EXECUTIVE SUMMARY

Financial planning in Canada as a practice has evolved to the point where Canadian consumers generally are aware of the term “financial planner”. However, the exact content of “financial planning” services is not easy to determine from the point of view of the average Canadian consumer and this confusion is not helped by the financial services industry’s rather lax use of the term to describe portions of the discipline of financial planning that pertain only to investments.

The Public Interest Advocacy Centre set out to determine Canadians’ familiarity with financial planning, but also to attempt to see it from the perspective of financial planners. To that end, we conducted interviews with stakeholders and crucially, focus groups with both financial planners and their clients.

From this research emerged a portrait of financial planning in Canada that sees it largely mis-described by both those who claim to be financial planners and their clients, even though professional bodies for financial planners and some provincial regulation defines it fairly precisely. Generally, these bodies define financial planning as advice from an independent financial expert on the following six major financial determinants in life:

- Cash and debt planning
- Income Tax planning
- Investment planning
- Retirement and Financial Independence planning
- Insurance and Risk planning
- Estate planning

Financial planners are expected under the standards set by the several financial planner organization standard to review all of these areas with clients and generally to provide a written financial plan, which is then periodically reviewed for accuracy given the changes of life a financial circumstances of the client over time.

Financial planners also, however, may assist with “implementing” the financial plan. That is, they may assist with the purchase of investments to satisfy investment planning goals or may assist with or refer clients to agents for insurance coverage, to lawyers for wills and powers of attorney, etc. It is this “secondary role” of implementation that leads to questions of conflict of interest and disclosure to clients of remuneration arrangement for financial planners. The potential for conflict of interest in this arrangement has lead to the development of “fee only” planners who claim not to receive commissions on sales of investment products or referral fees, and simply bill the client for the financial planning services. However, such a model may be too expensive for Canadian customers who have been conditioned to believe financial planning is offered as a free extra from their financial institution.

Consumers presently face an “alphabet soup” of financial planning titles. A number of financial planner self-regulatory bodies have sprung out of international financial planner groups as well as related Canadian financial services advocacy bodies. These groups and designations are not clear to Canadian financial consumers and are largely ignored in the decision to use a financial planner.

“Financial planning” therefore is a loosely used term in many provinces and may designate a financial advisor who largely sells investment in a large financial institution, but may either perform only some of the financial planner six steps or alternatively, create a financial plan largely as a method to convince the clients of the need to invest in securities, especially mutual funds.

This is not so in Quebec, where financial planners are regulated under a comprehensive provincial financial services framework that requires financial planners to meet standards set by the Institut québecois de planification financière (IQPF), be subject to fines and discipline for malpractice and fraud, to follow continuing education, to disclose conflicts of interest and prohibits most self-dealing. The Quebec regime also prohibits operating financial businesses under confusingly similar titles to financial planner, such as financial advisor, personal finance planner, private wealth advisor, etc. In doing so, the Quebec regime has also effectively curtailed the self-regulatory financial planners from operating as such in Quebec, unless an agreement with the IQPF is reached.

International systems of regulation of financial planners (U.S., U.K. and Australia) rely upon the regulation of investment advice, meaning some core competencies of financial planning are unregulated and leaving open the possibility that unlicensed financial planners can operate. As a result, these countries’ regulatory models do not provide a new way forward for Canada.

Recently, there have been attempts to regulate financial planners on a national basis via self-regulatory securities organizations. These proposed rules generally require oversight of the financial planners by a securities dealer. These rules have been strongly resisted by the Canadian financial planning community, as they view them as institutionalizing the inherent conflicts of interest between holistic financial planning as a discipline and self-interested investment sales. Another model, proposed by Advocis in Ontario, unfortunately has not been pursued but promised a strong consumer complaints mechanism and the exact opposite, namely institutionalizing the separation of regulation of financial advice and investment transactions.

Given this situation, it is PIAC’s view that the time appears ripe for the provinces to regulate financial planning in the public interest. The Quebec model, with minor adjustments, appears to be the best way forward to protect Canadian financial consumers. In particular, only provincially-regulated “financial planners” should be allowed to use that title and regulation should prohibit titles that are confusingly similar to “financial planner”. If this course were followed provincially, present financial planner self-regulatory bodies could play a role in preparing candidates for provincial registration and regulation, and possibly in setting provincial standards, by concluding mutual recognition agreements with provincial authorities setting up financial planning regulatory schemes.

In order to facilitate this transition to regulation, the Consumer Measures Committee of provincial and federal ministers responsible for consumer protection should meet on the issue of financial planner regulation and issue policy recommendations. The Uniform Law Conference of Canada also could be asked for a draft financial planners provincial law. Any such drafting process should include input from the widest possible inclusion of stakeholders, both in the financial planning industry, financial services industry, securities regulators and, crucially, consumers (via consumer group participation).

Regulation of financial planners should not be directly in the hands of the self-regulatory securities standards settings bodies such as Investment Industry Regulatory Organization of Canada (IIROC) and Mutual Fund Dealers Association (MFDA) as it may have the effect of institutionalizing the inherent conflicts of interest that exist when financial planners are compensated on the commission/referral fee method.

The Financial Consumer Agency of Canada and the provincial consumer protection authorities (especially those with dedicated financial services departments) should follow and study the fee-only financial planner model as an option for consumers to the traditional commission/referral fee financial planner business model.

It may be in studying the fee-only model that potential regulatory requirements such as separation of financial planners from ownership of, or employment by, financial companies or particular investments (including prohibition on related parties owning or being employed by these entities) may be appropriate and necessary in the future.

PIAC calls upon the “fee-only” financial planners to self-organize or for the senior financial planner self-regulatory organizations to create a service mark or designation to allow consumers to easily find a fee-only planner. This organization then can participate in negotiations with provincial regulators to provide training and certification services for the province to achieve the required standards under each provincial regulatory system.

Provincial regulators of the adequacy of disclosure should determine if disclosure should be made whenever any financial plan element is “implemented” – even where that does not trigger a duty under securities legislation (such as an insurance referral).

Finally, PIAC recommends further study of the benefits of comprehensive financial planning for a larger number of middle to lower income Canadians. Such study likely would be a good fit study with the financial literacy review in Canada by the independent task force proposed under Canada’s 2009 Budget.