

Capitalized terms used this letter but not defined have the same meaning as in the Consultation

## **General**

As background, PMAC represents investment management firms registered to do business in Canada as portfolio managers. PMAC members manage investment portfolios for private individuals, foundations, universities and pension plans. Portfolio managers typically have discretionary authority over investments they manage for their clients and have a duty to act in the best interests of their clients: also referred to as a “fiduciary duty”. Individuals registered as portfolio managers have the highest education and experience level in the investment industry: typically, a Chartered Financial Analyst (**CFA**) designation plus a set period of relevant experience. Under provincial securities regulation, portfolio managers must be registered as advising representatives or associate advising representatives and meet specific proficiency requirements. They are also subject to stringent oversight by securities regulators as well as oversight by a professional standard setting body: the CFA Institute. Portfolio managers are highly trained professionals, working in a highly regulated industry. We note that some portfolio managers may also have their Certified Financial Planner (**CFP**) designation. In some portfolio management firms, financial planning services are offered and the firm may hire individuals with a CFP designation, or with an accounting or legal designation, to provide this additional service to clients.

## **Proposal to restrict the use of the “Financial Planner” title**

PMAC is supportive of the Expert Committee’s recommendation to restrict the use of the title of “financial planner” to only those who are properly credentialed.

Recognizing that numerous other professionals who are already regulated and credentialed, may provide financial planning activity as incidental to their core business without holding themselves out as “Financial Planners”, we agree with the Expert Committee that those who are already subject to equal or elevated standards and duties of care should be exempted from duplicative or conflicting regulation in this respect. It is imperative that Finance provide an express carve-out from the requirement to be credentialed as a financial planner for those whose financial planning activity is only incidental to their core business and who do not hold themselves out to be financial planners, as more fully set out in the Final Report.

We believe that clear and intuitive regulations around titles will benefit investors through providing greater information and transparency about the qualifications of the person providing them with advice and address the investor confusion arising out of the current lack of regulation. PMAC sees regulatory change around the use of certain client-facing titles as a simple and direct way to address investor confusion and any expectations gap.

PMAC does not have any suggested changes to the proposed credential recognition standards set out in the Consultation and we believe that implementing this requirement will benefit both financial planners and their clients by helping to increase training, knowledge, accountability, publicly available information and, ultimately, consumer confidence.

PMAC believes that leveraging existing organizations, such as the Financial Planning Standards Council (**FPSC**), which we understand meets or exceeds the proposed credential recognition standards, is an effective and efficient use of long-standing knowledge, staffing and infrastructure that may help lend stability and know-how to the credentialing process.

We believe that the impact on individuals currently operating as financial planners in Ontario to hold a recognized credential should be fairly minimal, or at least, that the effort will be

proportionate to the benefits that should accrue from professionalizing financial planning and bolstering investor protection.

With respect to the impact that this requirement may have on internationally-trained professionals who wish to hold themselves out as financial planners in Ontario, we urge Finance to mitigate these potential impacts by seeking to devise, where possible, a more streamlined credential program for non-Canadian financial planners that ensures they are able to evidence their understanding of, amongst other things, Canadian tax and relevant estates laws, as well as with respect to the different types of registered plans available. For professionals who have been trained outside of Ontario, we would urge a similar approach that ensures an efficient option for allowing these individuals to demonstrate their knowledge of Ontario-specific relevant plans and legislation. Please also see our comments below about the need for a harmonized, national approach to the regulation of financial planners.

PMAC believes that a reasonable roll-out period should be afforded to allow financial planners in Ontario to attain a recognized credential and that this transition period should take into account a number of factors including the length of time it takes to become credentialed (this will also depend on the number of times a year examinations to obtain the credentials are offered) as well as the life circumstances of individuals who will need to become credentialed. For example, parents on parental leave should have the standard transition period extended to reflect the time of their leave in order to not prejudice such individuals.

We agree that, for the individual credential requirement to serve its intended goal of increased investor protection, a corresponding restriction on the use of similar or misleading titles must also be implemented. PMAC agrees that the use of overinflated titles or those which exaggerate responsibility or credentials should not be permitted. Commenting on the Final Report, PMAC noted that an outright prohibition on the use of all corporate positions could negatively impact firms who use *bona fide* titles as a way to recognize service and leadership. We strongly support a more principles-based prohibition on the use of such titles to only preclude the use of misleading, inaccurate or inflated titles that could serve to confuse investors as to the credentials, experience and duty owed to them by a person providing financial planning services.

PMAC also believes that, to reduce customer confusion, the use of the terms “advisor” and “adviser” should be limited to individuals that are registered with the CSA, IIROC or the MFDA.

It is important for the public to understand the distinction between a “financial planner” and another financial services provider. Clear, accessible and wide-spread investor education can and should play a critical role in fostering this awareness and addressing the policy concerns raised by current titling practices and we strongly support and believe in the value of the Financial Literacy suggestions made by the Expert Committee in the Final Report.

### **Proposal to create a central, publicly-accessible database of financial planners**

PMAC supports the proposal to create a central, publicly-accessible database of financial planners to enable consumers to verify whether an individual holding herself out to be a financial planner holds a recognized credential.

With respect to the type of information to be included in the database, we encourage Finance to consider piggy-backing on the existing infrastructure of the [National Registration Database \(NRD\)](#) and/or the [“Find a planner or certificant”](#) registry maintained by the FPSC.

The ease of searching under the “Find a planner or certificant” function could be augmented with additional information (especially in respect of any disciplinary action / warnings) and with consumer education verbiage as exists on the NRD search. In particular, we encourage Finance to consider providing links to easily understandable, widely accessible and, perhaps even

multi-lingual, financial literacy and other investor-protection information on this search page and to engage in a public awareness campaign with respect to the new requirements for financial planners and the public's ability to verify the credentials of their financial planners.

Elements of NRD such as the following may assist consumers in understanding the importance of engaging with a properly credentialed financial planner.

### **Registration helps protect you!**

Verifying registration is the first step to take before engaging a financial planner.

If you discover the person you are dealing with does not hold a recognized financial planning credential (or is not registered with the Canadian Securities Administrators **[NTD: include link to NRD search]**), or is offering you something they don't seem permitted to, contact **[NTD: insert appropriate contact]**.

To be of maximum benefit, this registry should be created and maintained at a national level so that consumers across Canada can avail themselves of this important information, no matter the jurisdiction in which they engage a financial planner. The establishment of a central registry dovetails with and is an essential part of the financial literacy and investor education policy recommendation from the Expert Committee and we believe that this central registry can act as an effective tool through which key investor education and/or alerts can be disseminated.

### **Other Questions**

PMAC does not see anything currently outlined in the proposed approach to adopting this regulatory framework that would prevent innovation and growth in the financial planning sector. Similar to the work being done by the members of the CSA and, especially, the British Columbia Securities Commission, on evaluating the securities law framework with financial technology (fintech) in mind, we urge Finance to develop a regulatory framework that is both technology-agnostic as well as principles-based as opposed to overly prescriptive.

Legislation that is principles-based is better for investors, less likely to invite technical work-arounds that do not respect the spirit of the regulations and, from an industry innovation perspective, principles-based legislation permits an evolution in service delivery / efficiency maximization without requiring a lengthy and costly re-write of the rules.

In this age of rapidly developing fintech capabilities, we believe that prescriptive regulation risks creating unnecessary barriers to adopting efficiency-promoting solutions and presents a barrier to having an adaptable regulatory framework that will be relevant, now and into the future. We also believe that if Finance drafts principles-based regulation, this will be easier to roll out nationally so that investors from coast-to-coast will enjoy the same protections and expectations when interacting with financial planners to help them save for their retirement and other life goals.

### **Harmonization**

PMAC reiterates its belief that the Ontario government should make all possible efforts to ensure that action taken to regulate financial planners is harmonized across Canada. We believe that Finance and the Expert Committee have undertaken a very thorough and thoughtful process that would benefit other Canadian jurisdictions and, while we commend

Ontario for leading by example, we believe that it is also of the utmost importance to work towards national harmonization in the near-term, where at all possible.

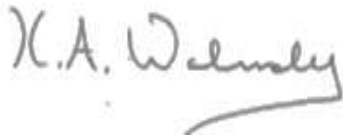
The Ontario government must continue to work collaboratively with its provincial and territorial partners and with provincial and territorial securities regulators, SROs (including with respect to insurance) and, as applicable, the Capital Markets Regulatory Authority, to adopt one set of harmonized standards for financial planners in Canada as well as to address the gap in regulatory oversight of certain financial planners. We feel that a non-harmonized solution to regulate financial planners would be unduly onerous for firms operating nationally and would not be an optimal long-term solution or in the best interests of Canadian investors. Ultimately, all Canadian investors should receive a uniform level of competence and service when they engage the services of a financial planner. We understand that this process will be a logistically and, perhaps, politically challenging one but we believe that the value of a national solution cannot be underestimated.

### **Conclusion**

PMAC applauds the work of Finance in consulting widely with stakeholders and in showing leadership on this investor protection and industry regulation issue. We would be pleased to discuss any of our comments with you at your convenience.

Sincerely,

PORTFOLIO MANAGEMENT ASSOCIATION OF CANADA



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