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Frank Allen
Assistant Deputy Minister
Ministry of Finance
Frost Building North, 4th Floor
95 Grosvenor Street
Toronto, Ontario M7A1Z1

Dear Mr. Allen:

RE: Submission to Ministry of Finance - Financial Planning Consultations

On behalf of The Investment Funds Institute of Canada (IFIC), I am pleased to respond to the Ministry's request for written comments on the regulation of financial planning in Ontario. IFIC has been the voice of Canada's investment funds industry for over 50 years bringing together 150 organizations, including fund managers, distributors and industry service organizations, to foster a strong, stable investment sector where investors can realize their financial goals. As of the end of December 2013, Canadians have accumulated savings of nearly one trillion dollars in mutual funds, nearly half of which are held by Ontarians. The economic activity generated by the industry supports a total of 192,600 jobs, the majority of which are in Ontario.

We appreciated the opportunity to participate in the Ministry-hosted roundtable on the potential regulation of financial planners. That opportunity has helped to inform this brief.

Overview

Investors are best served when they know who they are dealing with and have confidence in the advice and level of service they can expect. Industry has a strong stake in seeing that this happens. To that end, the industry actively supports oversight for advisors and planners that is proportionate to the needs of the client and services received. This has been achieved for advisors in the mutual fund industry through the significant regulatory oversight of dealer Self-Regulatory Organizations (SROs) and the provincial securities commissions.

The Financial Services Commission of Ontario (FSCO) also regulates and oversees the conduct and practices of a large number of mutual fund advisors who are dually licensed for insurance purposes.

Outside of these regulated entities, there are members of existing professional bodies such as the Financial Planning Standards Council (FPSC) who have completed substantial proficiency requirements and are held to strong codes of conduct in order to use their designations.

Of concern, however, is a small but growing segment of individuals in Ontario who hold themselves out as Financial Planners outside of regulated and professional channels. To the extent that this is occurring, the government should identify these service providers and consider expanding oversight to include them as well. Investors should have reasonable confidence in the services, competencies and care they can expect from individuals holding themselves out as Financial Planners. The investment funds industry would support the creation of a statute requiring oversight by a professional body of those who hold themselves out as Financial Planners as a means of providing greater investor certainty and fostering investor confidence.

Background – The state of regulation of investment and financial advisory services in Ontario today

In the mutual funds industry, extensive regulation exists for both the product and for the advisory services offered to clients. Very stringent rules are in place to govern the sales conduct, conflict management, and the disclosure of compensation and services provided by advisors. Integral to the regulatory framework are enforcement and complaint measures that further secure investor interests. Advisor proficiency levels are also set by regulation.

The Mutual Fund Dealers Association (MFDA) commenced regulation of dealers in 2002. Since then it has conducted four rounds of audits of all dealers. These audits are highly detailed and cover every aspect of dealer operations, from back office finances to the supervision of advisors. Prescriptive rules govern how advisors interact with their clients, and transgressions by dealers and advisors are subject to MFDA enforcement.

The number of MFDA dealers, currently about 115, is roughly half of what it was 15 years ago. The industry has undergone dramatic consolidation in this time due, in large part, to the increase in regulatory standards following the establishment of the MFDA that benefitted investors and required dealers to add significant numbers of highly qualified personnel to meet supervision and other compliance requirements. MFDA members today are very committed to the investors they serve and are continually upgrading their processes in response to changing needs and new expectations of the investing public and policy makers. Many dealers have training and practices that go well beyond what is required by regulation. The result is that Ontario has a highly compliant industry with significant investor protections in place.

Mutual funds are also distributed by Investment Industry Regulatory Organization of Canada (IIROC) dealer firms. As of December 2012, 27% of assets under management of the Canadian mutual fund industry were held in the IIROC channel. IIROC regularly audits member firms to test their compliance with rules related to business conduct, financial operations and trading practices. This includes monitoring compliance with supervision guidelines and ensuring that transactions reflect client needs and instructions.

We believe that Ontario investors should enjoy the confidence of knowing that the same robust approach that currently applies to financial advisors and financial planners who operate under regulated entities applies to anyone presenting themselves as a Financial Planner.

Specific Comments

Following are comments on questions raised in the Ministry's consultation document.

1. Is Ontario's current regulatory approach in relation to financial planners appropriate?

We agree with investor advocates and policy makers that investors should be able to expect that those offering their services as Financial Planners are subject to oversight. The greatest concern in Ontario results from individuals holding themselves out as Financial Planners, but who are not subject to regulation by the MFDA, IIROC, FSCO, or a professional planning body such as the FPSC. Addressing this gap will be important to ensuring more standardized service levels and more adequate investor protections for Ontarians seeking the services of a Financial Planner.

2. How would you improve Ontario's current regulatory approach?

As noted above, Financial Planners who are licensed representatives of entities regulated by the MFDA, IIROC, or FSCO already are subject to stringent oversight. In this case we do not believe that a new regulator or SRO should be layered on top of the existing framework. If proficiency levels of registered advisors are insufficient for the services they provide, then the appropriate means of addressing this would be within the regulatory frameworks within which they operate.

For those who hold themselves out as Financial Planners, but are operating outside of a regulatory or professional framework, we would support a statutory requirement for professional oversight to resolve any potential harm or confusion this may be causing for investors.

3. Are there approaches to regulating financial planners which you would recommend?

We strongly recommend that the government seek to achieve professional oversight of financial planning without adding to the regulatory requirements for financial advisors that are already subject to SRO and securities commission regulation. Financial advisors in the mutual fund industry provide an important service to Ontarians which could be restricted by unnecessary additional regulation.

4. Would regulation affect your business model(s) of providing financial planning services and, if so, in what way?

A regulatory regime that requires individuals who hold themselves out as Financial Planners to be regulated and to hold a recognized financial planning designation would fit well with existing business models.

A regime that would require financial planning proficiencies for advisors who do not provide those services and who already are regulated as dealing representatives or life insurance intermediaries could have a costly and severely limiting impact on the availability of affordable advice. The impact would be felt most by a broad spectrum of Ontarians with modest means or who are at a life stage when the full services of a Financial Planner are not typically needed.

It is important to keep in mind that the average MFDA account holder has less than $36,000 and that of IIROC has roughly $67,000. Many of these individuals do not require, nor can they afford, the services of a professional Financial Planner when they first embark on saving and investing. These investors can benefit greatly from the actionable, affordable advice comprised of straightforward needs analyses and simple conversations around saving, budgeting and debt management that is widely available from registered financial advisors in Ontario.

Research has provided strong evidence of the role that advice plays in providing for better savings behaviour, improved retirement readiness and the increased financial literacy of those using it. Clearly, the government should require financial planners and advisors to be proficient in offering the services and products they provide. The interests of all investors, and particularly those just starting to save and those with limited assets, are strongly aligned with a continuing healthy and active advice market where proficiency requirements are proportionate to the needs of the client.

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We hope our comments are helpful. We are ready and willing to provide any further input you may require and to work with you on this initiative. Please feel free to contact me by email at jcockerline@ific.ca or, by phone 416-309-2327.

Yours sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA

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