

MUTUAL FUND DEALERS ASSOCIATION OF CANADA

PROPOSED AMENDMENTS TO MFDA RULE 1.2.5 (MISLEADING BUSINESS TITLES PROHIBITED)

I. OVERVIEW

A. Current Framework

Currently, in most provinces in Canada, individuals can use the title “Financial Planner” without having to meet any minimum proficiency standards. As a result, there is significant potential for investors to be misled as to the qualifications of an individual using this title.

MFDA Rule 1.2.5 (Misleading Business Titles Prohibited) currently prescribes requirements in respect of the use of business titles, including those designations/certifications used by Approved Persons holding themselves out as financial planners. Rule 1.2.5 provides as follows: *No Approved Person shall hold him or herself out to the public in any manner including, without limitation, by the use of any business name or designation of qualifications or professional experience that deceives or misleads, or could reasonably be expected to deceive or mislead, a client or any other person as to the proficiency or qualifications of the Approved Person under the Rules or any applicable legislation.*

The proposed amendments to Rule 1.2.5 are intended to respond to investor confusion by establishing minimum proficiency requirements for Approved Persons who wish to use the title “Financial Planner”.

B. Reasons for Amendments

As noted, the proposed amendments are intended to clarify and enhance existing requirements under Rule 1.2.5, for the purpose of addressing a specific regulatory concern that has been identified in respect of use of the title “Financial Planner” by MFDA Approved Persons.

C. Objectives

The objectives of the proposed amendments are to: (i) reduce investor confusion/the risk of investors being misled as to the qualifications of an MFDA Approved Person using the title “Financial Planner”; (ii) respond to this specific regulatory concern in a targeted, timely, and practical manner; and (iii) establish greater transparency, clarity, and consistency around the use of the title “Financial Planner” by adopting minimum proficiency requirements in this area, and core assessment criteria against which designations/certifications will be assessed.

D. Effect of Proposed Amendments

The effect of the proposed amendments, as noted, will be to: address a specific regulatory issue in a clear, practical, and targeted manner; clarify and enhance existing requirements under Rule 1.2.5 by the adoption of minimum requirements in this area; reduce the potential for investor confusion; and introduce greater transparency, clarity, and consistency in respect of the use of

related designations/certifications and the manner in which such designations/certifications are assessed.

II. DETAILED ANALYSIS

A. Proposed Amendments

Background

On September 4, 2015, the MFDA published, for a 90-day public comment period, a Consultation Paper on Standards for Use of the Title “Financial Planner”, the purpose of which was to solicit stakeholder feedback on MFDA proposals under consideration at the time. The Paper set out: relevant details respecting the current regulatory landscape; existing MFDA Rules regarding the use of business titles; financial planning designations currently being used by Approved Persons; and raised specific issues for comment. 30 submissions were received in response to the request for feedback. Comments were made by MFDA Members, Approved Persons, education service providers and investor and industry associations.

In January, 2016 the MFDA published a summary of comments received (see Bulletin #0673-P). The majority of commenters indicated general support for the MFDA’s objective of providing investors with greater clarity regarding the role and level of expertise of individuals using the title “Financial Planner”. Commenters expressed support for each of the four commonly used financial planning designations, as set out in the Consultation Paper (Certified Financial Planner (CFP®), Financial Planner (F.PI.), Personal Financial Planner (PFP®), and Registered Financial Planner (R.F.P.)). Support was also expressed for other designations, including Chartered Life Underwriter (CLU®), Chartered Financial Consultant (ChFC), Certified International Wealth Manager (CIWM), and Chartered Financial Analyst (CFA). Input was provided in respect of core criteria that should be met by any credible designation program. Factors noted included a focus on comprehensive financial planning and related requirements in respect of: education/courses, work experience, examinations, adhering to a code of ethics, continuing education, as well as complaint resolution and disciplinary processes.

A number of commenters indicated that the proposed amendments should not include a grandfathering provision, noting that this would defeat the purpose of requiring an individual to achieve a certain level of proficiency and experience before being able to use the title “Financial Planner”. The majority of these commenters indicated support for the adoption of a reasonable transition period.

Summary of Proposed Amendments

The following is a summary of proposed amendments to Rule 1.2.5. Schedule “A”, as attached to this Notice, sets out a blacklined version of the proposed amendments which shows the changes from the current version of the Rule.

- **Use of “Financial Planner” title prohibited:** the proposed Rule would prohibit an Approved Person from using the title “Financial Planner” unless such use is approved by the Corporation; or the Approved Person has obtained one of the specified financial planning designations/certifications and satisfies its ongoing requirements. In the

assessment and selection of these designations/certifications within the Rule, MFDA staff used the general assessment criteria noted below.

- **Use of Other Designations/Certifications:** the proposed Rule would permit MFDA staff to approve the use of other designations/certifications, provided that the individual is able to demonstrate that such designation/certification meets the core criteria deemed appropriate for use of the title “Financial Planner” (again, as reflected in the general assessment criteria noted below). This approach would provide MFDA staff with the ability to consider designations/certifications that have not yet been established (i.e. those that might be established in the future).

General Assessment Criteria

In determining which designations/certifications would be appropriate for meeting the minimum MFDA proficiency requirements for use of the title “Financial Planner”, MFDA staff considered the following core assessment criteria:

- Educational requirements specifically focused on comprehensive financial planning, which would include education in the following areas:
 - Financial Management
 - Investment Planning
 - Insurance and Risk Management
 - Tax Planning
 - Retirement Planning
 - Estate Planning and Legal Aspects;
- Examination and course requirements that demonstrate competency in financial planning;
- Adherence to a Code of Ethics, Standards of Practice or Standards of Professional Responsibility;
- Completion of continuing education specifically relating to comprehensive financial planning proficiencies; and
- A process whereby the body that grants the designation/certification also has the authority to remove the designation/certification in appropriate circumstances.

Attached as Schedule “B” is a chart that sets out these core criteria and illustrates how the various designations/certifications in the proposed Rule amendments meet these criteria.

B. Comparison with Similar Provisions

During the development of the proposed amendments, consideration was given to the approach adopted in Quebec, where financial planners are regulated by the *Chambre de la sécurité financière*, a self-regulatory organization that exercises disciplinary powers and oversight in respect of individuals practicing in five sectors and registration categories, including financial planning. The *Institut québécois de planification financière* (“IQPF”) was created by the government of Quebec, and is the only organization authorized to grant financial planning diplomas and establish rules respecting the ongoing professional development of financial planners. To receive the Financial Planner (“FPI”) designation granted by the IQPF, an

individual must satisfy prescribed academic requirements, complete the IQPF's Training Course, and pass the IQPF exam.

C. Issues and Alternatives Considered

During the development of the proposed amendments, consideration was given to recently launched initiatives, including Ontario's Consultation on Financial Advisory and Financial Planning Policy Alternatives, additional details in respect of which are set out below.

Ontario

In June 2015, the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives published its Initial Consultation Document for a public comment period that expired on September 21, 2015. The Expert Committee was tasked with providing advice and recommendations to the Ontario government regarding whether and to what extent financial planning and the giving of financial advice should be regulated in Ontario and the appropriate scope of such regulation. The Expert Committee published its Preliminary Policy Recommendations in April, 2016. The preliminary recommendations included: the regulation of any individual or firm that provides financial planning services either expressly or implicitly; harmonization of education, training, credentialing and licensing of individuals engaged in the provision of financial planning and one universal set of regulatory standards; and restrictions on the use of the titles for individuals engaged in the provision of financial products and advice and/or financial planning.

In response to the MFDA's Consultation Paper on Standards for Use of the Title "Financial Planner", some commenters referenced the review in Ontario by the Expert Committee on the regulation of financial advice and financial planning. It was suggested that the MFDA defer its efforts until such time as the Expert Committee has presented its final recommendations to the Ontario Ministry of Finance. MFDA staff has been in dialogue with the Expert Committee and understands that our objectives are aligned and complementary. As a result, MFDA staff is of the view that it is appropriate to proceed with the proposed amendments to MFDA Rule 1.2.5. In addition, we note that an MFDA Rule amendment can be implemented on a relatively faster timeline than reforms at the provincial or national level. To the extent that the final reforms vary from MFDA requirements, amendments to MFDA Rule 1.2.5 can be made at that time, if appropriate.

D. Systems Impact of Amendments

The designations/certifications that have been adopted as minimum standards under the proposed amendments are already held by many Approved Persons. It is not anticipated that the proposed amendments will have any additional material impact upon Members' systems, impose any material burden or constraint on competition or innovation, impose any material costs or restrictions on the activities of market participants, or result in any material increased costs of compliance.

Transition Period

As noted above, comments received in response to the publication of the MFDA's Consultation

Paper expressed general support for the adoption of a reasonable transition period in conjunction with the implementation of the proposed amendments. Such input is currently under consideration by MFDA staff and comment is specifically sought in respect of the appropriate length for such a transition period.

E. Best Interests of the Capital Markets

The proposed amendments to Rule 1.2.5 were approved by the MFDA Board of Directors at their October 6, 2016 meeting. The Board has determined that the proposed amendments are consistent with the best interests of the capital markets.

F. Public Interest Objective

The proposed amendments will clarify and enhance existing regulatory requirements, establish minimum proficiency standards for use of the title “Financial Planner” by MFDA Approved Persons, and lessen the potential for investors to be misled as to the qualifications of individuals using this title. The proposed amendments are consistent with the public interest.

G. Classification

The proposed amendments have been classified as Public Comment Rule proposals.

III. COMMENTARY

A. Filing in Other Jurisdictions

The proposed amendments will be filed for approval with the Alberta, British Columbia, Manitoba, Nova Scotia and Ontario Securities Commissions, the New Brunswick Financial and Consumer Services Commission, the Superintendent of Securities of Prince Edward Island, and the Saskatchewan Financial and Consumer Affairs Authority.

B. Effectiveness

The proposed amendments are simple and effective.

C. Process

The proposed amendments were reviewed and approved by the MFDA Policy Advisory Committee at its May 5, 2016 meeting, the Regulatory Issues Committee of the MFDA Board of Directors at its September 13, 2016 meeting, and by the full MFDA Board of Directors at its October 6, 2016 meeting. In approving the proposed amendments, the MFDA has followed its established internal governance practices and has considered the need for consequential amendments.

D. Effective Date

The proposed amendments will be effective on a date to be subsequently determined by the

MFDA.

E. Exemption from Requirements under Securities Legislation

The proposed amendments do not involve a Rule that the MFDA, its Members or Approved Persons must comply with in order to be exempted from a securities legislation requirement.

F. Conflict with Applicable Laws or Terms and Conditions of Recognition Order

The proposed amendments do not conflict with applicable laws or the Terms and Conditions of a Recognizing Regulator's Recognition Order.

IV. SOURCES

- MFDA Rule 1.2.5 (Misleading Business Titles Prohibited);
- Consultation on Financial Advisory and Financial Planning Policy Alternatives (Ontario) - Initial Consultation Document (2015), Preliminary Policy Recommendations (2016)
- National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (“NI 31-103”).

V. REQUIREMENT TO PUBLISH FOR COMMENT

The MFDA is required to publish for comment the proposed amendments so that the issues referred to above may be considered by the Recognizing Regulators.

The MFDA has determined that the entry into force of the proposed amendments would be in the public interest and is not detrimental to the capital markets. Comments are sought on the proposed amendments. Comments should be made in writing. One copy of each comment letter should be delivered within 90 days of the publication of this notice, addressed to the attention of:

Paige Ward
General Counsel, Corporate Secretary and Vice-President, Policy
Mutual Fund Dealers Association of Canada
121 King St. West, Suite 1000
Toronto, Ontario M5H 3T9
pward@mfd.ca

and one copy addressed to the attention of:

Anne Hamilton
Senior Legal Counsel
British Columbia Securities Commission
701 West Georgia Street
P.O. Box 10142, Pacific Centre
Vancouver, British Columbia, V7Y 1L2
ahamilton@bcsc.bc.ca

Those submitting comment letters should be aware that a copy of their comment letter will be made publicly available on the MFDA website at www.mfda.ca.

Questions may be referred to:

Paige Ward
General Counsel, Corporate Secretary and
Vice-President, Policy
Mutual Fund Dealers Association of Canada
(416) 943-5838

DM#504686v2

SCHEDULE “A”

Proposed Amendments to MFDA Rule 1.2.5

1.2.5 ~~Misleading Business Use of~~ Titles Prohibited

—(i) No Approved Person shall hold him or herself out to the public in any manner including, without limitation, by the use of any business name or designation of qualifications or professional experience that deceives or misleads, or could reasonably be expected to deceive or mislead, a client or any other person as to the proficiency or qualifications of the Approved Person under the Rules or any applicable legislation.

(ii) No Approved Person shall use the title “Financial Planner” unless approved by the Corporation or the Approved Person has obtained, and continues to satisfy the ongoing requirements of, one of the following designations or certifications:

A. Certified Financial Planner (CFP®), issued by the Financial Planning Standards Council;

B. Certified International Wealth Manager (CIWM), issued by the Canadian Securities Institute;

C. Chartered Life Underwriter (CLU®), issued by The Institute for Advanced Financial Education;

D. Financial Planner (F.Pl.), issued by the Institut québécois de planification financière and the Autorité des marchés financiers;

E. Personal Financial Planner (PFP®), issued by the Canadian Securities Institute; or

F. Registered Financial Planner (R.F.P.), issued by The Institute of Advanced Financial Planners.

SCHEDULE “B”

DESIGNATIONS / CERTIFICATIONS AND CORE ASSESSMENT CRITERIA

| <u>Included in Proposed Rule</u> | | | | | | | | |
|---|---|--|--|--|------------------------------------|---|---|--|
| Acronym | Designation/ Certification | Issuing Organization | Focus on Comprehensive Financial Planning | Education/ Course Requirement | Examination Requirement | Code of Ethics/Standards of Professional Conduct | CE Requirement | Process for Revoking Designation/ Certification |
| CFP® | Certified Financial Planner | Financial Planning Standards Council | Y | Y | Y | Y | Y 25 hrs/yr | Y |
| CIWM | Certified International Wealth Manager | Canadian Securities Institute | Y | Y | Y | Y | Y 12 hrs./yr | Y |
| CLU® | Chartered Life Underwriter | The Institute for Advanced Financial Education (Advocis) | Y | Y | Y | Y | Y 30 hrs/yr | Y |
| F.PI. | Financial Planner | Institut québécois de planification financière and AMF | Y | Y | Y | Y | Y 40 professional development units (1 unit= 1 hr.)/ 2 yr cycle | Y |
| PFPP® | Personal Financial Planner | Canadian Securities Institute | Y | Y | Y | Y | Y 12 hrs/yr | Y |
| R.F.P. | Registered Financial Planner | The Institute of Advanced Financial Planners | Y | Y | Y | Y | Y 30 hrs/yr | Y |