



September 9th, 2019

Delivered by email: finplannerconsult@gov.sk.ca

Financial and Consumer Affairs Authority of Saskatchewan
601, 1919 Saskatchewan Drive
Regina, SK S4P 4H2
Attention: Dean Murrison, Director, Securities Division

Re: Response to consultation on the regulation of financial planners and financial advisors

The Ombudsman for Banking Services and Investments (OBSI) is pleased to provide our comments to the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) on the regulation of financial planners and financial advisors in Saskatchewan, including the use of financial planner and financial advisor titles.

OBSI is a national, independent and not-for-profit organization that helps resolve and reduce disputes between consumers and financial services firms from across Canada in both official languages. OBSI is responsive to consumer inquiries, conducts fair and accessible investigations of unresolved disputes, and shares its knowledge and expertise with stakeholders and the public. If a consumer has a complaint against an OBSI participating deposit-taking institution or investment firm that they are not able to resolve with the institution or firm, OBSI will investigate at no cost to the consumer.

OBSI is well positioned to observe the challenges that financial services consumers face when engaging with professionals in the sector. With over 1400 participating firms from across Canada, each year we respond to over 5,000 inquiries from individual consumers and small businesses and investigate over 700 complaints about a broad range of issues that consumers have not been able to resolve directly with their financial services firms.

OBSI supports FCAA's initiative to improve and modernize the regulation of financial planning and advising in Saskatchewan, which holds the promise of improving these services and safeguarding the fair treatment and protection of consumers who increasingly rely on financial professionals. In today's complex and interconnected financial services marketplace, greater protections for financial services consumers and enhanced clarity and public awareness of the role and responsibilities of financial planners and advisors are positive steps that will reinforce Saskatchewan's strong, stable financial services sector and maintain the public's confidence and trust in the systems which underpin it.

Canadians today have little choice but to assume control of their own financial security and retirement planning to a degree not experienced by earlier generations. With the decline in the prevalence of

defined benefit pensions and increase in the availability and complexity of financial products in recent years, Canadians depend on quality financial planning and advice now more than ever. Persistently low returns on traditional savings products such as GICs, bonds and savings accounts have also increased Canadians' need for professional assistance in understanding how to realize their financial goals.

Financial Professionals Title Protection Act, 2019 (Ontario)

As noted in the FCAA request for comments on this topic, the Government of Ontario has recently passed the *Financial Professionals Title Protection Act, 2019* (the ON Act). In our view, the ON Act's proposed restrictions on the use of financial planning and advising titles to those who have met the certification requirements of an approved credentialing body is a positive step towards increasing consumer protection in this area and ensuring more consistent standards for all financial advice providers in the province.

The ON Act provides a foundational framework for regulation of the financial planning and advising professions by rules to be established by the Governor in Council and the Financial Services Regulatory Authority. As such, much of the substance of the criteria and rules that will apply to credentialing authorities and financial planners and advisors in Ontario has not yet been established and is the subject of ongoing policy development and public consultation. However, we would offer the following comments and observations about the Act's framework and potential impacts.

Potential for harm reduction

The ON Act's clear prohibition on the use of false or misleading financial professional titles has an important role to play in reducing the incidence of financial harm and fraud by unqualified individuals purporting to be financial planners and advisors. Too often, Canadians are duped into "investing" with unlicensed charlatans and fraudsters, who then proceed to lose or abscond with their savings, causing terrible harm. Because the perpetrators are not registered financial services providers, there is often nothing regulators or organizations such as OBSI that operate in regulated sectors, can do.

The ON Act promises to help increase public awareness of the legitimate credentials in the financial services sector and place tools in the hands of FSRA to prevent uncredentialed individuals from using these titles. Due to the seriousness of the harms that can result from such activity, consideration should be given to establishing an offence with appropriate penalties for breach of these provisions.

Public directory of financial professionals

The ON Act provides that FSRA will make public a current list of approved credentialing bodies and approved credentials, which is an important public disclosure. More useful to individual consumers, however, would be a public registry of all licensed financial planners and advisors, established and administered by the public regulator. Such a registry would allow members of the public to independently verify the credentials of anyone purporting to be a financial planner or advisor.

Interprovincial rule harmonization

Ontario has taken an important first step in the regulation of financial planning and advice titles and it is encouraging that Saskatchewan is also examining this issue. Quebec has advanced further and has developed a robust system of regulation of financial professional titles and credentialing requirements.

Wherever possible, provincial policymakers should work towards establishing common rules and criteria so that the work in each province to increase public awareness and establish best practices is amplified across provincial boundaries and any potential confusion or rule conflict relating to titles and credentials is minimized.

Also crucial to the development of policy in this area is harmonization with the rules and criteria that already apply within the currently regulated channels of financial advising – particularly in the securities and insurance fields. Securities regulators in particular have recently proposed amendments to NI 31-103 including restrictions on the use of misleading titles for securities registrants. Any policies adopted by the FCAA in this area should be crafted to ensure harmonization with any securities law reforms resulting from these proposals.

Consumer redress

An important consumer protection measure that should be provided for through regulation is the requirement for fair complaint handling by financial services providers and access to an appropriate consumer redress mechanism.

Redress for financial consumers with unresolved complaints is internationally recognized as an important component of the financial consumer protection framework. The G20 High Level Principles on Financial Consumer Protection endorsed by G20 finance ministers and central bank governors state that financial services consumers should have access to complaint handling and redress mechanisms that are "accessible, affordable, independent, fair, accountable, timely and efficient."

A World Bank report on fundamentals for the creation of independent and effective financial ombudsman services concluded that access to financial ombudsman services can increase consumer participation in financial markets and lead to greater consumer confidence. The report notes the systemic benefits that accrue to the financial services sector as a whole from reduced complaint handling costs and data sharing by the financial ombudsman that can help focus regulatory efforts and lead to an overall strengthening of the industry.

It is clear that consumer protection and fair treatment are best served when consumer complaints are addressed promptly and fairly by financial services providers directly. This includes requiring providers to have a clear and accessible complaint process and to provide consumers with an appropriate system of redress. For consumers and firms that are unable to resolve disputes themselves, an ombudsman service is the most effective and efficient way to deliver affordable, impartial and fair dispute resolution.

Consumers of insurance, banking and investment products and services in across Canada currently benefit from access to the dispute resolution services of the General Insurance OmbudService (GIO), the OmbudService Life and Health Insurance (OLHI), and OBSI.

We urge FCAA to consider the benefits of a regulatory obligation for all licensed financial planners and advisors to offer their clients the services of an independent ombudsman. Bringing a consistent approach to all regulated financial services firms would be not only in the best interests of financial services consumers but would also ensure a common standard for all licensees in the province.

Consumer protection and systemic protection

Financial services ombudsmen provide consumers with a cost-effective alternative to the courts in cases that typically involve disputes of limited monetary value and involve parties with significant disparities of sophistication, knowledge and access to resources. Financial services ombudsmen deliver access to justice for those without legal representation and those who are disadvantaged in their ability to understand and exercise their own rights and obligations.

A financial services ombudsman further inspires consumer confidence in the financial services sector through the collection, review, and sharing of information back to the public, industry participants and regulators, including the identification of issues that may pose a systemic risk.

An industry-wide ombudsman service is well positioned to effectively aggregate and report on emerging issues, best practices, and systemic issues that have the potential to adversely affect consumers across the province and across the country.

More work to be done

There is clearly a great deal of policy development work required before a comprehensive regime of financial professional title regulation is in place in Canada. This is a substantial and perhaps daunting project, but the underlying objectives are compelling and the potential for significant improvement over the status quo should motivate regulators to work to further develop this important initiative.

In conclusion, OBSI commends the initiative of FCAA in considering this enhancement to financial consumer protection in Saskatchewan. We hope our comments and suggestions contribute to the discussion around this initiative, and we would be pleased to provide further feedback to FCAA on this important project as it progresses.

Sincerely,

Sarah P. Bradley
Ombudsman & CEO