

September 28, 2023

VIA EMAIL

Manitoba Finance
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Re: *Consultation Paper – Financial Planner Title Protection in Manitoba (the “Consultation”)*

The Canadian Advocacy Council of CFA Societies Canada¹ (the “CAC”) appreciates the opportunity to provide the following comments on the Consultation.

General Comments

We are somewhat supportive of the Consultation and agree that the adoption of title protection legislation could be a positive step towards furthering the Government of Manitoba’s commitment to strengthening consumer protection in the province. However, we believe this can only be accomplished by working in concert with and through existing regulation and regulators in securities and insurance, and with the lessons learned from legislative and regulatory frameworks now in place in other provinces. We believe that the unregulated use of titles and credentials by individuals providing or purporting to provide financial services or advice has created significant confusion and inconsistency in the marketplace such that regulatory action is warranted. We believe that the eventual framework adopted by the Government of Manitoba should set out strong criteria and uniform minimum standards both for credentialing bodies and for the credentials which they issue.

We believe the Consultation provides an opportunity for the Government of Manitoba to create baseline competencies for both the financial planner and financial advisor titles that best serve the public interest. To this end, we would strongly encourage the Government to consider the intersection of credentials needed for the use of financial planner and financial advisor titles with the requirements already set out by securities

¹ The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 21,000 Canadian CFA Charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors’ interests come first, markets function at their best, and economies grow. There are more than 190,000 CFA Charterholders worldwide in 160 markets. CFA Institute has nine offices worldwide and there are 160 local societies. For more information, visit www.cfainstitute.org or follow us on LinkedIn and Twitter at @CFAInstitute.

regulators and self-regulatory organizations for persons registered to provide financial advice. A consideration of existing requirements under the securities registration framework is necessary to ensure that the title protection framework adds value in its own right and is complementary to, not duplicative of, existing regulatory licensing frameworks with respect to proficiency and/or conduct expectations. Additionally, we would suggest that the financial advisor title has proven to be particularly problematic in existing frameworks, both in defining baseline competencies and sourcing relevant and credible credentials for recognition for this title, and would suggest that the Government reconsider whether this element of title protection is additive to consumer protection, or indeed feasible in the province at this time.

We have consistently advocated for the importance of ensuring that investors and financial consumers understand the purpose of title protection as well as the corresponding expectations of planners and advisors holding an approved credential. To this end, we emphasize that the advent of any title protection framework should be delivered in tandem with investor education campaigns aimed at ensuring that information being provided about the framework is consistent, accurate, and complete. This should include prohibiting credentialing bodies from distributing misleading communications about their status as an approved credentialing body, their approved credentials, or the nature of the title protection framework more broadly. Being at the forefront of this dialogue is necessary to ensure that vulnerable consumers are not persuaded that a particular credentialing body is the most trustworthy or governmentally endorsed merely because it has the most effective or well-resourced marketing campaign.

Specific Consultation Questions:

1. *Should the Manitoba government proceed with legislation to prohibit individuals from calling themselves “financial advisors” or “financial planners” unless they possess appropriate qualifications?*

We are somewhat supportive of the Government’s efforts to regulate the use of financial planner and financial advisor titles in Manitoba as an important investor protection measure, though believe the inclusion of the financial advisor title deserves additional consideration given the intersection with securities regulation, lessons learned from existing frameworks in other provinces, and the challenges of defining baseline competencies for this title that map to credible credentials.

2. *If so, should the overall approach of the legislation follow the models adopted in Ontario and proposed in Saskatchewan and New Brunswick, where the regulator approves credentials and credentialing organizations that are considered to have appropriate proficiency, ethical, continuing educational and disciplinary requirements?*

We have some remaining reservations with the adoption of this model, as outlined in our comments on the framework adopted in Ontario and believe that it is vital that the regulator establish robust standards that entities will have to meet to obtain approval as a credentialing body, as well as to obtain approval for an acceptable financial planner or

financial advisor credential.² We are not convinced that certain approved credentialing bodies and credentials meet appropriate baseline competency tests, nor reflect credible commitments to professional conduct monitoring or client/investor/public interest orientation, with our comments particularly and generally applicable to the currently recognized bodies and credentials for the financial advisor title, though also applicable to certain bodies and credentials that have been approved in Ontario for the financial planner title.

3. *Assuming it should, how should some of the differences between the regulatory regimes implemented or proposed in those three provinces be resolved? In particular:*
- *Should the regulator in Manitoba be vested with the broad investigatory and enforcement powers given in Saskatchewan and New Brunswick legislation? Alternatively, is the more limited ability to issue compliance orders in Ontario more appropriate?*
 - *Should the more simplified method for approving credentialing bodies previously approved in another Canadian jurisdiction, set out in the Saskatchewan and New Brunswick legislation, be adopted in Manitoba?*

We would support the regulator in Manitoba being vested with the investigatory and enforcement powers given in the Saskatchewan and New Brunswick legislation, and believe the powers granted in Ontario are not sufficient to ensure a robust regulatory framework overall, nor proper compliance by credentialing bodies or individuals. We believe such powers are necessary to ensure compliance with the framework, particularly where persons are intending to deceive the public through clever title usage and intentional regulatory avoidance.

Particularly since other provinces have already approved certain credentialing bodies, we would support provisions in the framework that could provide some reciprocity for credentialing bodies that have already been recognized in another jurisdiction, provided they meet the standards of credentialing bodies and credentials set out in the legislation and regulation for Manitoba, and are cognizant of the problems with existing standards of credentialing body and credential approval in other provinces. This reciprocal recognition could promote the harmonization (and collective improvement) of title protection regimes and represent an important step to reducing regulatory burden and potentially enhancing compliance, while ensuring Manitoba's legislative and regulatory objectives are respected. When consideration is given to the fees for the credentialing framework, we believe it will be important to recognize that credentialing bodies may operate throughout the country and thus may be subject to other provincial fees relating to title protection regulations.

4. *How important is it that the legislative requirements in Manitoba be harmonized with the regulatory regimes adopted in Ontario and proposed in Saskatchewan and New Brunswick, particularly regarding:*
- *The definitions of "financial planner" and "financial advisor",*

² Please see our comment letter on the FSRA proposal released in May 2021 with respect to the Amended proposals re Financial Professionals Title Protection Rule and Guidance: [CAC Comment Letter](#) and the earlier 2020 initial consultation: [CAC Comment Letter Title Framework](#)

- *The application process for recognized credentials and credentialing bodies, and*
- *The ongoing compliance requirements for recognized credentialing bodies.*

While we are generally in favour of the harmonization of regulation between Canadian jurisdictions, we do not believe that harmonization should be the only focus when constructing a regime aimed at protecting consumers, particularly given outstanding challenges in this area of regulation in both Manitoba (without any regulation) and other provinces with existing regulatory frameworks. The definitions of “financial planner” and “financial advisor” would ideally be similar across the country to ensure it is clear to whom the frameworks apply, however this should not come at the cost of a robust baseline competency profile for either protected title, or how to any lowest common denominator of approvals or recognition to ensure interprovincial interoperability.

As in other aspects of the framework, we believe priority should be given to constructing a regime that protects financial consumers, and as such includes stringent minimum standards for knowledge and competencies for both protected titles, but particularly for financial advisors where this is not adequately defined by existing credentialing bodies prominent in Canada. In contrast to certain ‘race-to-the-bottom’ credential design and approval frameworks, we would encourage the Government of Manitoba to support the elevation of knowledge and proficiency and professional conduct monitoring standards (including for already-approved credentials/credentialing bodies in other jurisdictions) for financial advisors. We believe that doing so will improve credential standards across jurisdictions and promote adherence to the most demanding regulatory standards.

With respect to the application process, we believe the availability of an ‘accelerated’ approval process to credentials/credentialing bodies that are already recognized in other provinces could contribute to harmonization, while still ensuring that credentialing bodies and their credentials meet the standard(s) imposed by the Province. We believe that approval of credentialing bodies or credentials with conditions or remedial requirements should be **highly** exceptional, and that any such approvals with conditions or requirements for remediation should be made public and prominent at the time of approval. We’re of the view that in the normal course the regulatory expectation should be that outstanding concerns are remediated **prior to** regulatory approval of a credentialing body or credential.

In ongoing requirements, we are concerned particularly as to the efficacy of professional conduct requirements of credentialing bodies approved in other provinces, and the ability of credentialing bodies to demonstrate efficacy of process in investigating complaints, conducting proactive surveillance of cause for investigation, and the imposition of acceptable sanctions on members. We would encourage this to be a focus of the Province in its inquiries of credentialing bodies both in consideration of their approval and in ongoing compliance reviews.

5. *What degree of regulatory coordination is desirable among regulators in Canada that oversee financial planner title protection, now or in the future?*

We are in favour of maximizing coordination efforts between regulators in Canada in this area. Particularly with respect to fee structures, it is imperative to recognize that certain credentialing bodies may operate in jurisdictions throughout Canada and so coordination on the fees they pay is necessary to reduce regulatory burden, while ensuring high regulatory standards and adherence to legislative intent. It would also be helpful to ensure that certain bad-actor credentialing bodies do not ‘jurisdiction shop’ to either obtain primary recognition (with whatever incumbent reciprocal recognition is then conferred by other provinces) or to operate in parts of the country which are perceived to lack in regulation or enforcement efforts regarding title protection. These latter comments particularly apply to credentialing bodies and credentials relating to the financial advisor title, while recognizing that was not the focus of the question.

6. *How broad should the title protection regime be in terms of the titles that are subject to it in addition to “financial advisor” and “financial planner”, given the relatively narrow approach taken in Ontario and the broader approaches taken in Quebec and under consideration in Saskatchewan and New Brunswick?*

Provided that Manitoba works to ensure interoperability with the existing securities regulatory regime, we believe Manitoba should adopt a version of the broader approach with respect to the identification of titles that could reasonably be confused with the financial planner or financial advisor titles. We believe that additional non-exhaustive guidance on examples of confusing titles would be beneficial for both industry and investor advocates beyond any attempts to draw strict definitional lines. We would not support attempts to provide a list of “acceptable” titles as doing so may unintentionally provide a tacit road map to fanciful or evasively constructed titles which seek to avoid regulatory scrutiny.

7. *What should be the process if the recognition of a credentialing body or one of its credentials is revoked?*

In the event a credentialing body has its recognition revoked or otherwise ceases operations for any reason, we would support a short transition period to allow a credential holder time to obtain a different approved credential from an approved credentialing body. To assist with this transitional process, we would be in favour of designated approved pathways by which holders of newly un-approved credentials could obtain new credentials from a different credentialing body.

In circumstances where the recognition of individual credentials is revoked but the credentialing body remains operational, we believe the same considerations apply; a short transition period should be granted to allow the credential holder to obtain a new approved credential. Given the rapid pace of change in the financial industry, it is essential that financial planners and advisors hold current, active credentials that are subject to continuous and robust conduct oversight. There must also be incentives for credentialing bodies to evolve credential requirements as consumer, industry and proficiency needs evolve.



8. *How important to the proposed regulatory regime is a single, central, public database listing all individuals entitled to use these titles? The legislation in Ontario, Saskatchewan and New Brunswick all contemplate that the regulator will post lists of approved credentials and recognized credentialing organizations on their website, but do not call for a central database listing all approved individuals (although in Ontario each recognized credentialing organization maintains a publicly accessible list of their respective members). FSRA has stated that it intends to develop such a central database that the public can access but this is not yet in place.*

We would strongly endorse the creation of a single, central, public database spanning all relevant jurisdictions with title protection legislation in Canada, where consumers can locate information about credential holders. This would reduce investor confusion arising from ambiguous or fragmented information sources. In addition, and as noted in our previous comment letters in response to the Saskatchewan and New Brunswick proposals, we would encourage the Government of Manitoba to explore integration or information exchange (or similar) agreements with other regulatory agencies and credentialing bodies, such that as holistic a view as possible of credentialed individuals is presented to interested financial consumers. Such integration or information exchange could include with the Canadian Securities Administrators, for integration with, links to, or information from its National Registration Database/SEDAR+, so that consumers receive more complete information relating to the conduct history, credentials, and regulatory coverage of credential holders.

Concluding Remarks

We somewhat support efforts to regulate the use of financial planner and financial advisor titles in Manitoba and other jurisdictions as a financial consumer protection measure. As outlined above, we believe it is essential that jurisdictions such as Manitoba contemplating the implementation of such frameworks integrate learnings from the challenges of similar regulatory frameworks in other jurisdictions in their legislative and regulatory designs. We believe Manitoba should incorporate measures that promote appropriate reciprocity and harmonization, while being primarily concerned with solving for the public interest concerns driving the consideration of this legislative and regulatory initiative.

We thank you for the opportunity to provide these comments and would be happy to address any questions you may have. Please feel free to contact us at cac@cfacanada.org on this or any other issue in the future.

(Signed) *The Canadian Advocacy Council of
CFA Societies Canada*

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