

# FINAL REPORT OF THE EXPERT COMMITTEE TO CONSIDER FINANCIAL ADVISORY AND FINANCIAL PLANNING POLICY ALTERNATIVES TO ONTARIO MINISTRY OF FINANCE

---

## SUMMARY

The final report of the Ontario Ministry of Finance Expert Committee was delivered to the ministry in November 2016 and published on March 16, 2017. The report deals with the findings of the Expert Committee with regard to the oversight of financial advice in the province of Ontario.

In general, the report reinforces the importance of holding a professional designation such as the PFP® for those who provide financial planning services. The recommendations point to working within the current regulatory regime for product licensed planners and those individuals providing financial planning advice that are not currently licensed (e.g. fee-only financial planners) to be regulated through the OSC and FSCO<sup>1</sup>. The recommendations also call for regulation on the use of titles and a “holding-out test” to determine if an individual can use an approved title and what credentials they must hold to do so.

The task force recommends working with stakeholders (e.g. current regulators, credential providers) to create consistent standards to be met by those providing financial planning and/or financial advice. These standards would be overseen and implemented by each regulator currently overseeing financial advice (FSCO, IIROC, MFDA, OSC).

### The committee made three key recommendations:

1. Develop harmonized regulations for financial planning, financial advice and financial product sales. The framework is meant to ensure that no one can provide financial planning or financial advice without regulatory oversight and that all individuals are subject to harmonized standards for these activities. The standards would be implemented by the existing regulators (FSCO, IIROC, MFDA, OSC).
2. Clear up the confusion around numerous titles and credentials currently used within the industry by having existing regulators restrict the use of titles so that titles accurately reflect the service being provided and the expertise (credentials) supporting them. One of the titles that should be called out is that of a “financial planner.”
3. Enact a universal statutory best interest duty. With certain limited exemptions, every individual and firm in Ontario that provides financial planning or financial advice should be required to act in the client’s best interest. This duty should apply to all providers of financial planning and financial advice in Ontario, regardless of which body regulates them or what product they sell.

---

<sup>1</sup> FSCO is expected to be restructured (under a separate reform) to create a new regulator called the Financial Services Regulatory Authority (FSRA). FSCO currently regulates life insurance representatives and mortgage brokers in Ontario.



### CSI'S POSITION:

Essentially, we are in agreement with the recommendations related to regulatory oversight and the use of titles and designations. Our comment letter supported a holding-out and activity-based approach to oversight and highlighted that financial advice is a continuum (from product sale to sophisticated private client advice) and that financial planning is simply one type of advice (although a valuable one). We also supported the use of the current regulatory framework and that the regulators should work with all stakeholders to create a common standard for each type of advice.

We believe the proposed MFDA financial planning rule is in-line with the overall thrust of the expert committee's recommendation which increases the likelihood of the MFDA rule being adopted in a timely manner.

The committee also noted that there is precedence for their approach and our Certified Investment Manager (CIM) designation was used as such:

"Indeed, precedent for a standard-setter approach already exists within the securities regulatory framework in Ontario. For instance, registration to act on behalf of a portfolio manager requires attainment of the CFA or the CIM designation (with relevant industry experience). We see merit in this approach and recommend its application in relation to Financial Planning services across the broader financial services sector."

### NEXT STEPS

On March 31, the Ontario Minister of Finance, spoke at a conference noting "The government will develop and deliver specific consumer protection measures related to the panel's recommendations on financial planning and advisory services" and will address "the regulatory gap that currently allows financial planners to perform work without regulatory oversight or specified proficiency requirements" as well as the issue of use of titles and a central registry of financial planners.

CSI will continue to be engaged with regulators and contribute to the reform effort particularly as it relates to the setting of standards for various roles and which titles and credentials are deemed to be acceptable.

The report is over 100 pages in length. The next few pages provide key quotes extracted from the report.

The full report is available at this link: <http://www.fin.gov.on.ca/en/consultations/fpfa/fpfa-final-report.html>.



# KEY EXTRACTS OF THE EXPERT COMMITTEE REPORT

---

## REGULATION

The OSC and FSCO/FSRA be empowered to regulate Financial Planning or Financial Advice for both organizations and individuals engaging in financial advice/planning in Ontario. However, those already overseen by another regulator should also have the associated Financial Planning or Financial Advice activities regulated by their existing Regulator (or Regulators for those who have more than one product license).

The OSC and FSCO/FSRA should develop a harmonized regulatory framework governing Financial Product Sales and the provision of Financial Planning and Financial Advice services in Ontario. Financial Product Sales, Financial Planning and Financial Advice should be subject to one set of regulatory standards across the regulatory framework. These standards should include a universal statutory best interest duty, restricted titles and proficiency requirements as described in our subsequent recommendations. The standard would be developed in collaboration with the existing SROs (e.g. IIROC, MFDA).

## USE OF TITLES

To reduce consumer confusion, Regulators should work together, within a reasonable timeframe, to develop a circumscribed list of approved titles that are descriptive of regulated activities. Those engaged in Financial Planning and the giving of Financial Advice should only be permitted to use approved titles.

In order for an individual to hold-out as providing Financial Planning or use the title “financial planner,” whether or not the individual is also engaged in Financial Product Sales, we recommend that the individual be required to hold an appropriate credential.

## PROFICIENCY AND CREDENTIALS

In order to hold-out as providing Financial Planning, individuals should be required to be proficient to provide Financial Planning services, which means that they ought to have sufficient education, training, integrity and experience that a reasonable person would expect necessary to provide a competent financial plan for a consumer.

The OSC and FSCO/FSRA should together determine the proficiencies required in order to hold-out as providing Financial Planning. We recommend that the Regulators, following a review of independent credentialing bodies with experience in the field of standard-setting and credentialing for Financial Planners, recognize the appropriate credentialing entity or entities to credential the individuals who wish to hold-out as Financial Planners. Recognition of the credentialing entity or entities should be premised on the education requirements, experience requirements, ethical standards and self-disciplinary processes of the entity or entities and the extent to which they meet the required proficiencies set by the OSC and FSCO/FSRA.

## STATUTORY BEST INTEREST DUTY

We recommend that Ontario adopt and apply a universal Statutory Best Interest Duty (SBID) to all individuals and firms that engage in Financial Product Sales or Hold Out as providing Financial Planning or Financial Advice.

## CENTRAL REGISTRY

We recommend creating and maintaining a single, free, comprehensive central registry, with adequate resources to provide a one-stop source of information for consumers regarding the licensing and registration status, credentials and disciplinary history of individuals and firms that provide Financial Planning, Financial Advice and Financial Product Sales in Ontario

## DEFINITION OF FINANCIAL PLANNING/FINANCIAL ADVICE

*The Task force declined to distinguish between Financial Planning and Financial Advice for definition purposes.*

With these definitions in mind, we recommend creating a regulatory framework specifically focused on Financial Planning or Financial Advice. This will enable the OSC and FSCO/FSRA (along with the SROs) to holistically regulate all aspects of Financial Planning or Financial Advice in addition to the Financial Product Sales activities of their registrants and licensees. A holding out test would be introduced to distinguish clearly between levels/types of financial advice.

### *Specific Definitions:*

#### *Financial Planning or Financial Advice*

Any review and analysis of a consumer's: current financial and personal circumstances; present and future financial needs; priorities and objectives; the risks associated with his or her current circumstances; future needs; objectives; and, priorities which can but need not include the establishment of strategies to address and mitigate these matters whether or not a formal financial plan is prepared.

#### *Financial Product Sales:*

An interaction or process involving a consumer and an individual or firm wherein the individual or firm provides an opinion, suggestion, or recommendation to the consumer to buy or sell or hold a Financial Product including any associated investment advice, opinion, suggestion, or recommendation relating to the Financial Product or the consumers' financial affairs.

#### *Holding-out Test:*

The distinction between financial planning and financial advice would be set out within the new regulatory framework through the use of a "holding-out Test". This test would be used to determine if the financial planning regulatory requirements apply in any particular case. Determining the intersection between Financial Planning and Financial Advice within the new regulatory framework should be the responsibility of the Regulators and SROs acting under their authority to regulate the provision of Financial Planning or Financial Advice.