

April 13, 2018

The Honourable Charles Sousa
Minister of Finance
7th Floor, Frost Building South
7 Queen's Park Crescent
Toronto, Ontario M7A 1Y7

Please find attached CARP's submission regarding the regulation of Financial Planners. This submission focuses on:

- A. The scope of reform
- B. Title restrictions
- C. The consultation process

Yours sincerely,

A handwritten signature in blue ink that reads "Wanda Morris".

Wanda Morris
VP of Advocacy

A handwritten signature in black ink that reads "Laura Tamblyn-Watts".

Laura Tamblyn-Watts
National Director of Law, Policy and Research

Summary

Thank you for giving CARP the opportunity to consult on this important issue.

We wish to use this opportunity to draw out the key concepts of particular and significant importance to CARP and its 300,000 members.

Our submission will focus on:

- A. The scope of reform
- B. Title restrictions
- C. The consultation process

Concerns re Scope of Reform

Your consultation proposal includes specific questions related to the use of the title Financial Planner. However, only a vanishingly small number of those who would be impacted by this proposal to provide financial planning *only*, those being fee-for-service financial planners. The model overwhelmingly used for the provision of financial planning in Ontario is the provision of financial planning as part of a package of planning and product sales.

Frankly, CARP believes that regulating the use of titles for financial planning without addressing well-known issues around product sales misses the mark. The harms that arise from inappropriate product sales, for example, where there is conflicted compensation or a limited product shelf, are far more widespread, and more consequential, than the harm from an overly conservative rate of return in a financial plan.

While regulating titles alone would limit some of the damage suffered by investors, many would still remain at significant risk. Investors working with someone who is able to use the term financial planner, despite working in an environment with conflicted compensation or a limited product shelf, may be falsely assured by the appearance of reform, while still being exposed to undue and unregulated risks.

If the Ministry of Finance wants to proceed with title regulation on its own, then CARP strongly recommends that the use of titles be restricted to reflect not just the credentials of the individual providing planning and product sales, but also to those who have a fiduciary duty or otherwise are required to place their clients' interests ahead of their own, for example by operating without conflicted compensation and by being able to offer a sufficiently broad product shelf.

CARP's Position on Title Restriction

CARP members strongly support restrictions on the use of titles by those providing financial advice and product sales.

A 2017 survey of over 1,900 CARP members revealed that 89% of respondents agree that regulating titles for people selling investments to the public would help people make more informed decisions. In addition, 91% of respondents said that they believed CARP should advocate for the regulation of titles used by people who sell investment products to the public.

CARP supports the restriction of financial planning titles to those who are appropriately credentialed.

More importantly, if individuals provide product sales as well as financial planning, CARP believes that the use of titles must be restricted to those who are:

1. Appropriately credentialed and
2. Who work in an environment with a sufficient product shelf and without conflicted compensation so they can prioritize their client's needs over their own compensation and benefits and
3. Who are regulated to ensure they do so.

CARP recommends the Ministry not only restrict titles but also provide a list of titles that are *allowed*.

CARP suggests that the following titles, and only these titles, be used by those providing financial planning and financial product sales as follows:

- "Financial Planner" for those who only provide fee-for-service financial advice and are not otherwise compensated for product sales or referrals;
- "Financial Planner", "Investment Advisor" or "Financial Advisor" for those with appropriate credentials who work in an environment with a sufficient product shelf and without conflicted compensation so they can prioritize their client's needs over their own compensation and are regulated to ensure they do so;
- "Portfolio Manager" for those exercising discretionary authority (including robo-advisors) and subject to a fiduciary duty; and
- "Salesperson" for those who do not meet the above restrictions.

Which Titles Should be Restricted?

In your consultation document, you suggest restricting the word 'Planner' in combination with various words such as wealth, retirement or investment as well as other titles that could mislead a consumer into believing they are receiving financial advice.

As noted above, CARP believes that investors will be best served by a very limited list of titles supported by specific credentials and product sales regulations.

Should the Ministry decide to adopt a broader approach, CARP agrees with restricting the items on the Ministry's list, but believes it does not go far enough. The Ministry must also disallow corporate titles such as vice-president, director or specialist which may imply a level of knowledge and expertise that is unwarranted.

Financial Advisor

You asked how the titles "Financial Adviser" or "Financial Advisor" should be treated.

CARP believes it is critical that the use of the term advisor (or adviser) be restricted. That is, CARP believes that these titles must be restricted to those who are

1. Appropriately credentialed and
2. Who work in an environment with a sufficient product shelf and without conflicted compensation so they can prioritize their client's needs over their own compensation and benefits and
3. Who are regulated to ensure they do so.

Titles for non-qualifying individuals

Individuals working in the financial industry who are not designated by an approved regulatory body or do not meet the conditions set out above must have a title that clearly indicates they are simply a sales person. For example, an individual might be a mutual fund sales person, an investment product sales person or a stock or bond sales person. This does not preclude the individual from providing advice about a particular product – this is indeed what good sales people do – but it will clearly indicate to the client the nature of the relationship and that the salespersons' compensation is based on selling products.

Title Regulation

In CARP's experience, investors are ill-served by the *existing* fragmentation of regulatory bodies who are charged with regulating their investments, which, depending on the nature

of their investments, include IIROC, MFDA, FSCO/FSRA or any of 13 provincial or territorial securities commissions.

CARP supports the conclusion of the Expert Committee on Financial Advisory and Financial Planning Regulatory Policy Alternatives (the “Expert Committee”) that the investing public would not be well served by the introduction of an additional regulator or self-regulatory body to oversee financial planning.

CARP also supports the recommendation of the Expert Committee that responsibility for regulating financial planning and financial advice in Ontario be assigned to the OSC and FSCO/FSRA.

CARP is not averse to a “standard setter” approach to credentialing whereby designated bodies would qualify individuals to hold out and provide financial planning advice and may reserve a right to revoke their credentials as long as it is limited to a failure to maintain qualification requirements or a breach of their code of ethics.

This right of revocation should in no way restrict or limit the disciplinary capacity of the regulator over the individual, their firm or the dealer they are employed by or with whom they are associated. Also, it will be important to avoid diluting the proficiency and credentialing requirements by limiting the ‘standard setter’ designation to the leading credentialing bodies.

Concerns with Consultation Process

CARP is concerned that the Ministry is consulting on territory that has already been covered. We are particularly concerned to see this as part of an emerging trend. For example, consultations were held on embedded commissions and it appeared that the ground was set to move forward, when instead further consultations were held.

It is perhaps timely that a study published in the Journal of American Medicine this month (April, 2018) revealed that mid-life individuals who lose 75% or more of their wealth in a two-year period are at a 50% greater risk of death.

While CARP understands the Ministry may face opposition to much needed reforms, we call on you to stand strong on investor protection. It’s quite literally a matter of life and death.