

**HOLDING THE PURSE STRINGS:
REGULATING FINANCIAL PLANNERS**

Written by: John Lawford and Janet Lo
Public Interest Advocacy Centre
1204 - ONE Nicholas St.
Ottawa, Ontario
K1N 7B7

December 2009

Copyright 2009 PIAC

Contents may not be commercially reproduced.
Any other reproduction with acknowledgment is encouraged.

The Public Interest Advocacy Centre
(PIAC)
Suite 1204
ONE Nicholas Street
Ottawa, ON
K1N 7B7

Canadian Cataloguing and Publication Data

**HOLDING THE PURSE STRINGS:
REGULATING FINANCIAL PLANNERS**

1-895060-93-1

Acknowledgement

Financial support from Industry Canada to conduct the research on which this report is based is gratefully acknowledged. The views expressed in this report are not necessarily those of Industry Canada or of the Government of Canada.

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 québécois 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.

TABLE OF CONTENTS

INTRODUCTION	8
Focus Group Findings.....	8
Statement of Limitations.....	9
Financial Planners’ Views of Financial Planning and Regulation.....	9
What Average “Financial Planners” Do, or Think They Do	9
“Proper” Clients for Financial Planning	12
Financial Plans Sell Investments	13
Financial Planner Qualifications.....	14
Awareness of and Need for Regulation	17
Clients’ Views of Financial Planning and Regulation.....	21
Clients Not Generally Paying Separate Fees	28
Definition of Financial Planner.....	30
Practice of Financial Planning	31
Financial Planner Business Models	33
The Standard Financial Institution In-House Business Model	34
The “Chinese Wall” Model.....	34
The Independent FP Model.....	34
The Fee-Only Model.....	35
Example: NAPFA (U.S.)	35
Fee-Only Planning in Canada	37
Self-Regulation and Voluntary Associations of Financial Planners.....	37
Provincial Regulation of Financial Planners.....	41
Quebec	41
British Columbia.....	46
International Regulation of Financial Planners.....	49
United States	50
United Kingdom.....	51
Australia.....	52
Proposed Regulatory Schemes in Canada.....	53
Advocis Proposed Regulatory Strategy (2005).....	53
IIROC Proposal to Regulate Financial Planners.....	56
MFDA Proposed Rule Changes.....	58
Conclusions.....	60
Recommendations.....	61

INTRODUCTION

Financial planning is a growing phenomenon in Canadians' lives. Changing economic conditions recently have led Canadians to fully evaluate their financial affairs, which is the basis for the practice of financial planning. In the meanwhile, an increasing shift in Canadians' retirement financial arrangements from pensions to mutual funds and other self-managed vehicles has made the need for, and the market for, investment advice grow greatly over the last 20-30 years.

The Public Interest Advocacy Centre noted the increasing references to "financial planning" being offered in both established financial institutions and standalone businesses, and the apparent lack of regulation of the activity, which nonetheless deals with Canadians' assets, the financial meltdown, intervening high-profile financial advisor Ponzi scams, etc., and proposed to investigate the world of financial planning in Canada.

It appears that "financial planners" are a bit of an unknown to Canadians. There are indications that the influence they have is important enough to consider regulating their affairs in the public interest, and in particular, assuring Canadians know they can confidently rely on a helping hand from them, even when they get to pull many of life's most important purse strings.

As a result, PIAC commissioned focus groups of Canadians (clients) and financial planners themselves to get in-depth views of the problem from "street level". Since there had not been any similar focus groups performed in Canada on this subject to our knowledge, and since the level of confusion and nuance in clients' and planners' understandings of what "financial planning" is in Canada is high, we summarize much of these groups' statements while providing readers with a verbatim recitation of comments to attempt to avoid colouring this nuance and confusion.

Focus Group Findings

The Public Interest Advocacy Centre (PIAC) and Environics Research Group (Environics) therefore conducted two focus groups with financial planners and financial planner clients in Toronto in November 2008.¹ The participants were divided into two groups, financial planners, and financial planners' clients. Fuller information on the methodology of the focus group research is contained in the Environics Report on the focus groups, found below and in the full Environics Report at Appendix 1.

¹ The full report is Environics, "Attitudes toward Regulation of Financial Planners in Canada – Qualitative Research" Environics Research Group (December 2008). The full report is reproduced in the electronic version of this report at Appendix 1.

Statement of Limitations

The objectives of this focus group research initiative are exploratory and therefore best addressed qualitatively. Qualitative research provides insight into the range of opinions held within a population, rather than the weights of the opinions held, as would be measured in a quantitative study. The results of this type of research should be viewed as indicative rather than projectable. The intent of this research is to provide insights into the range of issues and opinions, and not the weight of those issues.

PIAC buttressed the qualitative research with extensive secondary research and additional primary research in the form of interviews with stakeholders.

Financial Planners' Views of Financial Planning and Regulation

The financial planners attending our focus groups generally agreed that there was some increased need for regulation or at the least consumer education about financial planning, as well as some in the financial services industry generally.

However, as illustrated below, the self-described financial planners in our focus groups themselves were largely investment advisors. They also showed a certain lack of awareness of all of the steps in providing holistic financial planning and a lack of awareness of financial planners' self-regulatory bodies and their role.

What Average "Financial Planners" Do, or Think They Do

Most "financial planners" recruited for our focus groups who called themselves "financial planners" or who claimed to have some "financial planning" duties in their work days initially claimed that they did comprehensive financial plans for some or most clients and at least started their relationship with a client in producing a financial plan:

***Financial Planner @ Investment Bank:** Right. And I basically do comprehensive wealth management of clients and do some comprehensive financial plans but it depends on the client whether they want a full plan but that's my focus. It's financial planning and making sure that people know what their goals are and help them get that.²*

***Financial Planner @ C.A.:** I am a CFP and a CA and I have a practice actually with [my partner] here and I have a practice downtown. And we're also members of a Mutual Fund Dealer's Association and we do one off*

² Financial Planner Focus Group Transcript, November 17, 2008 – 5:30 p.m., at p. 1.

*financial planning advice for fees for clients and investment management services for clients. And I've been doing this for I guess about twenty-five years.*³

Financial Planner @ C.A.: *I would consider myself definitely a financial planner. I [manage] money through mutual funds, also zero front ends and I really do start every client with a comprehensive plan with layers of financial planning and the last part I do is in investments. But collect fees and trailers and I also put fees on a percentage of our portfolio and I've been in the business twenty-one years.*⁴

It was evident from the comments of the rest of the group that “financial planning” did not take up a large part of their time. Instead, financial planning was seen as a qualification to obtain which might have some utility for certain clients. Most of the planners in this group were employees of large financial institutions and simply sold investments.

A middle group were at investment banks where financial planning was the new hot “thing” to offer clients:

Financial Planner @ Investment Bank: *I've been there for fifteen years and we started to get into financial planning about eight years ago, so that's now a part of what we offer to most clients at least half decent net worth and up clients.*

Moderator: *So what sorts of advice do you give?*

Financial Planner @ Investment Bank: *We look after investments but now they really want us to focus also on adding financial planning to that, so we do provide financial plans and that gets us into insurance solutions also. Yeah, we do it within our team. We try to just use more of a simplified version. We have a very complicated 50 page plan too but it's tends to boggle clients and it doesn't really accomplish, it probably accomplishes less than the simplified 12 page plan.*⁵

Two more individuals described themselves either as financial advisors or appeared to conflate financial planning and dealing in securities.

Financial Planner @ Small Investment Firm: *I consider myself a financial advisor but my main job is selling investments. I use Hedge Funds, regular funds and I do everything on a front load basis. And I'm basically on a second career and I've been doing it for sixteen years. I found it to be a good business to be in.*

Financial Planner @ Major Bank: *I'm a financial planner at [major bank] so my role is very similar to [another FP]. I look after high bank*

³ Financial Planner Transcript, at p. 3.

⁴ Financial Planner Transcript, at p. 4.

⁵ Financial Planner Transcript, at p. 3.

customers, so I'm doing investments like the majority are mutual funds, except for stocks and bonds and also GIC. Even on the credit side, like I actually any product I look them as well, but that particular (inaudible).⁶

The financial planners then were asked to complete an exercise listing what the largest challenges were in their financial planning practice, outside of simply advising clients on investment questions or market downturns. A strong theme emerging was the passivity of clients, who neither read the materials provided to them, nor implemented recommendations, nor even bothered to attend for appointments:

Financial Planner at C.A.: *It's like, well, you know what, we've had phone meetings but she's always been too busy to come in. You know what, now wouldn't be a bad time to think about coming in. And it was sort of like even now she agreed that she wouldn't sell out. A bad idea. But it was sort of like, well she'd think about coming in. So that was one issue. The other issue that I have in terms of the planning side of things is that what I find mostly people will say they want to have a financial plan and then you give them a questionnaire or tell them that they have to pull together all these documents. And then it's like – oh, don't want to do it, too much trouble. Why can't you just do a financial plan?⁷*

Financial Planner at Investment Bank: *Similar. Gathering information is a challenge. You send a questionnaire. Half the people won't do it and the people who really should be doing it, they don't. So you really have to get a meeting to see people.*

Moderator: *Like an in-person meeting.*

Financial Planner at Investment Bank: *Yeah. And that's the challenge too just to even get them to sit down. And then it's also a time challenge for us because really like you're saying a lot of clients they want it the easy way. And the easy way is you sit in front of them and you ask them the questions so they don't have to write it out or fill it out. You're doing it all for them with their input.*

Besides lassitude, the financial planners also identified a lack of understanding on the part of clients regarding financial matters. The planners also noted that completing a financial plan is a large and arduous process, both for planner and client, leading to fatigue and sometimes abandonment by the client of the plan. One financial planner noted that the clients' efforts to delegate the financial plan to the financial planner simply courted disaster, as there were so many assumptions about lifestyle and means, that the planner simply could not produce a sufficiently individual plans.

⁶ Financial Planner Transcript, at p. 4.

⁷ Financial Planner Transcript, at p. 6.

Other problems cited included only one spouse visiting when financial affairs obviously would impact the other and financial planners being slow to use e-mail for information gathering when younger clients preferred this to written forms.

One interesting tack taken by a planner was to make “house calls” since in doing so, he was able to glean a lot of unspoken information about the client’s means and lifestyle from his or her surroundings at home:

Financial Planner at C.A.: *The other thing I do is, and I found it very successful with clients, is I visit clients in their home. And I think by sitting in someone’s home, they can’t trick me. I can see the way they have their furniture. I can see the way they live. I can see how much money they really have. I can see their lifestyle. And somebody may tell you what they think they want but you can see they live very frugally and you can see other people with a BMW in the driveway and they’ve got this and they’ve got that and you pretty well know that they’re up to here in debt.⁸*

The planners largely put this reluctance to open up about financial matters not only to convenience but down to gaining the client’s trust. Many felt that at home meetings or at least face-to-face ones were key to trust:

Financial Planner @ Small Firm: *I think the most important point is the one I started with was gaining the trust of the client. And I mean with that hopefully you can overcome some of the roadblocks i.e. getting them in for face to face and whatever.*

Financial Planner @ Large Bank: *My main challenge is basically disclosure. When we do a financial plan and I have to get a lot of information. But I think working in the branch the majority of my customers are like assisting client[s]. There is some part of it from referrals so I have to gain their trust at the first place. And either they’re too busy. They can’t hand in their statements or they’re kind of reluctant because they’re not sure. They don’t want to disclose the (inaudible) to do that.⁹*

“Proper” Clients for Financial Planning

Interestingly, none of the planners put down this lax attitude of clients to the fact that in general, financial planning is offered “free” to clients, that is, they are not often charged a fee in financial planning situations in larger firms or if their net worth is considered too low. Yet all of the planners confirmed that working on a fee basis is very rare and that only high worth individuals are, and indeed should, be offered this service:

Financial Planner @ C.A.: *What you have to distinguish between are financial plans and financial planning because they are really two different*

⁸ Financial Planner Transcript, at p. 10.

⁹ Financial Planner Transcript, at p. 12.

activities. I think, [other FP], you made the comment earlier. People don't much like to pay for a big formal \$3,000 or \$4,000 or whatever for a financial plan. Years ago I had somebody who came in to me with a financial plan they got done from somebody else and it was 120 pages of fine print and so on and so forth and it cost him \$100 to get done. But he was told that's only because they had some proprietary software that had been done by one of the big accounting firms and this plan was worth \$3,000 or \$4,000 and so on and so forth. So he was saying – what do I do with this? Honest to God and it was done by a large name financial institution and the stationary was gorgeous and it was a padded binder.¹⁰

Financial Planner at Small Firm: You can have the bank teller churn it out if they've got the designation. But real financial planning I think is a several thousand-dollar job and all that really needs to be done with people that have considerable amounts of money. And this is being addressed by some of the firms like Fiduciary Trust and people like this that are actually. And I would much rather take the client to a company like that, somebody who's got several million dollars, I would rather take them to a company such as Fiduciary Trust and let them do all of that. Get that pulled together.¹¹

Financial Plans Sell Investments

From this point, the financial planners acknowledged that, despite earlier emphasis on their financial planning steps at the outset of the client relationship, that financial planning, sooner rather than later, became simply a tool to sell investments:

Financial Planner at Small Firm: Because for most ... I don't know if everybody agrees, it's a very mechanical process what people have brought to me saying this is what the bank did or this is what so and so did. It looks pretty much, they're all the same with the answers are being plugged in and it comes out with 12 pages of this and now we're going to sell you this. The whole point of doing the financial plan from what I've seen is to sell people investments. It's not to generate money from being a professional financial planner and generating your income from doing that. The whole purpose of the plan is to sell investments.¹²

Other planners took issue with this statement, noting that a proper financial plan and the process can have real benefits for clients, but acknowledged few clients took full advantage of this service:

Financial Planner at Investment Bank: Actually I want to go back to a point that Brian made about you do a financial plan to sell investments,

¹⁰ Financial Planner Transcript, at p. 45.

¹¹ Financial Planner Transcript, at p. 32.

¹² Financial Planner Transcript, at p. 32.

because I actually do it the opposite. I have their money and as people are getting closer to retirement, quite often there are saying to me – can I retire earlier? I just had a young couple sell their house, travel to Europe for two years, and I'll do comparisons. And I'll say – here's what this means, and yes we have to look at all kinds of assumptions that can be way out of whack. Like the market could dive when you're in Europe. Is that okay? Yes. Okay, well let's look at it. And I do it the opposite way. And it's a huge benefit to people I think.

Moderator: *How many people do you think do that?*

Financial Planner: *Very few.*

However, as noted, most of the group stated that in the vast majority of cases, financial planning was a means to the end of investment advice and sales, sometimes of not just investments but also related products such as insurance:

Financial Planner @ Small Firm: *But I do believe in institutions the push is on selling investments and they look at these as tools.*

Financial Planner at Investment Bank: *I would say that that's half true and half not. Because really I find it's a great reducer of anxiety. If my clients that are getting close to retirement, if we haven't done a planning yet and they're in their fifties, I want to be doing that plan for them. It reduces their anxiety and it quantifies where they are at. It is used for insurance sometimes. It's okay do they have an insurance need? Well that's one way of doing it. But instead of just focusing on insurance, do the big picture, and insurance falls out of it.¹³*

Financial Planner Qualifications

Given the role of financial planning as viewed by the “financial planner” focus group members, that is, largely to sell investments or as a minor added client service (with some dissent), it is not surprising that amongst this group, there was considerable confusion about the major financial planner self-regulatory bodies operating in Canada such as Financial Standards Planning Council (which grants a “Certified Financial Planner” mark), Institute of Advanced Financial Planning (which grants a Registered Financial Planner mark), Advocis - Financial Advisors Association of Canada (formerly Canadian Association of Financial Planners) (which grants a Certified Financial Planners mark), Canadian Bankers' Association (which grants a Personal Financial Planners mark) and many other minor marks.

Typical of the exchanges on this topic were the following:

¹³ Financial Planner Transcript, at p. 35.

Moderator: *M'hmm. Okay. What about you, [FP]? Are you certified with any?*

Financial Planner @ Large Bank: *Yeah, I have my PFP.*

Moderator: *CFP and PFP are those two different?*

Financial Planner: *Personal financial planner.*

Moderator: *Okay.*

Financial Planner: *When [large Investment Bank] first said – okay, we're going to have not just investment executives but now we're going to have this financial planning level, which is an investment executive with the financial planning, PFP. That was something they really pushed through the system so that if you were going to look after a Bank branch, you had to have your PFP now.*

Moderator: *M'hmm. Who issues a PFP?*

Financial Planner: *I'm assuming it's CSC.*

Financial Planner: *CSI. CSC.*

Financial Planner: *But that's a bank because I was at [a major] Bank when that was being brought in. CFP was earning too much money from them and the banks wanted to keep money in house so they started their own courses.*

Moderator: *Oh, I see.*

Financial Planner: *And it ended up with a professional bank.*

Moderator: *What does CSC stand for?*

Financial Planner: *Certified financial planner.*

Moderator: *Oh, certified financial planner.*

Financial Planner: *CSC is Canadian Securities.*

Financial Planner: *CSI sorry. Not the TV show.*

Moderator: *Banks don't own the CSI though do they?*

Financial Planner: *No. No, they have the PFP.*

While somewhat comical, the comments on the certification by these bodies were consistently confused, with financial planners aware of one or two marks, and

unaware of any others. This suggested a “silo” type certification bias, that is, PFP was open only to bank employees, C.A.s tended to have a C.F.P. and insurance agents were thought to have the Advocis mark:

Moderator: *Has anybody ever heard of Advocis?*

Financial Planner at Small Firm: *That’s insurance based.*

Moderator: *That’s insurance based. So it doesn’t cover financial planners?*

Financial Planner @ C.A.: *Well, yeah, they would like us to belong. But it’s more of a lobby. I thought it was more like a lobby group.*

Financial Planner @ Investment Bank: *For the insurance people.*

This suggests a duplication, at least from the customer point of view, and therefore that the marks, in and of themselves, were interchangeable to the customer as they likely lost meaning in the “alphabet soup” (a finding of the customer’s focus group, below). The financial planners clients group did agree that clients never seemed to shop for financial planners based upon these qualifications.

One interesting note was that some of the participants in the financial planners group saw value in a completely independent financial planning model, where the financial planner was not compensated for implementation of the plan, and indeed would be required to use other professionals to implement it:

Financial Planner @ Small Firm: *I don’t know if I’m in the wrong class because I don’t (inaudible) financial planner and I don’t hold myself out to be a financial planner. But it’s not rocket science to be able to determine what somebody’s lifestyle requires in today’s dollars and on a certain amount of inflation how much money they might need at retirement and how long they’re going to live. That’s not rocket science. I think what the rest of your group is talking about is far more in-depth plan that they venture into – wills, estate, tax planning and things like this which the majority of the people out there today selling investments are just not qualified to do it. And I don’t know if there isn’t a move a foot. I think it would be very smart to separate the two. When people get a financial plan here and then somebody else who is an expert on investments sells them the investments that match the plan. But I don’t know what everybody else thinks on that. But I don’t see the two as having to be the same job.¹⁴*

¹⁴ Financial Planner Transcript, at p. 31.

Awareness of and Need for Regulation

This Group of financial planners was generally aware that there was no regulation of use of the term, or practice of the profession, of “financial planner” in Ontario:

Moderator: *But I guess what I’m curious about is I mean is it possible that right now theoretically I could hang out a shingle and call myself a financial planner if I wanted to.*

Financial Planner: *Are you sure about that? That’s the question I have.*

Financial Planner: *Yes, you can.*

However, most of the financial planners stated that for practical reasons, the lack of such formal regulation was unlikely to cause problems. At a large bank, internal controls were pleaded as providing consumer protection:

Financial Planner @ Large Bank: *Although it’s not regulated in the province, but in our organization it’s quite regulated. Because when I do a plan I have to get my manager to approve it and then like what Brian said, you have all the people come in and review it once in a while just to make sure it’s done properly.*

Moderator: *So in other words I guess what you’re saying is that as a planner working for a large organization, there’s a certain level of control.*

Financial Planner: *Yeah.*

Others insisted that any financial planner likely would be performing securities transactions that had standards and oversight:

Moderator: *I don’t know how often it happens but I’m just wondering. I mean have any of you ever heard of the stories of people that are really quite unqualified sort saying – I’m a financial planner and starting to plan and perhaps not see.*

Financial Planner @ C.A.: *See that the \$64 question really. And I see newspaper articles perhaps of old people sold things that they ought not to have been sold. But if they were say a stockbroker, they probably shouldn’t have sold them. They were doing their due diligence that they were supposed to do anyway as a stockbroker irregardless of whether they were a financial planner or not. If they were a financial planner there would be another level of sanction that perhaps can be put on.*

Financial Planner: *They can have their license taken away.*

Financial Planner: Yeah, exactly.

Financial Planner: The financial planner probably has too much work to rip people off. Criminals would probably rather just do the investment side and then they're right in on the money.¹⁵

The last explanation for the lack of clear regulatory rules is interesting in that it implies financial planners think they have to do too much work to commit efficient fraud or to recommend inappropriate investments by this vehicle. However, it is not impossible, particularly if the financial planner is working with commissions and referral fees.¹⁶ In addition, the simple matter of financial planner incompetence in providing financial planning services themselves did not seem to strike these financial planners as a likely concern.¹⁷

When the concept of formal regulation at the provincial level of financial planners was suggested to the group, it initially met with favour, in the sense that it would provide a one stop shop for certification. as a financial planner and would allow consistent treatment of the business across provincial borders.

Moderator: Right now as you may know as we've discussed in Ontario, being a financial planner is not what would be considered a regulated profession in the way that say you were a lawyer or an accountant. Is there a problem with that do you think?

Financial Planner @ C.A.: Yes, for sure.

Financial Planner: These are hugely important clients and if people aren't trained properly then they're giving people misinformation and you can give people a rude awakening – like retirement realize that that assumption of inflation being 1% and gains being 12% a year doesn't fly.

Moderator: M'hmm. But is that a function of it not being a regulated profession?

Financial Planner: Yeah. Yeah. I think so. I think you have to have somebody who's regulated so that there are standards that are met and

¹⁵ Financial Planner Transcript, at p. 30.

¹⁶ Such fraud has been reported in the U.S. See examples in Texas State Securities Board, "See Fraud and Abuse in the Financial Planning Industry" (1996) Prepared by Council of Better Business Bureaus (CBBB) and North American Securities Administrators Association (NASAA), Online:

http://www.texasinvestored.org/fraudabuse_planningindustry.php In Canada, the "Earl Jones" scandal involved an individual who was described in the press as a "financial planner", yet who was not registered as such (as required by law) in Quebec. See Rene Bruemmer, "Earl Jones: From 'charming' family man to 'monster'" (Montreal Gazette, July 17, 2009). Online:

<http://www.canada.com/health/women/Earl+Jones+From+charming+family+monster/1802368/story.html>

¹⁷ Nonetheless, authors reviewing the regulation of financial planners in the U.S. have consistently pointed to incompetence as an area of potential client loss, along with undisclosed self-dealing. See Gary S. Kull, "Regulation of Financial Planners" (1987), 16 U. Balt. L. Rev. 287 at 303-7 and Consumer Reports, "Looking for Mr. Goodplan" (Jan. 1986) at p. 39.

there is a level of education at least a minimum level of education on financial planning for all.

Financial Planner: *You have to make sure the standards are met. Like if you're a certified financial planner, part of that is you have to revisit the plan every year and redo it every year and handle this and handle that. How could we possibly insure that everybody with that designation is actually doing that?*

However, as the discussion progressed to the disadvantages of regulation, and in particular the disclosure of remuneration arrangements and financial interests in investments, the financial planners focused their concerns almost entirely on securities reporting and disclosure requirements, which they submitted were already highly regulated by the securities commissions.

Thus planners were generally of the view that only "real" harm likely to result in loss of money from financial planning is poor investment advice or fraud:

Financial Planner at Small Firm: *I think you're on the wrong track. I think financial planners like this type of group for example, people that go to that trouble, you're never going to catch them out on the plan. You're going to catch all of us out on whether we don't understand you sufficiently to buy your solution and get you where you need to go in the tolerance levels that you want. And it all comes back to the investment.*

Moderator: *And that part is regulated already.*

Financial Planner: *And you keep referring to financial planner. I don't see myself as a financial planner. I'm an investment advisor. I will help you understand where you need to get using investments. But if you needed other professional services, I can send you to the people. I don't know if everybody would agree. You could strip away the term financial planner because that isn't the problem.*

Financial Planner: *I agree.*

Financial Planner: *The problem is people who sell investments. And the people who buy investments.*

Financial Planner: *So the financial planner, if I have eight areas and I forget to do educational planning or I forget to do an insurance needs analysis, what's a person going to say to me? I didn't do a complete enough financial plan. It's not something that you can report.*

Financial Planner: *In fairness though, but you could forget to say do some of these insurance coverages and then they're in a car accident and they don't have disability insurance and you should have told them to get disability insurance or you could give them inappropriate tax advice.*

Moderator: So like an error and omission type thing.

Financial Planner: Yeah. You could get into that thing. But I think [FP] is basically on the right tune. There will be outlier cases. But by and large the problem is going to be coming down to if somebody has sold inappropriate investments to somebody. That's where the bulk of the problems are going to come down to. Now what would be troubling is if somebody has used a financial plan as the guise to sell those investments. And here I'm thinking of perhaps maybe they've sold somebody some tax shelters. That isn't nearly as common as it was ten years ago when they've sold them inappropriate tax shelters or perhaps they've done a leverage investment program under the guise of a financial plan that is really inappropriate but you can still nail them on the investment side.

Moderator: Because that is actually heavily regulated.

Financial Planner: That's probably really the place because it was just inappropriate. The person's 62 years old and wanted to retire in three years and you jeopardized the retirement by selling him inappropriate investment vehicles. That's where the bulk of the problem comes. So you don't have to go and start worrying about a whole bunch of regulation of financial planners.

Moderator: When that's not, you're saying, that's not where the problem is.

Financial Planner: Well I think the point is that you're laying on a whole bunch more sort of bureaucracy of regulation when you've got the tool right then and there to get the person.

Financial Planner: And I think there would be very few people who would say – let me do an entire financial plan for you because all I really want to do is put you in the wrong investment because that's an enormous amount of work to your point to do a very small ...

Moderator: Right. And you get bad word of mouth too.

Financial Planner: I wouldn't bother. You just need to say – give me your money; I've got a great new investment.

Moderator: [FP], do you have any final thoughts on this?

Financial Planner: No, I think I tend to agree with what's being said here.

Moderator: [FP]?

Financial Planner: Well, I pretty much agree with that. I don't think there's much in the way of problems out there on the financial planning

*side. I still wonder if there are independents out there. Are there plans being done inaccurately out there with independents. If you got just one person with no experience and I'm assuming like everyone else there's no problem out there.*¹⁸

As we shall see, the “see no evil” attitude is in contrast with Quebec’s regulation of financial planners, which assumes that incompetence or negligence in providing financial planning advice and self-dealing can do harm, and financial planners can indeed be fined for such transgressions and eventually decertified.

Clients’ Views of Financial Planning and Regulation

The clients of financial planners attending our focus groups however displayed little real understanding of “financial planning” nor what it entailed. Most equated buying securities (mutual funds) with financial planning. Indeed, of those that attended the focus groups, most admitted to not ever having had a financial plan done. Rather, most had had superficial “know your client”-type discussions (age, net worth, when you plan to retire) with financial advisers in banks, or from other financial providers such as Investors’ Group, as a preliminary step to investing only. This confusion about what “financial planning” entails existed despite a screening selection process undertaken by the research firm to ensure that the participants indeed were clients of “financial planners”.

Client: I know of several different kinds of financial planners. There are those who will for a sum manage money for you so you don’t lose money and you have to pay them a certain amount, a percentage of the amount of money that they manage every year. It’s like a fee, a commission and whether they earn money or they don’t, they’re supposed to manage your money, take good care of it and don’t lose it. Another kind of financial advisor is the kind that I have, a planner who buys and sells stocks. That’s the kind of financial planner I have. He works for a bank and buys and sells from a mutual; not a mutual fund, an RRSP. They are not mutual funds. There is another kind of financial planner that I can get from my corner bank who will sell me whatever the bank has. Those funds don’t perform very well (group laughter).

Moderator: But does it always involved selling investments? Is that what financial planners do?

Client: Not just selling but buying and selling.

Client: Buying and selling, yeah.

Client: Trading.¹⁹

¹⁸ Financial Planner Transcript, at p. 65.

¹⁹ Environics Research, Transcripts of Focus Groups with Clients of Financial Planners at p. 6.

Moderator: What sorts of services did they provide when you signed on with that planner or advisor? What sorts of stuff would they do for you?

Client: They ask you what your goals are and then they determine your risk tolerance, you know, how to spread your risk around. I guess your age bracket helps determine that as well. Then I think it was a matter of opening up RSPs and then just leaving it there.

Moderator: Would they have ever done an actual financial plan for you, done any retirement planning, estate planning, that type of thing or it was more just investments?

Client: No and I think the age I was at the time, you're a lot further from retirement so it wasn't as important.²⁰

Clients agreed that the term "financial planner" was undefined, legally at least, although they were vaguely aware of the "Certified Financial Planner" designation, which some nonetheless confused with the non-existent "Chartered Financial Planner". Clients noted that the term "financial planner" overlapped to a large extent with "financial advisor", largely as they saw the major role of those who called themselves "financial planners" or who claimed to have this certification as being the selling of investments.

Moderator: For one thing, is there any kind of distinction you would make between or is there a difference between being a financial advisor and being a financial planner?

Client: I have no idea. I think they're the same.

Client: I think they're about the same.

Client: When you said planner, I wasn't sure in your initial question whether it was a person or an institution.

Client: When they said to me, first I said no but then I said I go to the bank and I talk to someone. Then she goes well that's the same thing so I said okay, yes then because I didn't know how to answer it.

Client: They do overlap. A financial planner and a financial advisor, the two terms overlap. They don't mean exactly the same thing but they're similar.²¹

Clients also demonstrated much confusion over role of financial planners. There was a sense that a "financial planner" role was either superfluous sales puffery being used by investment advisors or that the role of financial planning (which they narrowed in scope to simply the preparation of a financial plan) was

²⁰ Transcripts of Focus Groups with Clients of Financial Planners at p. 12.

²¹ Transcripts of Focus Groups with Clients of Financial Planners at pp. 54-55.

necessarily too narrow to be a separate discipline and was thrown in as a “loss leader” to placement of investments.

There was a general awareness on the part of clients of a lack of regulatory rules and regulations set by government on “financial planners”. Likewise, there was some general awareness of self-regulatory efforts by financial planner associations; however, there was no specific knowledge of those requirements outside a reference to the CFP requirement to actually prepare a written financial plan or go through any formal financial planning steps.

Moderator: What about their qualifications? Do you know anything about that? Are planners ...

Client: Planners don’t have to be regulated, right so anybody could put their name ... I could put my name, Jerry, Financial Planner and if you don’t know me, you would think I know what I’m doing with your money.

Moderator: Has anyone else heard that?

Client: You can be but I’m not sure if it’s a certified or a chartered financial planner.

Client: It’s not certified, is it?

Client: You can be a chartered financial planner but I think you could still use the term financial planner even if you’re not.

Moderator: It’s not compulsory, you mean.

Client: Yeah if you say you’re a chartered financial planner, you have to be that but if you say financial planner ...

Client: But if I say I’m a financial planner, I don’t have to be regulated. I don’t have to take any courses.

Client: But there are courses to make you a chartered financial planner.

Client: There are some.

Client: Well, I don’t know if they’re optional or not.

Client: If they’re optional, I don’t have to take it.

Client: I know there are a variety of levels of qualification and it’s not standardized. A broker has a very precise level of qualification who’s allowed to buy and sell stocks.

Client: That’s different.

Client: But a planner, this is something else.

Client: A planner or advisor just tells you this is a good stock and you should buy it. They just advise you.²²

Moderator: I think that there actually are some professionals. Has anybody ever heard of any professional associations for planners?

Client: No.

Client: I think there is one called Certified Financial Planners, something just like that and that's what these relatives of mine were telling me they were (laughter).

Client: Well, you can be a certified planner but you don't have to be. There's nothing saying you have to do this. If you want to take that education, you just write some tests or something.²³

Clients were highly sceptical of the training received by those who called themselves financial planners, stating it seemed "lightweight", that it appeared to take only a few weeks or a few courses, and that it appeared to be an easy area in which to set-up business with little to no real knowledge of finance.

Client: One problem I have with this concept, if these are what my relatives are, is they don't require very much certification to get there. It takes a few weeks or something.

Moderator: So you think it's not all that strict?

Client: It's sort of lightweight.²⁴

Likewise, there was no knowledge of present recourse methods offered by financial planner associations.

Moderator: Could a planner commit malpractice of some sort? Is there such a thing?

Client: Absolutely but they get away with it. There's no recourse.

Client: You could probably take him to court.

Client: I don't know if you can take them to court.

Client: I don't think there's any legal recourse.

²² Transcripts of Focus Groups with Clients of Financial Planners at pp. 23-24.

²³ Transcripts of Focus Groups with Clients of Financial Planners at p. 43.

²⁴ Transcripts of Focus Groups with Clients of Financial Planners at p. 43.

Client: Because all they're telling you is what they think. They say you should put this in this stock or mutual fund but at the end of the day, it's your decision where you put your money.²⁵

Clients appeared to highly value the possibility of such recourse, but assumed it would only be available after regulation of the financial planner aspect of the industry.

Client: I didn't go to a financial planner for a long time because I didn't feel that they were safe. I couldn't tell if someone was good versus or not, they were good or not. On the news and stuff, I've heard stories of people who had brokers who just constantly turned their account just to get the commissions on them. I think that's something that you should be able to go to some sort of body and complain about.²⁶

Overall, clients were in agreement that a professional body licensing scheme, with a redress mechanism, akin to that of other regulated professions such as architects, should be applied to financial planners.

Client: I know I'd feel more comfortable if they were standardized and certified because no matter how much you've got, if you've got \$1 million or if you've got \$5,000, to you it's a lot of money. You want to make sure that the person, him or her, is looking out for your best interests regardless of how much is in that portfolio.²⁷

Clients' largest concerns with financial planners were concerns over recommendation of financial products and services in which the financial planner had an interest. There was also a call for disclosure of how financial planners were compensated in general, as clients appeared to have no real idea of how financial planners were remunerated. Most felt it must be supported by commissions or fees from investing services or referral fees from insurance and other professions but were unclear on which or how much or when these arrangements were in place. Most guessed that it depended to a certain extent on how much the client invested in securities or mutual funds that the financial planner or his or her firm had an interest in. Interestingly, however, there was an assumption that bank employees would not personally retain a commission or get a bonus for any financial planning or financial advice they gave to clients, as they were assumed to be salaried employees without such a commission or bonus structure to their remuneration.

Client: I've probably seen it. I'd have to because I bought insurance through my financial planner and it went through a third person so I asked is the financial planner getting paid for this or not?

Moderator: What was the answer?

²⁵ Transcripts of Focus Groups with Clients of Financial Planners at p. 41.

²⁶ Transcripts of Focus Groups with Clients of Financial Planners at p. 47.

²⁷ Transcripts of Focus Groups with Clients of Financial Planners at pp. 46-47.

Client: It was she gets a commission on the first year of my premiums so I don't know what happens afterwards with all my premiums. I don't know if every year she gets a cut of it and if this other person got a cut. It wasn't quite clear. I think looking at the people at the banks, they are sales people. They say financial planner, mortgage broker or whatever but they're sales people.²⁸

Client: No, I think it's been covered in terms of having them licensed, having them regulated and disclosure.

Moderator: Disclosure of what? How they make their money and that sort of thing?

Client: Yeah and who they represent. When they're selling you a product, you want to know to what extent they are working in their own best interest or in your best interest.

Moderator: You mean some products might be better for them to sell.

Client: Yeah because I know for some products they do get more commission on than others. If it's a new product that the big organization wants to push, they'll increase the incentive. You don't know when they're advising you for this product if it's really a good product or it just means they'll get more money.²⁹

Client: I think depending if they're working for a bank, it would be their salary. If you're independent, I think it depends on which company you're selling a product for and you get your fees based on that. Sure some of it comes out of yours but it's a front-end load or back-end load, whatever you call it but I'm not paying anybody for that.

Moderator: So as far as you know, you're not actually paying.

Client: I'm not paying, no.³⁰

Clients who had had either an initial interview or actual plan done by a "financial planner" lamented that they were not "followed-up" regularly to update the plan or information. Most stated that after an initial flurry of activity and subsequent investment (usually in mutual funds), "financial planners" or "financial advisors" ignored them and indeed the client had to re-initiate contact.

Client: I agree with that and also, I don't have that much money so I know I'm low on their list of priorities in terms of assets and such.

²⁸ Transcripts of Focus Groups with Clients of Financial Planners at p. 35.

²⁹ Transcripts of Focus Groups with Clients of Financial Planners at p. 59.

³⁰ Transcripts of Focus Groups with Clients of Financial Planners at p. 30.

Moderator: You mean, they return the calls of people with more dollars (laughter), that sort of thing?

Client: In terms of returning calls, they're okay. It's more being proactive. Let's say I would have to call and say okay let's set-up a time to talk about where I'm supposed to be or do I need any product that I'm not aware of. It has to be me who initiates those calls versus them saying we need to.³¹

Client: I haven't found anyone who is a good financial planner.

Moderator: So in what way have they not been good?

Client: Well, it's basically the same as with everyone else. You have to call them. It's not like they call you because you're not high on their list. You don't have \$10,000 to save and you don't have \$10,000 in your account to invest \$20,000. If you have say under \$5,000 it's like, I won't worry about him. He's not worth the problems or the risk. I'll worry about Joe Blow over there who's got \$20,000 to invest or whatever or say half a million. I'll go for the big accounts.³²

Two clients relied upon a friend who was a financial planner or other financial services professional for financial planning advice. Significantly, neither had a written financial plan and both described a "dialogue" process where the client effectively had to fill in the blanks to create their own "plan". Neither client appeared to feel comfortable asking for more formal contact due to the free nature of the services and most importantly, so as not to affect the friendship.

Client: Well, it's just a friend of mine who I went to university with. Then he branched off into working for Edward Jones Investments. Once in a while, if I ask him, he'll say about what most people are looking toward right now, at the time that we're speaking. He hasn't pushed anything and he hasn't taken the salesman approach because of our friendship.³³

Client: Well, we have done the exercise. We have frequently talked about risk tolerance, what's risky and what isn't, what's the probability and what the market is doing. As Eric over here says, we like to talk about, well it's a dialogue. We talk back and forth about what we think will be good and what wouldn't be good. When I'm interested to buy or sell something, I would ask him and he would tell me the answer why I should buy or sell something which isn't to say he always tells me exactly what to buy or sell.³⁴

³¹ Transcripts of Focus Groups with Clients of Financial Planners at pp. 9-10.

³² Transcripts of Focus Groups with Clients of Financial Planners at p. 11.

³³ Transcripts of Focus Groups with Clients of Financial Planners at pp. 13-14.

³⁴ Transcripts of Focus Groups with Clients of Financial Planners at p. 16.

Moderator: Eric, how did you choose a financial planner? You said it was a friend of yours.

Client: Yeah, he was a friend of mine. I just asked him a couple of times what to look into but it was also from a family of friends who suggested GICs and other investment vehicles. I have a bunch of those and I would go to him afterwards and say what do I do after the five year term comes to an end? Do I reinvest it or what are some of the vehicles I could put it into? Then he might make a suggestion but ultimately, of course, I make the decision myself, to do it or not to do it. Because it's a friend, I don't want any tension to arise if it wasn't the best decision. I take full responsibility for that. I still think even the same for a financial advisor that you don't know very well. Ultimately, all the decisions are yours and as the word is, he's advises but doesn't direct them.³⁵

Clients Not Generally Paying Separate Fees

As noted most clients stated that they did not pay a retainer or other service fee to the financial planner for any financial planning advice but rather that the financial planner seemed to be remunerated out of the commissions for placing the client's money in investments or was paid a salary by the employer financial institution or possibly both.

This finding was consistent with the with financial planners, who indicated that making a living solely from financial planning on a fee for service basis was not viable and that the majority of their revenue came from commissions on the sales of securities and other financial instruments to clients.

Financial Planner: *I would consider myself definitely a financial planner. I [h]edge money through mutual funds, also zero front ends and I really do start every client with a comprehensive plan with layers of financial planning and the last part I do is in investments. But [I] collect fees and trailers and I also put fees on a percentage of our portfolio and I've been in the business twenty-one years.*³⁶

Both planners and clients confirmed that, except for very wealthy individuals who could afford to pay a fee simply for a financial plan, the sole purpose of preparing even a basic description of financial goals and potential risks was to assist in selling securities:

Financial Planner: *The whole point of doing the financial plan from what I've seen is to sell people investments. It's not to generate money from being a professional financial planner and generating your income from doing that. The whole purpose of the plan is to sell investments.*³⁷

³⁵ Transcripts of Focus Groups with Clients of Financial Planners at p. 21.

³⁶ Environics Research, Transcripts of Focus Groups with Financial Planners at p. 4.

³⁷ Transcripts of Focus Groups with Financial Planners at pp. 32-33.

Financial Planner: *People who do a plan for you do not attach a cost and I don't want to get into this with you guys because I know you do different work. But the majority, 99% of people, the plan is designed to give you the comfort to know what you should do in terms of your investments. It's a means to an end for the bank, the brokerage houses and everyone else. There is no cost to the plan. You can walk away with it and there is no cost. I maintain that there should be a cost for the plan and then if necessary they should take that to an investment expert to execute that portion of the plan. They should take it to their accountant or whoever.*³⁸

Discussion amongst financial planner clients only highlighted the fact that they did not expect financial planners to demand payment for the financial plan at all, or that it was only part and parcel of the overall service of placing investments for them.

Client: Well, there's the buying and selling of investments but also if you go to, I don't know if it's a fee-based or like an hourly rate kind of person who will sit with you and come up with a financial plan. It wouldn't necessarily be you should buy this specific stock or this specific mutual fund. It's also you need insurance, do you have a will or if you want to retire in 20 years.

Moderator: But what about, has anyone here ever had a financial planner where you actually hired them to do a financial plan for you, like an actual ...

Client: Service?

Moderator: Yeah.

Client: No.

Client: Well, mine did it but it was more like the way that they get you in the door.

Client: It was sort of their lost leader you mean (laughter) or something like that.³⁹

The financial planners group confirmed that only the very wealthy indeed would pay for a true financial plan on a fee-for-service basis.

Financial Planner: *But real financial planning I think is a several thousand-dollar job and all that really needs to be done with people that have considerable amounts of money.*⁴⁰

³⁸ Transcripts of Focus Groups with Financial Planners at pp. 45-46.

³⁹ Transcripts of Focus Groups with Clients of Financial Planners at pp. 32-33.

⁴⁰ Transcripts of Focus Groups with Financial Planners at p. 32.

Nonetheless, and as the above comments from both financial planners and clients demonstrate, despite the fact that almost no one pays for the distinct service of financial planning, there is an appreciation that it is, or could be, a distinct discipline and could exist separate from investment or portfolio management. However, it is notable that this discipline exists only to a very minor extent outside of the rest of the financial (investment) market. Indeed, it is evident from the profile and comments of those who were recruited as “financial planners” in our focus groups that most were primarily financial advisors of various stripes but although largely accredited financial planners, this was not a large portion of their practice.⁴¹ However, it is notable that most did express the opinion that they were competent to speak as financial planners regardless.

Definition of Financial Planner

There has been some regulatory and self-regulatory effort expended to explain what is unique about “financial planning” as opposed to the more well-known roles of stockbroker or financial advisor.

The Quebec Regulations require that anyone calling themselves a “financial planner” follow certain training from the IQPF and prohibiting anyone from using the title of “financial planner” (planificateur financier) or any similar title unless they have completed the program of education specified by the province.

The Certified Financial Planner Board of Standards, Inc. (CFP Board) grants the “Certified Financial Planner” (C.F.P.®) certification as a standard for personal financial planning. The CFP Board defines a “financial planning practitioner” as a “person who provides financial planning services to clients.”⁴² CFP describes the process of “personal financial planning” or “financial planning” as:

... the process of determining whether and how an individual can meet life goals through the proper management of financial resources. Financial planning integrates the financial planning process with the financial planning subject areas. In determining whether the certificant is providing financial planning or material elements of financial planning, factors that may be considered include, but are not limited to:

- The client's understanding and intent in engaging the certificant.
- The degree to which multiple financial planning subject areas are involved.
- The comprehensiveness of data gathering.

⁴¹ When PIAC and Environics designed the screener for our financial planner focus group, we asked potential candidates if they were a certified member of an industry association for financial planners (we required 5 of 8 focus group participants to be certified members). Our clients of FP focus group also screened for individuals who had obtained the services of a financial planner.

⁴² CFP Board's Standards of Professional Conduct, online:
<http://www.cfp.net/Downloads/2009Standards.pdf>

- The breadth and depth of recommendations.

Financial planning may occur even if the material elements are not provided to a client simultaneously, are delivered over a period of time, or are delivered as distinct subject areas. It is not necessary to provide a written financial plan to engage in financial planning.⁴³

The key differentiator of a financial planner's role and secondary roles such as the work undertaken by an investment advisor to prepare to sell securities appears to be that a financial planner does a full financial plan whereas other financial system participants perform only the execution of the elements of the plan. In other words, the client could execute a financial plan either alone or in consultation with other financial system participants, such as mutual fund salespeople in banks or insurance agents, without further action of the financial planner. The plan in this scenario is akin to an actuary's calculations based on the assumption of certain scenarios in the client's life, such as marriage, children, buying a house, caring for elders, funding children's higher education, job loss/job change and retirement.

However, even this definition is not accurate, given the possibility of continuing consultation between the client and the financial planner which leads to continuous updating of the financial plan. Financial planning software has made this possible so that the financial plan is not so much a document that lives on a shelf as rather a continuously updated set of financial policies for the life and lifestyle of the individual client.

Practice of Financial Planning

The focus groups, both clients⁴⁴ and even those financial services employees and entrepreneurs that considered themselves to some extent "financial planners"⁴⁵, at times questioned exactly what a financial planner does, or

⁴³ CFP Board's Standards of Professional Conduct, online: <http://www.cfp.net/Downloads/2009Standards.pdf> at p. 4.

⁴⁴ Most clients simply equated "financial planner" with mutual fund salespeople at banks or other financial institutions. The closest a client go to defining "financial planner" in a manner akin to the regulated profession as it is practiced in Quebec or as it is defined by a group such as the Financial Planner Standards Council was the following answer:

Well, there's the buying and selling of investments but also if you go to, I don't know if it's a fee-based or like an hourly rate kind of person who will sit with you and come up with a financial plan. It wouldn't necessarily be you should buy this specific stock or this specific mutual fund. It's also you need insurance, do you have a will or if you want to retire in 20 years.

⁴⁵ See for example, the responses of those calling themselves "financial planners" to the questions "Is there a definite distinction between being a financial advisor and being a financial planner or are they sort of similar?" and "So what sorts of advice do you give?" which show the general view of "financial planning" as being creating a "financial plan" as a document that is preparatory to investing:

I would consider myself definitely a financial planner. I [manage] money through mutual funds, also zero front ends and I really do start every client with a comprehensive plan with layers of financial planning and the last part I do is in investments. But collect fees and trailers and I also

betrayed a narrow view of it as the function of preparing, at most, a financial plan as a prelude to investing wisely.

Likewise, in media reports about the industry, there appears to be considerable confusion as to what constitutes the discipline of “financial planning”.

Upon investigation, however, the discipline instead appears well-defined and recognized as a “near-profession”, although it not explicitly by most provincial Canadian financial services regulators.

There is broad agreement, for example, on the actual process of “financial planning” amongst the various self-regulatory bodies, from the Quebec IQPF to the FPSC to the IAFP:

From IAFP, this is what is listed as “The Six-Steps of the Personal Financial Planning Process”:

1. Gather data and summarize the client’s current situation
2. Establish client goals, priorities and concerns
3. Identify problems and opportunities
4. Provide written recommendations and alternative solutions
5. Take action on implementation
6. Perform periodic reviews, updates and revisions to the plan

These are recapitulated in the IQPF’s Personal Financial Planning Professional Standards, which breaks it up into 10 sub-categories, but which are effectively the same as IAFP’s:

- | | |
|---------|--|
| Step 1 | Explaining the process and the role of the financial planner |
| Step 2 | Drawing up the professional service contract or defining the terms of the engagement |
| Step 3 | Gathering information |
| Step 4 | Setting Goals |
| Step 5 | Analyzing the client’s current situation |
| Step 6 | Determining priorities and developing a plan, strategies and recommendations |
| Step 7 | Compiling the report |
| Step 8 | Presenting the report |
| Step 9 | Implementing the plan |
| Step 10 | Monitoring the plan |

There also is relatively consistent agreement that there are 6 broad subject areas of expertise that the financial planner must master. The following are the “Six Broad Subject Areas of Financial Planning” according to the IAFP:

Cash and debt planning

put fees on a percentage of our portfolio and I’ve been in the business twenty-one years. I was a broker at [a major brokerage] and I was with [a major bank] in their investments and managed a branch and now I’m (inaudible) [we have our own company].

Income Tax planning
Investment planning
Retirement and Financial Independence planning
Insurance and Risk planning
Estate planning

Quebec's IQPF adds the seventh, "legal aspects", but the list is identical:

Financial planning involves:

- insurance
- legal aspects
- finance
- taxation
- investment
- retirement planning
- estate planning

Given this broad agreement on the practice of financial planning,⁴⁶ the groundwork appears to be set for licensing and regulation on this basis.

Financial Planner Business Models

"Comprehensive" financial planning as it now defined by the self-regulatory bodies and the Quebec regime is nonetheless not the dominant business model for those claiming to provide it. Most planners offer to create a "financial plan" as adjunct to the primary service of selling securities or other investments or as an adjunct to insurance brokering, estate, business or income tax planning, or banking. However, as noted above, the creation of a financial plan is but one step in the comprehensive financial planning process.

Most of those who claim to be "financial planners", at least those who work within larger financial institutions, in fact appear to spend more of their time advising on and purchasing securities than any of the six financial planning steps.

Conflicts of interest in this situation obviously arise. To date, financial authorities who regulate securities find this situation tolerable if there is adequate disclosure. Since most provinces allow a good measure of the overall financial services regulation to be delegated to securities regulators such as the MFDA and IIROC, there is, it appears, a tendency to discount the professionalism of financial planning when there is already another discipline (usually already accredited) being regulated and the financial planning is a side task.

⁴⁶ Of note as well is that the ISO has started work on a standard for "Personal Financial Planning" although it is presently in "Standby" mode. See ISP Technical Committees – TC222 – Personal financial planning. Online: http://www.iso.org/iso/iso_technical_committee?commid=274227

The Standard Financial Institution In-House Business Model

The standard financial institution in-house business model now being used is effectively to encourage commissioned salespeople with higher income banking or investment clients to obtain either a Personal Financial Planner designation (the banking industry equivalent to the C.F.P. or R.F.P. marks) or to obtain (sometimes in addition) one of the other major accreditations (or to obtain one of these if the “financial planner” is employed at a non-bank financial institution. Clients typically are offered financial planning services as a “loss leader” to obtain the client or as a “perk” of being a client, free. Creation of a financial plan may or may not be used to drive the recommendation of additional investments. When investments are placed within the planner’s bank or financial institution, the planner (financial advisor) typically receives either a one time commission or, more commonly with mutual funds, a portion of the management fees for the clients’ funds they administer. If the client is referred to an insurer for additional coverage then typically a referral fee is paid, based often on the first year or two of premiums.

Clients typically do not inquire into, or possibly even notice, that these “financial planning” services are being offered free, and when they do think about it, assume either that “planners” are being paid a salary to undertake this function (particularly for banks) or that they may receive a one-time commission.

The “Chinese Wall” Model

This is the business model chosen by larger investment companies and investment arms of banks. In this model, the financial planner takes internal referrals from the investment side of the business. The financial planner draws up a comprehensive financial plan, in accordance with the 6-step or similar model. While the financial planner normally does not receive commissions (they are typically remunerated on salary) and advises clients when recommending “implementation” of the plan (purchase of investments or insurance) that they are free to purchase their products at any investment dealer or insurer, typically clients will make the majority of their investments with the investment side of the financial planner’s company. Such services are typically offered to higher income clients, as this is the target customer for such investment houses.

The Independent FP Model

The prevalence of independent financial planners (that is, those not associated with a financial institution) is hard to judge. Complicating the landscape somewhat are franchised financial planning companies such as Edward Jones Investments that employ financial advisors, many of who perform many financial planning activities and generally advertise themselves as financial planning companies, although their income typically comes from commissions and referrals. True independent “financial planners” appear to be exceedingly rare in

Canada, due likely to the compensation and business model in place and the wide availability of the standard model. However, some independents do operate, although it is probable that they rely on referral fees, commissions, trailer fees and other financial incentives to fund the financial planning model, which continues to be offered, like the financial planning companies, as a “loss leader”.

The Fee-Only Model

Fee-only financial planners are a newer business model, rising to prominence only in the last 5 or so years in Canada. Fee-only planners do not take any commission from the financial products they may recommend. They tend to be sole practitioners, as the service does not fit into the traditional banking and financial service sector business model. Once again, their client base appears to be higher wealth individuals.

Such “fee-only” financial planners are scarce in Canada, although it appears their numbers are on the rise. At the moment there is no independent association of such fee-only planners in Canada, however, they have created such a body in the U.S. It is instructive to survey the principles of this body for differences with the commission-based and in-house models for financial planning.

Example: NAPFA (U.S.)

Launched in 1983, the National Association of Personal Financial Advisors (NAPFA) is the “fee-only” financial planners’ professional association. NAPFA’s “fiduciary oath” contains these two undertakings:

The advisor, or any party in which the advisor has a financial interest, does not receive any compensation or other remuneration that is contingent on any client's purchase or sale of a financial product.

The advisor does not receive a fee or other compensation from another party based on the referral of a client or the client's business.⁴⁷

NAPFA’s core principles are defined by an admission that a conflict of interest is created by the taking of any compensation from a client that is contingent upon the financial advisor receiving any compensation, directly or indirectly, from implementing a financial plan or selling financial products.⁴⁸ In its FAQ, NAPFA states:

⁴⁷ See NAPFA Consumer Services FAQ “What Is A Fee-Only Planner?” Online:

<http://www.napfa.org/faq/index.asp>

⁴⁸ In the NAPFA FAQ, it is made clearer that no compensation besides fees, not bonuses nor other compensation, even indirectly is to be received from a financial product or vendor to the financial planner for implementing the financial plan:

NAPFA defines a Fee-Only planner as one who, in all circumstances, is compensated solely by the client, with neither the advisor nor any related party receiving compensation that is contingent on

Q. Why is Fee-Only Compensation of Critical Importance?

A. A financial planner who has a financial stake in the course of action that he/she recommends to a client faces an inherent conflict of interest and cannot be considered objective and unbiased. This is true even if the planner truly believes that he/she has only the best interests of the client at heart. Unfortunately, the vast majority of financial advisors in the United States are sellers of financial products. Some or all of their income may be dependent upon their ability to steer their clients to a limited number of the thousands of financial products available today. (Putting aside the conflict-of-interest factor, this limiting of choices, in and of itself, often is enough to impact the quality of the investment advice.)

These advisors include stock-brokers, analysts, insurance agents, accountants and attorneys, as well as financial planners. Many of their clients are not aware of their advisors' dependence on selling products, or do not recognize its significance.

NAPFA believes that many of the problems that beset Americans today in their financial affairs – including the mis-management of debt, failure to protect retirement assets and poor allocation of savings and investments – relate directly to the conflicts of interest that pervade the marketplace.

NAPFA further requires that members and related parties are not permitted to own more than 2% of, or be employed by, any financial services industry firm “that receives transaction based compensation as prohibited by the NAPFA Standards of Membership and Affiliation.” Interestingly, this effectively prohibits NAPFA members from associating with traditional financial planners or having interests in most financial service providers (as most use this form of compensation). However, this prohibition is not exactly parallel to the Quebec regulations (see below) that prohibit a financial planner from “advis[ing] a client to invest in a legal person, partnership or property in which he has, directly or indirectly, a significant interest.” Theoretically, therefore, a NAPFA financial planner could recommend such an investment if that vehicle did not pay or receive commissions or referral fees, etc., which is entirely possible with, for example, real estate investments.

NAPFA also takes pains to point out that prohibited compensation is in relation to the implementation of a client's particular financial plan, leaving open the possibility of compensation from, for example, a mutual fund that paid bonuses to financial planners that placed a certain volume of business with the fund, although it was not based on any particular client's transaction.

the purchase or sale of a financial product. **A NAPFA member or affiliate may not receive commissions, rebates, awards, finder's fees, bonuses or any form of compensation from others as a result of a client's implementation of the individual's planning recommendations.**

Fee-Only Planning in Canada

While it may be premature to speak of the rise of the fee-only planner in Canada, it is notable that independent financial observers have consistently been recommending the model as medicine for what ails the common financial planner for some years now.⁴⁹ It is difficult to find fee-only planners in Canada as there is no national association like NAPFA.⁵⁰

Fee-only financial planning is not a panacea. Notably, despite protestations to the contrary, many fee-only planners, given their rates,⁵¹ may be available only to high-income individuals.⁵² In addition, it is possible that “fee-only” planners still may receive referral fees, as well as bonuses based on sales of a particular fund (though not in relation to any particular individual’s transaction) and therefore be in a conflict position, depending on their views of conflicts and disclosure, since there is no set Code of Conduct or regulation of fee-only planners as such in Canada. Thus, even with fee-based planners, and as good practice anyways, consumers still should check references and certifications with the self-regulatory financial planning authorities.⁵³

Self-Regulation and Voluntary Associations of Financial Planners

In Canada, four self-regulatory and voluntary associations of financial planners have emerged as the key players.

The Financial Planners Standards Council (FPSC) is a not-for-profit organization with the mission “to benefit the public by leading the evolution of the financial planning profession in Canada through the development, enforcement and promotion of the highest competency and ethical standards in financial planning as defined by individuals who have earned the Certified Financial Planner® (CFP®) designation.”⁵⁴ FPSC grants the use of the CFP® marks to individuals who meet its standards and responds to alleged violations of the CFP® Code of Ethics brought to its attention in writing. Where a CFP professional fails to meet the standards of the Code of Ethics, FPSC can take appropriate disciplinary action, the most severe of which is the revocation of the license to use the CFP

⁴⁹ See, for example, online interview with Rob Carrick, Globe & Mail, “Q&A Dear Rob: 'Am I headed for financial ruin?'" (27 September 2009). Online: <http://www.theglobeandmail.com/globe-investor/investment-ideas/investor-education/dear-rob-am-i-headed-for-financial-ruin/article1301770/>

⁵⁰ See, however, the list maintained by MoneySense magazine: Duncan Hood, “Where to find a fee-only financial planner” Canada Business Online (March 10, 2008). Online: http://www.canadianbusiness.com/my_money/planning/article.jsp?content=20080310_110229_7096

⁵¹ Typical rates from the MoneySense article are \$150+ per hour or \$1500+ per financial plan.

⁵² Reference comments in focus group of planners.

⁵³ For example, the FPSC, which grants the CFP mark, has an online tool to check if the financial planner you are investigating is in good standing. Online: http://www.fpsccanada.org/good_standing

⁵⁴ Financial Planners Standards Council, <http://www.fpsccanada.org>. The FPSC also has CFP® Financial Planning Practice Standards to guide financial planners.

marks. Today, there are nearly 17,000 CFP professionals in Canada and almost 100,000 in 19 countries around the world.

According to FPSC 2009 Report on Disciplinary Actions, for the time period of January to September 2009, only one individual received admonishment and continued to hold the right to use the CFP® mark. Comparatively, in 2008, only one individual's right to use the CFP mark was temporarily suspended and another received admonishment.

The Canadian Institute of Financial Planners (CIFPs) is a professional association that was started in 2002 by financial planners to provide industry practitioners with professional continuing education and support services.⁵⁵ CIFPs now consists of over 3,500 members and hosts a national financial planning conference in Canada. Since 2007, CIFPs has been working with the Canadian Institute on Financial Planning (CISP), which trains advisors to become Certified Financial Planners®.

The Institute of Advanced Financial Planners (IAFP) is a self-regulatory organization that develops and promotes the professional designation of Registered Financial Planner (R.F.P.) or Planification Financier Certifie (P.F.C.).⁵⁶ IAFP members hold the professional designation and agree to abide by a Code of Professional Ethics, Professional Practice Standards and maintaining continuing education requirements. IAFP has 440 members in Canada. Where there is alleged member misconduct, complainants can file a complaint form with the formal Inquiry process. IAFP does not release statistics of complaints against their members to the public, however, they state that they receive very few complaints and in the past five years, only one case has resulted in a letter of warning to the financial planner.⁵⁷

Advocis, the Financial Advisors Association of Canada, is the “oldest and largest voluntary professional membership association of financial advisors in Canada.”⁵⁸ Advocis has over 10,000 members across Canada who are professional financial advisors who adhere to an established professional Code of Conduct and uphold standards of best practice. While Advocis certainly welcomes financial planners in their membership, it is important to note that Advocis' membership is comprised of financial advice professionals broadly.

However, these four self-regulatory bodies are not the only associations that self-regulate in the areas of financial advice and related matters.

Though no doubt unintentional, the proliferation of self-regulatory bodies in the areas of financial planning and advice and related matters has created, from the perspective of the consumer, a nearly incomprehensible alphabet soup of acronyms of designations granted by these bodies. In an effort to simplify these

⁵⁵ Canadian Institute of Financial Planners, <http://www.cifps.ca>.

⁵⁶ See R.F.P., Institute of Advanced Financial Planners, <http://www.iafp.ca>.

⁵⁷ In a conversation with Larry Colero, Executive Director of IAFP, he indicated that IAFP receives between one and three complaints per year.

⁵⁸ Advocis, <http://www.advocis.ca>.

designations for the reader we offer the following chart, with no guarantee it is comprehensive or indeed, completely accurate:

<u>Designation</u>	<u>Designating Body</u>	<u>Designating Body and Location</u>
Certified Divorce Financial Analyst (CDFA)	Institute for Divorce Financial Analysts	Southfield, MI
Certified Employee Benefits Specialist	International Foundation of Employee Benefits Plans (also Dalhousie U for Canada)	Brookfield, WI
Certified Financial Planner (CFP)	Financial Planners Standards Council	Toronto
Chartered Life Underwriter (CLU)	Advocis	Toronto
Registered Health Underwriter (RHU)	Advocis	Toronto
Certified in Management (CIM)	Canadian Institute of Management	Barrie
F. CIM (Chartered Manager Diploma/Designation)	Canadian Institute of Management	Barrie
Chartered Financial Analyst (CFA)	Association for Investment Management and Research	Charlottesville, Virginia
Chartered Accountant (CA)	Chartered Accountants of Ontario	Toronto
Certified General Accountant (CGA)	Certified General Accountants of Ontario	Toronto
Chartered Financial Consultant (CH.F.C)	Advocis	Toronto
Chartered Management Accountant (CMA)	Certified Management Accountants Ontario	Toronto
Canadian Investment Manager (CIM)	Canadian Securities Institute (CSI Global Education Inc.)	Toronto
Financial Management Advisor (FMA)	Canadian Securities Institute (CSI Global Education Inc.)	Toronto
Investment Advisor (IA)	Canadian Securities Institute (CSI Global Education Inc.)	Toronto
Investment Counsellor (IC)	Canadian Securities Institute (CSI Global Education Inc.)	Toronto
Personal Financial Planner (PFP)	Institute of Canadian Bankers	Toronto
Planificateur Financier (PI. Fin)	Regulated by Bill 188	Quebec
Registered Employee Benefits Consultant (REBC)	Advocis	Toronto
Financial Divorce Specialist (FDS)	Academy of Financial Divorce Specialists	Sudbury
Registered Financial Planner (RFP)	Institute of Advanced Financial Planners	Delta, B.C.
Registered Health Underwriter (RHU)	Advocis	Toronto
Registered Professional Accountant (RPA)	The Society of Professional Accountants of Canada	Toronto
Specialist in Financial Counselling (SFC)	Institute of Canadian Bankers	Toronto
Specialist, Trust Institute (STI)	Institute of Canadian Bankers	Toronto

Trust and Estate Practitioner (TEP)	Society of Trust and Estate Practitioners Canada	London England (Headquarters), Toronto, Montreal, Winnipeg, Calgary, Edmonton, Vancouver
-------------------------------------	--	--

Those entries that are bolded are those that claim to certify “financial planners” as such, rather than those where the practitioner may often take on certain aspects of financial planning in carrying out his or her main professional function. Therefore we see that, outside of Quebec, which has a regulatory scheme requiring at least minimal government supervision, there are at least four separate self-regulatory bodies that claim to primarily regulate “financial planners”. Note that those calling themselves financial planners are free to join, or not, since membership in any is not mandated in all provinces except Quebec and to some extent B.C., which regulatory regimes we turn to now.

Provincial Regulation of Financial Planners

Quebec

Quebec regulates the profession of financial planner fairly extensively. Financial planners are subject to a regulatory regime that also applies to insurance representatives and claims adjusters. The framework under the “Act Respecting the Distribution of Financial Products and Services”⁵⁹ requires these representatives, including financial planners, to obtain a certificate as such from the Autorité des marchés financiers (AMF) to practice as such.⁶⁰

Division IV of the Act sets out specific requirements for financial planners. Notably, it prohibits acting as a “financial planner” or using any similar title (as defined in the regulations)⁶¹ unless the certificate is obtained.⁶² Titles deemed confusingly similar to “financial planner” that are not permitted to be used unless the user is licensed under the Act (French terms in brackets), are:

- (1) chartered financial planner (CFP) (*planificateur financier agréé (P.F.A.)*);
- (2) registered financial planner (RFP) (*planificateur financier certifié (P.F.C.)*);
- (3) chartered financial adviser (CFA) (*conseiller financier agréé (C. Fin. A.)*);

⁵⁹ R.S.Q., c. D-9.2, which on September 28, 2009, replaced similar but more piecemeal regulation of these groups.

⁶⁰ R.S.Q., c. D-9.2, at sec. 56.

⁶¹ *Regulation respecting titles similar to the title of financial planner*, R.Q. c. D-9.2, r.4.

⁶² R.S.Q., c. D-9.2, at sec. 56.

- (4) financial consultant (*consultant financier*);
- (5) financial co-ordinator (*coordonnateur financier*);
- (6) financial adviser (*conseiller financier*);
- (7) personal finance consultant (*consultant en finances personnelles*);
- (8) personal finance co-ordinator (*coordonnateur en finances personnelles*);
- (9) personal finance planner (*planificateur en finances personnelles*);
- (9.1) private wealth advisor (PWA) (*gestionnaire de patrimoine privé (GPP)*);
- (10) any title including one of the following 5 expressions, in which the words composing each expression either appear together or are separated by other words:
 - (a) financial planner (*planificateur financier*);
 - (b) financial planning (*planification financière*);
 - (c) financial adviser (*conseiller financier*);
 - (d) financial consultant (*consultant financier*);
 - (e) financial co-ordinator (*coordonnateur financier*).

In regards to the first three titles, it is apparent that Quebec will not tolerate the argument from those financial planners that are accredited by self-regulatory schemes such as the AIFP that they may operate in Quebec without the provincial registration simply by virtue of their qualifications from these organizations.

A major requirement of the certificate is completion of a diploma course from the Institut québécois de planification financière (IQPF). The course diploma requirements are detailed on the IQPF website, but include in all cases a comprehensive financial planners' examination after a previous IQPF financial planners' course of study. In order to enter the diploma course, the candidate must first complete a specified two year university course with specialization in financial planning and at least 45 hours concentrated on the 7 areas of financial planning: finance, taxation, insurance, legal aspects, estate planning, investment and retirement planning. Alternatively, the candidate can be a member of one of Quebec's "senior" regulated professions, such as a lawyer, notary, certified general accountant or chartered accountant and pass an equivalency examination that tests the 7 areas of financial planning. Also alternatively, members of several other professions (Chartered administrator, chartered life underwriter, accountant, actuary and some others) or with extensive university-level financial degrees can qualify as candidates for the IQPF diploma course

and write the same equivalence examination as lawyers, notaries, CAs and CGAs if they also have two years of work experience in one of the 7 areas IQPF identifies above as being aspects of financial planning.

Therefore the qualifications required of financial planners in Quebec are, even for those otherwise working in the financial industry or educated in finance or even holders of similar professional designations, fairly rigorous.

In addition, certified financial planners in Quebec are required to follow continuing education courses and to complete 40 “professional development units” every two years.⁶³ One PDU is one hour and is developed or recognized by the IQPF.

It is notable, however, that those accredited to sell securities are exempt from the requirement to take the IQPF course or comply with its Code of Ethics when performing financial planning as part of their work in otherwise selling securities.⁶⁴ Presumably the exemption assumes competence of these securities dealers, however it is odd that other financial and legal professionals are required to follow the IQPF course and obtain its certification. (Notably, however, the “senior professionals” listed above need not follow the IQPF Code of Ethics but are instead subject to the Code of Ethics of their respective professions, which may or may not have specific rules in relation to the functions identified by IQPF as the 7 core financial planning areas). Presumably also, the redress mechanisms available for securities dealers and the dealer system make these persons accountable for any financial planning errors or omissions, or indeed any fraud or unfair dealing.

Gaetan Veillette, a senior administrator and registered financial planner at Investors’ Group in Montreal, confirmed in an interview that most of their employees who do financial planning work already have a previous certification in disciplines such as Chartered administrator, chartered life underwriter, accountant or actuary, and then have done the IQPF course.⁶⁵ He notes that the present system leads to duplication of some education and in particular the requirement to pay multiple licensing fees.⁶⁶ He notes that there is constant pressure to enlarge the list of prohibited titles that are confusingly similar to that of “financial planner” since it appears to be always a game of catching up to the ingenuity of the unregulated financial planners.

However, according to his view, this has several unintended consequences for Quebec-based financial planners. First, the “catch all” part of the naming regulation contains “many prohibited titles are not at all similar (or not directly related) to “Planificateur financier” such as “Private wealth advisor (PWA)”, “Financial consultant”, “Financial Advisor”, “Financial co-ordinator”... Is the

⁶³ Regulation respecting the compulsory professional development of financial planners, c. D-9.2, r.1.4.3.

⁶⁴ R.S.Q., c. D-9.2, at sec. 59.

⁶⁵ Telephone interview with Gaetan Veillette, Fellow Administrateur agréé et planificateur financier, Investors Group, October 22, 2008.

⁶⁶ Notable are the fees for the IQPF course and examination, which in 2009 were \$2796.67.

designation of "Financial co-ordinator" used by city of Montreal worker in conflict with "Financial Planner" designation?" he asks in an e-mail raising the problem. Secondly, he notes that the wording may trench upon dissimilar activities simply by virtue of the words chosen to describe it:

For example, in 2004, [the] Ordre des administrateurs agréés du Québec" created in 2004 the designation "Private wealth advisor (PWA)" and stop[ped] sponsoring it in 2006. PWA description of tasks included duties such as trustee, representative in managing assets of others, liquidator, temporary administrator... These duties are certainly not Pl.Fin. [a financial planner's] normal duty.⁶⁷

Third, the Quebec regulations effectively forbid the Quebec-based financial planners from advertising their other certifications, such as C.F.P., within Quebec and arguably from using it outside the province; certainly the Quebec-based financial planner who wishes to maintain both the IQPF-approved designation and, for example an IAFP "R.F.P." designation must pay yearly fees to both the government and this organization simply in order to do the same work.⁶⁸

Recently, however, the IQPF and the FPSC, which administers the C.F.P. mark in Canada reached an agreement providing for mutual recognition of each others' standards and training. In effect, the IQPF and FPSC now permit their own members to advance directly to the examination stages of both certification regimes without following the preparatory courses. Therefore, a Quebec-based registered planner can now write the C.F.P. examination and receive the C.F.P. designation while a C.F.P. can write the IQPF examination without the usual prerequisites and course work and become qualified as a registered financial planner in the province of Quebec. However, since the regulations have not yet been changed, the outside C.F.P. could not use those credentials in Quebec nor the Quebec planner use the C.F.P. he or she obtained from FPSC within Quebec, while use of the Quebec qualification outside of Quebec could be made.

Whatever the problems of scope, confusion, quirks and controversies over Quebec's regulatory scheme for financial planners, consumers have several substantive rights in regard to financial planners in that province and the ability to file complaints about their work with an independent government agency.

Firstly, the *Act Respecting the Distribution of Financial Products and Services* requires all registrants, including financial planners to meet the following consumer protections:

1. A duty of honesty and loyalty to their clients and to "act with competence and professional integrity". (s. 16)

⁶⁷ E-mail follow-up with Gaetan Veillette, Investors' Group, 23 October 2008.

⁶⁸ *Ibid.*

Although “honesty and loyalty” are not as extensive a duty as the common-law concept of “fiduciary duty”, this requirement does impose substantive legal obligations under the Quebec Civil law.⁶⁹

2. A duty of disclosure: “Where representatives require compensation from the persons with whom they transact business, they must, according to the procedure determined by regulation of the Authority, disclose to the client the fact that they also receive remuneration for the products sold and the services rendered and any other benefit determined by regulation.” (s. 17)
3. A duty to avoid tied-selling of insurance products without proper disclosure. (s. 18)
4. A duty to avoid “undue pressure on a client or use fraudulent tactics to induce a client to purchase a financial product or service.” (s. 18)

Although the prohibition on undue pressure and fraud of course are mirrored in the codes of self-regulatory bodies, these duties have the force of law and any breach of them can lead to significant fines for the financial planner,⁷⁰ or other discipline, upon inquiry by the Chambre de la sécurité financière.⁷¹ Such complaints can be initiated by a member of the public, a consumer group, another financial planner or members of related professions, or the the Chambre itself via a “syndic” that is appointed by the Chambre to have oversight over the regulated activity.⁷²

Significantly, complaints can refer to the actual practice or malpractice of financial planning activities that do not lead to the purchase of a security, since the duties of financial planners are prescribed under Quebec’s law and, as noted, financial planners are subject to a duty of “competence” as well as integrity.

⁶⁹ See, generally, Louise Rolland, *La bonne foi dans le Code civil du Québec : du général au particulier* (1996) 26 R.D.U.S. 377 at 384-6. Although the content of the civil law is outside the scope of this paper it is notable that a breach of such duties of honesty and loyalty (including by keeping silent on matters or speaking partially where it may mislead) may lead to the loss of all or some of the benefit of any contract made with the client (see p. 385: “Si les sujets ne doivent pas abuser de leurs droits, ils ne peuvent non plus abuser de leur liberté, par exemple en abusant les autres. La tromperie, le dol (y compris par silence ou réticence), les fausses déclarations ou les déclarations incomplètes sont fortement châtiés par le droit. Le dol, source d’erreur vice du consentement, fait perdre à son auteur certains avantages (ou tous les avantages) d’un contrat” citing arts. Art. 1401 - 1407 C.c.Q.). If the financial planner breaches this provision, as with the others listed, it is an offence for which the AMF may set a penalty. See Act, s. 464.

⁷⁰ See fines in Act Respecting the Distribution of Financial Products and Services, Title IX, Penal Provisions, ss. 485-492. The minimum fine for some offences is the greater of \$1000, double the profit realized or one-fifth the sum entrusted to the financial planner; for other offences these minimums are effectively doubled. The maximum fine is the greater of \$50,000, four times the profit realized or half of the sum entrusted to the financial planner. On second and subsequent conviction, this maximum itself is doubled.

⁷¹ See Act Respecting the Distribution of Financial Products and Services, Title IX, Penal Provisions, ss. 461-483.

⁷² See Chambre de la sécurité financière, “Course of an Investigation”, online: <http://www.chambresf.com/en/ethics-discipline/investigation-request/course-of-an-investigation/>

Breach of these duties which cost clients money – when the financial planner has acted fraudulently, not merely negligently – also are contemplated in the Act by providing consumers with a compensation fund for situations involving “fraud, fraudulent tactics or embezzlement”.⁷³

Finally, in relation to self-dealing and “fiduciary”-type duties, the *Code of ethics of the Chambre de la sécurité financière*, R.Q. c. D-9.2, r.1.01 states:

19. A representative must subordinate his personal interests to those of his client or any potential client. Without limiting the generality of the foregoing, the representative:

- (1) may not advise a client to invest in a legal person, partnership or property in which he has, directly or indirectly, a significant interest;

As noted above, this requirement clearly aimed at self-dealing and the fiduciary’s duty to treat the client’s interests as paramount.

British Columbia

British Columbia is the other province that has taken formal steps to in some way regulate financial planners.

In B.C., the Securities Commission has, for all persons wishing to sell securities (including mutual funds) published rules under its *Securities Act*. Under s. 54(1)(b) of the B.C. *Securities Act*, a person must represent his or her category of registration under the Act to the client.

The B.C. Securities Commission has then published a Policy (31-601),⁷⁴ which at s. 4.6(a) requires that the registrant must not “hold out” a name or title that is misleading to clients. Under subsection (b) of this policy, it is noted that financial planners must be either a CFP certification holder or be deemed equivalently qualified by virtue of their qualification for a related certification or title:

“The Executive Director will not normally register a trading partner, director or officer or a salesperson if the individual intends to hold herself or himself out as a **“financial planner” or by similar title**, or as having proficiency in financial planning, unless the individual satisfies the Executive Director that the individual:

⁷³ See Act Respecting the Distribution of Financial Products and Services, Title IV, Financial Services Compensation Fund. See esp. s. 258, para. 2. Note that compensation is limited to \$200,000 per complaint, which must be filed within a year of the fraud or a later time when the victim could not have otherwise filed the complaint on time: Regulation respecting the eligibility of a claim submitted to the Fonds d’indemnisation des services financiers, R.Q. c. D-9.2, r.0.1.

⁷⁴ See British Columbia Securities Commission, “Holding Out and Titles”, Policy 31-601, quoted, summarized and explained at: <http://www.bcsc.bc.ca/compliance.asp?id=2065>

- is licensed by the Financial Planners Standards Council of Canada to use the designation "Certified Financial Planner" or "CFP", or
- has similar qualifications and, where appropriate, is subject to similar continuing education requirements.

The Policy is to forbid variations on the theme of “financial planner” to be used in commerce, effectively duplicating Quebec’s attempt to control trading off such monikers. However, there are other limitations on the scope of the Policy that make it less comprehensive than the Quebec legislation.

The Policy continues to define those persons deemed equivalently qualified to be financial planners based on the following designations or their successful completion of the following courses:

- Association for Investment Management and Research CFA
- Canadian Association of Financial Planners RFP
- Canadian Association of Insurance and Financial Advisors CLU
- Canadian Institute of Financial Planning Chartered Financial Planner
- Canadian Securities Institute Professional Financial Planning Course
- Certified General Accountants Association of British Columbia or of the Canadian province or territory in which the applicant is resident CGA
- Certified Management Accountants Society of British Columbia or of the Canadian province or territory in which the applicant is resident CMA
- Institute of Canadian Bankers P.F.P.
- Institute of Chartered Accountants of British Columbia or of the Canadian province or territory in which the applicant is resident. CA

These requirements are minimum requirements and are subject to change.

The Policy states that these designations and courses only permit the applicant to be “eligible” to use the title of “financial planner”.

Interestingly, the BC Securities Commission has noted the rise of the fee-only planner model and has specified that “[i]f the individual intends to provide financial planning services on a fee-for-service basis, the individual must also:

- satisfy the Executive Director that the individual has “errors and omissions” insurance for a minimum of \$1 million coverage

- file, as part of the individual's application for registration, a copy of a client disclosure statement that discloses:
 - the name(s) of the company or companies through which the individual will provide clients with financial planning services and the name(s) of the registered dealer(s) or adviser(s) through which the individual holds her or his registration under the Act
 - **the means by which the financial planner generates income, including a schedule of fees**
 - that the client is entitled to go elsewhere to implement any plan that the financial planner prepares for the client
 - if the client wishes the financial planner to implement a plan, that the client will become a client of the registered dealer through which the financial planner holds her or his registration under the Act, and that the financial planner will receive commissions from the registered dealer as a result of the implementation of the plan
 - **if the financial planner receives any commissions or referral fees, disclosure in accordance with statutory requirements** (see section 4.3 of this policy)
 - if the individual is also registered as an insurance agent or insurance salesperson under
 - the Financial Institutions Act, that any insurance products sold by the individual to the client will also generate commissions to the financial planner, as set out in Part 3 of this policy
 - the individual's category of registration under the Act and Rules, and
 - other licenses, if any, held by the individual, including licenses under the Financial Institutions Act, and the Real Estate Act, R.S.B.C. 1996, c. 397
- **undertake to provide clients with a copy of the disclosure statement described above**
- send the disclosure statement described above to each client annually and whenever there is a change in the circumstances that are required to be disclosed
- file a copy of the disclosure statement described above with the Executive Director, whenever there is a change in the circumstances that are required to be disclosed, and
- file, as part of the person's application for registration, a copy of the business cards and letterhead that the person proposes to use [Act s. 34(2)].

These consumer protection disclosure and other requirements curiously do not apply, however, to those financial planners that qualify by virtue of their holding the certifications or courses noted above (presumably as the same protections somehow would be required under the regulations, rules or codes of conduct of those disciplines, which may or may not be the case), nor do they apply to those that may practice as financial planners but are remunerated completely under the independent fee- type arrangement.⁷⁵

B.C.'s model does require revelation of a referral fee or commission (the section 4.3 of the Policy referred to above) but the disclosure need not be made when the commission is made between salespersons and the dealer who are partners or in the same corporation, or when they are made to or from another registered dealer or a dealer from another province. This means that disclosure of commissions and "commission-like" fees (which we read as including management fees on mutual funds, but not referral fees) are unlikely to be made in the usual course of business where a financial planner is part of a larger security-selling business. Indeed, it would appear the Policy would require only disclosure of referral fees (for example, disclosure of a referral fee paid by an insurance broker back to the referring financial planner upon the client's purchase of life insurance) and commissions from non-dealers, such as other financial planners. This disclosure is therefore quite narrow for the majority of financial planners operating in the usual financial services business model.

Clients in British Columbia also are not, it seems, entitled to complain about the provision of financial planning advice that does not lead to the purchase of a security, under this regulatory scheme, unlike in Quebec.

It is notable that when a financial planner recommends implementing a financial plan (at least that part requiring the purchasing of securities or other investment) that the financial planner client then must become a client of the "registered dealer through which the financial planner holds her or his registration under the Act". The financial planner who receives commissions, therefore, must formally pass the client off at the time of the investment to the securities dealer and each financial planner wishing to be compensated and to be registered under the Act in this fashion must be associated with a registered securities dealer.

This requirement to associate with a registered dealer, although perhaps uncontentious in these circumstances, has become a flashpoint in larger Canada-wide efforts to set standards for financial planning, to which we now turn.

International Regulation of Financial Planners

The regulation of financial planners in foreign jurisdictions bears a fair resemblance to that in Canada. Generally, there are few rules designed

⁷⁵ See Andrew Rickard, "Buyer Beware" CMA Management (December 2006). Summary online: <http://ca.vlex.com/vid/63650770>

specifically to regulate this profession, with self-regulating bodies supposedly filling in the gaps.

In addition, a similar gap between those engaged in providing “investment advice” or securities transactions (who may be regulated or have certain activities regulated) and those who claim not to do so (such as financial planners when creating the plan) mean that foreign regulation can serve as a comparator to the Canadian approach so far.⁷⁶

United States

The United States does not, at a federal level, directly regulate financial planners or the practice of financial planning as such. Instead, state statutes and the federal Investment Advisors Act (IAA)⁷⁷ require registration of, and potential liability of, “investment advisors”.⁷⁸

Two problems have arisen from the indirect method of controlling financial planners in this way. First, there is the question of whether a financial planner in some or all of his or her activities can be considered to be providing “investment advice” at all. Second, the IAA exempts large classes of persons who are otherwise regulated, such as lawyers, accountants and dealers and brokers.⁷⁹

For those financial planners who do engage in investment advice as that term is interpreted by the SEC or state securities authorities, there is potential liability for negligent advice or non-registration as an investment advisor, as well as potentially for failure to disclose when the advisor is acting as principal for his or her own account or as a broker for another person (not the client) and for material misrepresentations, fraud and other unethical practices, among others.⁸⁰

However, if the financial planner is not providing financial advice or is a member of an exempt class of professional who otherwise is providing financial advice, there is no other regulation of financial planners at the federal level in the U.S.

⁷⁶ For a good chart overview of the regulation of financial planning in various large economies including Canada, Australia, France, Germany, Japan and Brazil amongst others, see ‘Regulatory Environment Comparison Table (May 2006)’ Financial Planning Standards Board. Online:

https://www.fpsbcommunity.org/site_docs/090729_rpt_2009regulatory%20comparison%20tbl.pdf

⁷⁷ 15 U.S.C. §§ 80b-1 to 80b-21.

⁷⁸ The U.S. Securities and Exchange Commission, which oversees the IAA, has also released a rule outlining the application of the IAA to financial planners. See *Applicability of the Investment Advisors Act to Financial Planners, Pension Consultants, and Other Persons Who Provide Investment Advisory Services as a Component of Other Financial Services* Release No. IA-1092, October 8, 1987, 17 C.F.R. pt. 276. (Hereafter “SEC Financial Planner Rule”).

⁷⁹ See John A. Gray, “Personal Liability of Financial Planners” (1991-2), 36 St. Louis U. L.J. 623 at 642-646.

⁸⁰ *Ibid.*, at pp. 648-9.

United Kingdom

In the United Kingdom, financial planners and financial planning are not directly regulated. However, financial planners are regulated as “financial advisors” and according to the products they sell or advise on. Financial planners have a regulatory obligation of full disclosure to their client. They must disclose their status and the cost of advice.

In the late 1990s, a series of negative events led the integrity of the deregulated marketplace into question. The FSA derives its statutory powers under the *Financial Services and Markets Act 2000*.⁸¹ The FSMA created the foundations for a substantial reorganization of financial regulation in the UK. Importantly, the Act created the Financial Services Authority (FSA), an independent non-governmental body that regulates the financial services industry in the United Kingdom, responsible for regulating most financial services markets, exchanges and firms.⁸² The FSA is a company financed by the financial services industry with statutory objectives of market confidence, public awareness, consumer protection and reduction of financial crime.

In 2003, the FSA worked on Consultation Paper 166, which developed the form of financial services advice:

Following this consultation the system of polarisation introduced by the Financial Services Act (1986) was abolished and replaced with a modified framework. Under the old rules of polarisation, tied agents were clearly identifiable as commission earning, product sales agents. In the new depolarised world the distinction between independent purveyors of financial products (IFA's) and practitioners became increasingly obscured.⁸³

In 2007, the FSA launched a Retail Distribution Review to consult on the issue of complex retail investment products and the reliance of consumers on advisors through whom retail investment products are sold. The major problem identified was that retail investment product providers often remunerate advisors and there could be a misalignment of advisor interests with those of the consumer, adding to the risk of consumer detriment.⁸⁴ The review also listed concerns that it may be many years before it becomes apparent that poor quality advice was given or that there were problems with the product performance and those providing advice often have little training, which may contribute to low consumer understanding of retail investment products. The interim report of the review

⁸¹ Financial Services and Markets Act 2000, 2000 Chapter 8, online: http://www.opsi.gov.uk/ACTS/acts2000/ukpga_20000008_en_1.

⁸² Financial Services Authority, online: <http://www.fsa.gov.uk/>.

⁸³ John Gaskell & John Ashton, “Developing a financial services planning profession in the UK: An examination of past and present developments” (2008) Vol. 16, Iss. No. 2, pp 159-172 at p. 165.

⁸⁴ Financial Services Authority, “A Review of Retail Distribution” (June 2007), online: http://www.fsa.gov.uk/pubs/discussion/dp07_01.pdf at p. 4.

hinted that the FSA was leaning towards streamlining regulation such that there was only one type of financial advisor.⁸⁵ As well, the FSA was contemplating a change in the standards required of advisors such that all advisors were independent, meaning that they would receive operating remuneration without product provider input and would be required to recommend products from the whole market.⁸⁶ If these changes are implemented, they would affect the advice given by financial planners in the UK.

Australia

Similar to the United Kingdom, Australia does not regulate financial planners or financial planning directly, but regulates financial planners as “financial advisors” and according to the products they sell or advise on. Pursuant to the *Corporations Act 2001*,⁸⁷ the primary responsibility to ensure that financial planners meet their legal obligations in the provision of financial planning advice lies with the Australian Financial Services Licensee which employ or authorize financial planners to represent them. The Financial Services Regime Reform in 2004 did not provide much focus on the ethical obligations and decision making of the individual advisor. Further, the new Act was criticized as it did not cover all areas of advice given by a financial planner, such as estate planning and strategic advice.

Distinct from the United Kingdom, Australia does not have a single regulator for financial services. The Australian Securities and Investments Commission regulates consumer protection and market conduct and the Australian Prudential Regulatory Authority regulates capital adequacy, banks, life companies and superannuation funds. Financial planners have a regulatory obligation to disclose remuneration, conflicts of interest and terms of business.

The Financial Planning Association of Australia Limited (FPA) represents the financial planning sector in Australia, representing approximately 12,000 individuals and businesses.⁸⁸ The FPA recommended that its members move away from a commission-based model, and the market for financial planning services generally favours “fee-for-service.” FPA members must be licensed and are required to abide by a Code of Ethics and rules of professional conduct, however, membership is voluntary for financial planners.

Surveys conducted by the Australian Securities and Investments Commission in 2003 revealed that the public perceived financial planners to be unethical and incompetent and with a system of rewards that are perceived as associated with self-interest. It has been argued that for financial planning to be regarded as a

⁸⁵ Financial Services Authority, “Retail Distribution Review – Interim Report” (April 2008), online: http://www.fsa.gov.uk/pubs/discussion/rdr_interim_report.pdf at p. 14.

⁸⁶ Commissions for advice are being consulted on in the Retail Distribution Review with the intention that commissions disappear.

⁸⁷ No. 50, 2001, online: <http://www.comlaw.gov.au/comlaw/management.nsf/lookupindexpagesbyid/IP200401854?OpenDocument>

⁸⁸ Financial Planners Association of Australia Limited, online: <http://www.fpa.asn.au/>.

profession, it requires more than the new regulatory structure provided for in the Act: “[i]t also requires a focus on the individual advisor as a professional, a strong ethical context, an altruistic motive rather than an individual self interest and a high degree of self control of behaviour usually articulated in a Code of Ethics and other ethical frameworks.”⁸⁹

In conclusion, in these representative foreign environments, reliance on regulating the provision of investment advice, coupled with assumptions that financial planners *raison d’être* is placing investments, means these jurisdictions do not appear to offer a new “way forward” to the regulation of financial planners in Canada.

Proposed Regulatory Schemes in Canada

Recently, however, there have been efforts at pan-Canadian regulation of financial planners, largely through securities regulators, although self-regulatory agencies, such as Advocis, also have proposed models. Complicating matters at present for financial planners is the fact that several of these proposals attempt to overhaul the larger financial services regulation in a province (perhaps in advance of an expected single securities regulator) and often include financial services actors having little to do with financial planners along with them.

Advocis Proposed Regulatory Strategy (2005)

Thus under a plan presented by Advocis in 2005, although securities regulators would continue to regulate securities transactions, all “financial advice” would instead be regulated by a new independent professional body.⁹⁰ All financial advisors would have to meet the same standards of practice, follow a code of professional conduct, be licensed according to the appropriate title and maintain errors and omissions insurance.⁹¹

Advocis stated that their model avoided inherent conflicts of interest where securities regulatory bodies remained discipline bodies over financial advisors.⁹²

The two main structural features of the Advocis model were:

1. The development of an effective consumer redress system that provides consumers with a single point of access for disputes involving financial products or financial advice, and places accountability of a complaint with the individual licensee.

⁸⁹ June Smith et al., “Professionalism and Ethics in Financial Planning” (2005) *Journal of Business Systems, Governance and Ethics*, Vol. 2, No. 1.

⁹⁰ Advocis “Position Statement on National Regulation” – April 2005. Obtained from Advocis. This document is no longer available on the Advocis website.

⁹¹ *Ibid.*, at p. 1.

⁹² *Ibid.*

2. The establishment of Financial Services Councils in every province to license and regulate all insurance, mutual fund and securities licensees. This body would capture the existing relevant regulatory entity in each jurisdiction.
3. The creation of a Single Securities Regulator responsible for market participants engaged in raising capital. Regulation of all securities transactions would fall under the authority of this new entity.
4. The introduction of a national Professional Body for financial advisors.⁹³

As main objectives, the Advocis proposal listed:

- guarantee that Canadian consumers have access to the most competent financial advice in the world provided by informed and accredited professionals;
- creation of an effective and efficient one-stop consumer redress system for all types of financial products and advice;
- development of a level playing field for all intermediaries and advisors; and
- separation of the regulation of financial advice from the regulation of financial transactions.⁹⁴

The creation of an easy-to-understand and use complaints mechanism for the public would address concerns expressed in our client focus groups that they did not understand where to complain about financial planning or other financial advice.⁹⁵ Advocis advocated a complaints resolution model that “is intended to

⁹³ Advocis Regulatory Strategy Discussion Paper – April 2005, at pp. 1-2. Obtained from Advocis. This document is no longer available on the Advocis website.

⁹⁴ *Ibid.*

⁹⁵ See Financial Planners’ Clients Transcript at pp. 47-48:

M: What do you think [client]? Should there be that type of recourse?

R: I think so, yeah. I didn’t go to a financial planner for a long time because I didn’t feel that they were safe. I couldn’t tell if someone was good versus or not, they were good or not. On the news and stuff, I’ve heard stories of people who had brokers who just constantly turned their account just to get the commissions on them. I think that’s something that you should be able to go to some sort of body and complain about.

M: But do you get a sense that people in general have an idea what recourse they have or what rights they have as a consumer in these sorts of situations?

R: I don’t know.

R: I don’t think so.

R: Unless something actually happens to you, you probably don’t even think about it.

R: I think they take advantage of the fact that the average lay person isn’t well educated.

M: You don’t necessarily know that anything has happened (laughter)?

R: Yeah, yeah so I think in terms of the qualifications, it’s not as important as being regulated, being part of a body where you can complain if you have recourse.

draw upon the best practices of existing consumer redress processes currently in place.”⁹⁶

In addition, the creation of the FSCs would create a single regulator for all financial advice activities and issue various types of licence depending upon the financial advice activity undertaken. In conversations with Advocis representatives, it was made clear that financial planners would be considered a separate category of licensee with their own practice standards and code of ethics that would approximate that of existing financial planner self-regulatory bodies such as the FSPC.

The Advocis proposed model was perhaps too ambitious for its own good. The national professional body appears to have not been accepted by Quebec, which in the meantime also effectively implemented the same idea as proposed for the FSCs in its own regulatory framework.

In the time since it was proposed, Advocis has modified its position to drop the reference to financial services councils.⁹⁷ This is unfortunate for consumer protection as the consumer redress mechanism was and remains a great need for financial consumers and was to be administered by these bodies. It is now unclear where it would reside, despite Advocis’ stated commitment to “one-stop-shop” consumer redress. However, the simple statement that financial advice and selling of securities are inherently in conflict of interest (and therefore must be managed through extensive disclosure and backed up with redress mechanisms) surely was a philosophical breakthrough in the financial services sector and only has been paralleled, to some extent, by the rise of fee-only financial planners.

⁹⁶ Advocis Regulatory Strategy Discussion Paper – April 2005, at p. 2.

⁹⁷ Advocis states that it remains committed to the following elements of its plan, however:

“[W]e remain committed to the objectives and concepts contained in the Regulatory Strategy:

- o Access for Canadian consumers to competent financial advice provided by informed and accredited professionals;
- o An effective and efficient one-stop consumer redress system for all types of financial products and advice;
- o A level playing field for all intermediaries and advisors;
- o Separation of the regulation of financial advice from the regulation of financial transactions;
- o A Single Securities Regulator responsible for market participants engaged in raising capital; and
- o The introduction of a national Professional Body for financial advisors.

One specific proposal contained in the Regulatory Strategy, which called for the establishment of provincial Financial Services Councils to license and regulate all insurance, mutual fund and securities licensees, might require re-evaluation in light of regulatory developments. However we remain firmly committed to the principles underlying that proposal, which is intended to promote consistent regulation of all intermediaries and advisors.”

Nonetheless, it may be that with certain adjustments, the modified Advocis model may find favour with financial planners, insurance agents and consumers. Securities regulators, dealers and related parties appear, however, to have been less impressed.

IIROC Proposal to Regulate Financial Planners

However, the main proposal suggesting regulation of financial planners is that proposed by the Investment Industry Regulatory Organization of Canada (IIROC) (formerly the Investment Dealers Association (IDA)).⁹⁸ Under the IIROC proposal for regulating financial planners,⁹⁹ it is noted that securities dealers, “frequently asked for guidance in the area of financial planning, and there is currently little existing regulation in this area. The proposed Rule is intended to establish a basic regulatory framework for the provision and supervision of financial planning”.

The proposed rule went on to describe the effect of the new rule as unlikely to have a “significant effect on Dealer Members or non-Dealer Members, market structure or competition.” The proposed rule continued: “Industry costs may increase marginally due to the costs of compliance with the new Rule. It is believed that the benefits associated with the establishment of a regulatory framework for financial planning services are significantly greater than these additional costs. There should be no effect on other Rules, since the proposed Rule is intended to complement existing Rules, not replace them.”

The problem with the proposed rule, from the viewpoint of existing financial planners and the self-regulatory bodies that frequently represent them, was that although the rule was meant to control the activities of dealer and members when undertaking financial planning, it instead purported to set rules for ALL financial planners, whether or not dealers or members and to require ALL financial planners to associate themselves with a dealer for oversight purposes under the proposed rule. The proposed Rule accomplished this by specifying in s. 1 that “Financial planning services must be offered and provided only through the Dealer Member, not as an outside business activity.” To this was added the scope of the Dealer Member oversight, which includes “agents”. Since most financial planners would operate as an “agent” of a Dealer Member if any securities trades took place in relation to a client (as securities and equities trades must be effected through Dealer Members), nearly all financial planners would suddenly become subject to the new oversight by an otherwise unrelated (to the client at least) Dealer Member.

⁹⁸ IIROC is the national self-regulatory organization which oversees all investment dealers and trading activity on debt and equity marketplaces in Canada.

⁹⁹ See INVESTMENT INDUSTRY REGULATORY ORGANIZATION OF CANADA (“IIROC”) PROPOSED FINANCIAL PLANNING RULE, at p. 1. Online: http://www.iafp.ca/downloads/3/IIROC_Proposed_FP_Rule_2008.pdf

The proposed rule was savaged in comments by Advocis,¹⁰⁰ the IAFP and many others. These financial planner bodies pointed out that financial planners are a group that, if it is following its core function (financial planning, all 6 steps, independently), should actually be tending to be independent from selling securities. The draft rule simply assumes that financial planning is “securities-related business” and therefore justified control of financial planning on this basis. However, such an assumption runs counter to the professed 6 steps of financial planning under most models, in which securities transactions may, or may not, be a part of implementing an investment portion of a plan only.

Advocis stated in its letter:

Because IIROC Dealer Members will be responsible for supervising financial planning activities, it can be expected that they will have considerable influence over the financial planning activities and the choices of financial products that financial planners recommend to clients.

We believe the proposed Rule would be unduly intrusive on the financial planning relationship between financial planners who are not employers of Dealer Members, and their clients. Such a Rule will have a negative impact on the financial planning process and undermine the independence of the financial planner and could bias the content of financial planning advice given to a client.

We submit that financial planning is essentially a multi-disciplinary process that is intended to develop strategies that clients may implement in a wide range of ways. Self regulatory organizations and securities dealers focus their regulation and their regulatory compliance on transactions in the securities products that the dealers deal in. There is no evidence that SROs and securities dealers have or could be expected to acquire the expertise or the capability to supervise a complex, multidisciplinary financial planning process in a way that serves the interests of clients.¹⁰¹

While financial planner self-regulatory groups (IAFP and Advocis and FPSC) might be expected to oppose any government regulation that might make their certification academic, redundant etc., their criticisms were aimed more at the lack of persons in a brokerage who have any real knowledge of the process of financial planning, the disjuncture from a client’s point-of-view between the distant broker-dealer who may have nothing to do with this part of the business in a large financial institution, down to the very destruction of the independent financial planner model.¹⁰² However, the main concern was that of conflict of interest. IAFP noted:

¹⁰⁰ See Advocis' submission to the Investment Industry Regulatory Organization of Canada (IIROC) regarding the Proposed Financial Planning Rule. Submitted to: Mr. Brendan Hart, Policy Counsel. (September 8, 2008). Online: http://www.advocis.ca/regulatoryaffairs/archives08/subs08/IIROC_prop_FP-rule-sep8-08.pdf

¹⁰¹ *Ibid.*, at p. 6.

¹⁰² See IAFP Response to IIROC Proposed Financial Planning Rule, October 7, 2008. Online: http://www.iafp.ca/downloads/3/IIROC_FinPlan_Rule_Response_Oct_7_08.pdf

We see a dealer member as being in the business of providing “Investment Planning” via transactional activities that result in compensation based on a commission or percentage of assets under management. This is not the focus of a “financial planner” whose primary business activity is to explore financial problems and develop financial solutions which may not involve a securities transaction.

These concerns, especially the latter, appear well-founded, and threaten the encouraging development of the fee-only model, if only by requiring oversight by a party that is unlikely to encourage that model.

MFDA Proposed Rule Changes

The Mutual Fund Dealers Association is another self-regulatory body which operates nationwide in the regulation of the sale and promotion of mutual funds. In the summer of 2008, it proposed revoking a section of its Rule 1.2.1. Rule 1.2.1 permits Approved Persons of MFDA members to provide financial planning services outside their member, provided that they are “subject to the rules and regulations of a widely recognized professional association.” The proposed rule change would delete this provision. MFDA in its consultation claimed it was not widely used.

Financial planner self-regulatory bodies such as FPSC and Advocis saw this differently, however, and indeed alleged it was part of a plan, with the introduction of the proposed IIROC financial planning rule, to eliminate their ability to operate independently of IIROC Dealer Members.

Advocis baldly stated in its letter to MFDA that:

We believe the [IIROC] Rule tilts the playing field in favour of vertically integrated financial institutions in an employer-employee business model. It is in some dealers’ interest to have a mandate from their SRO to supervise all financial planning activities of dealer personnel who are agents and not employees. This creates a huge conflict of interest, and some dealers will supervise this activity in their own commercial interest, to the detriment of the independent financial planners and consumers.

We believe IIROC’s proposed Financial Planning Rule dramatically overreaches, and that by authorizing dealers to supervise financial planning by agents who are not employees, the Rule will enable dealers to control this activity. Some dealers will be supervising financial planning in which they have no expertise. Unless care is taken to ensure that the supervision by dealers of financial planning is strictly limited to their ensuring that appropriate standards of financial planning practice as established by recognized professional associations are applied, some

dealers are likely to exercise this supervision mandate in ways that are likely to put an end to objective independent financial planning advice to the detriment of consumers.

At the very least, these actions by the MFDA raise the issue of who will regulate financial planners, securities SROs or provincial financial services regulators (where these exist) and also raise a further question of whether securities dealers are interested more in the business of financial planners than in their ethical behaviour and in consumer protection. At the very least, changes made by SROs which impact largely independent operators such as the majority of financial planners should be subject to particularly open scrutiny by all stakeholders and the public at a very early stage. At most, the temptation should be removed by repatriating the regulation of financial planners to the general provincial regulation of financial services, such as has been done in Quebec.

Conclusions

In our study of financial planners, PIAC found a well-defined practice, based on well-defined standards, that described the process of financial planning as helping clients achieve their life goals through consideration of the financial aspects of six broad subject areas: Cash and debt planning; Income Tax planning; Investment planning; Retirement and Financial Independence planning; Insurance and Risk planning; and Estate planning. When this comprehensive planning process is followed, a written financial plan is usually made as a reference for the client and planner, and less frequently and less properly, sometimes simply tailored advice in one or more areas is offered with a discussion of the other areas.

We found that the self-regulatory bodies (the FPSC, the IAFP, Advocis) had fairly complete codes of conduct, including disclosure of compensation methods, advocated the holistic financial planning method on agreed standards and were making tentative steps towards some more advanced features of a full regulatory system such as complaints mechanisms. All of these bodies required continuing education to be a financial planner and all stressed the important step of review of the financial plan for a client on an ongoing basis.

Unfortunately, as demonstrated by our focus groups, both clients and those who professed to be “financial planners” at least for part of their duties did not appear to understand the term “financial planner” necessarily to include only those accepted financial planning steps and had only vague knowledge of the self-regulatory groups.

Quebec is the only province with a comprehensive financial planning regulatory regime and it is a good one from a financial consumers’ standpoint. It requires better conduct standards than the other self-regulatory bodies or the other province with some regulation, British Columbia. For example, it requires financial planners to be “competent” in the actual 6 areas of financial planning, unlike either the B.C. partial regulatory system under the B.C. *Securities Act* and unlike the self-regulatory bodies, complaints cannot only be made about this but fines can be levied on incompetent practitioners. Quebec’s duties of disclosure (of compensation and conflicts of interest) also go farther than any self-regulatory body and in particular, Quebec’s prohibition on financial planners recommending investment in any entity in which the planner has more than an “insignificant” interest is a strong consumer protection.

PIAC noticed that self-regulatory bodies appear to be cognizant of growing unease with the misuse of the term “financial planner” and impatience with the use of the term in relation to simple investment advice and are seeking mutual recognition agreements with Quebec. We do not see any real impediments to similar arrangements being made with other self-regulatory bodies. However, it does appear a “turf war” with the securities regulators and self-regulatory financial planners’ bodies over regulation has broken out.

Recommendations

Consumers are confused over the term “financial planner” and there are apparent financial incentives for financial planner or investment advisor delusion about what “financial planning” should involve. The maturing of the financial planner “profession”; the need for better consumer protection in the areas of disclosure and redress than that provided by the financial planner self-regulatory bodies and the apparent desire on the part of both consumers, planners, financial planner self-regulatory bodies and securities regulators to move to a higher level of formality with “financial planning” means the ground appears ripe to plant a more comprehensive, province by province regulatory regime, with significant involvement by the major self-regulatory financial planner groups.

In particular, such new provincial regulatory regimes should use Quebec’s rules as a benchmark. These provide a slightly higher standard of conduct than those of self-regulatory bodies but not an unachievable one. They incorporate not only high levels of competence and disclosure but also a complaints mechanism and in cases of fraud, a consumer compensation scheme. Senior financial planner self-regulatory bodies could work with any province that implemented a similar regime to provide for mutual recognition of the marks (such as R.F.P.) meaning accredited professionals could pass directly to a licensing exam in the province in which they practice.

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).

Some care in the prohibition of “similar” titles to “financial planner”, as Quebec has done quite aggressively, perhaps should guide other provinces in this tricky area, as long as consumer protection and disclosure are the key goals. The goal of the proposed regulation is not, therefore, to regulate all financial advisors or those offering financial advice (which may even involve drawing up a financial plan) to a standard set for financial planners but rather to require all those who hold themselves out as “financial planners” (or use wording confusingly similar to this term¹⁰³) to become licensed and regulated under this regime. Consideration,

¹⁰³ We note that the Quebec regulations specifically mention “financial advisor” and its derivatives as confusingly similar to financial planner. We see many problems in so defining the scope of what is confusingly similar to “financial planners”. Specifically, this wide net would catch much mutual fund selling and other securities transactions and financial advice that was truly unrelated to holistic financial planning. Care would have to be taken to target only those professing to perform “financial planning” to avoid the spectre of additional regulation for those many, many financial advisors who do not profess to perform complete financial planning, while protecting the public from those seeking to profit from adding the term “financial planner” to their qualifications where they have not been accredited as such by FPSC or similar financial planners standards setters.

as Quebec has tentatively been looking at, of making financial planning a regulated profession in a province may eventually be a way of solving the problem, although it may require structural changes for present provincial financial services regulatory systems. Consumer education about present financial planner designations and regulatory systems appears doomed, however, in the face of the complexity of the number of titles, organizations and standards, until all financial planners are provincially regulated.

We recommend against leaving this regulation directly in the hands of the self-regulatory securities standards settings bodies such as IIROC and MFDA. IIROC has angered financial planners both for appearing to try to conscript financial planners into a dealer relationship where it may not be appropriate and by institutionalizing the inherent conflicts of interest that exist when financial planners are compensated on the commission/referral fee method.

To end of better consumer protection in the area of disclosure, PIAC notes that the depth to which the commission/referral fee business model is ingrained in those completing both full, complete financial plans and those who likely are using it only as a “loss leader” for investment placements. While it is unlikely that such practices can be changed in the short term, PIAC calls upon the Financial Consumer Agency of Canada and the provincial consumer protection authorities (especially those with dedicated financial services departments) to 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.

Other recommendations for the future are an examination by provincial regulators of the adequacy of disclosure, and whether it 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).

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. Care should be taken in creating such designations to avoid “back-door” fees so that the purpose of fee-only planning is defeated. Once so self-organized, fee-only planners could take on a role with training and certification of financial planners (as FPSC has already done in Quebec) in order to prepare financial planners for accreditation by the new provincial regulator, by reaching an agreement with the regulators to provide this training. In such cases, regulations specifying a “fee-only” class of financial planner may be appropriate, including a possible class of financial planner that must not implement the plan himself or herself but be required to refer the client to other professionals for implementation (without referral fees) to avoid any chance of self-dealing.

Further study of the benefits of comprehensive financial planning for a larger number of middle to lower income Canadians should also be undertaken. Such study likely would be a good fit with review of financial literacy in Canada by the independent task force proposed under Canada's 2009 Budget.¹⁰⁴

¹⁰⁴ See Chapter 3 of Canada's Economic Action Plan (Budget 2009) under the heading "New Measures to Help Consumers of Financial Products". Online: <http://www.budget.gc.ca/2009/plan/bpc3a-eng.asp> :

The Government will assist consumers of financial products by:

Enhancing disclosure and improving business practices in respect of credit cards issued by federally regulated financial institutions.

Establishing an independent task force to make recommendations on a cohesive national strategy on financial literacy.

Moving forward on measures to make mortgage insurance more transparent, understandable and affordable.

Appendix 1

DRAFT
REPORT

*Attitudes toward Regulation of Financial Planners in
Canada – Qualitative Research*

Prepared for:
Public Interest Advocacy Centre

December 2008

pn 6392



ENVIRONICS
RESEARCH GROUP

33 Bloor St East
Suite 1020
Toronto, ON M4W 3H1

Table of Contents

Introduction	1
Executive Summary	5
Detailed Findings Part One: Financial Planners	10
Detailed Findings Part Two: Clients of Financial Planners	22
Conclusions	40

Appendix: Discussion Guides

Introduction

Background

Financial planners are individuals who provide professional financial advice to consumers. They represent a range of disciplines within the financial services sector including those who are licensed to distribute life and health insurance, mutual funds and other securities. Financial planners provide financial and product advice to consumers on matters that include estate and retirement planning, wealth management, risk management and tax planning. Financial planners are not currently subject to any direct federal regulation (such as for financial planners employed by banks, under the Bank Act or other federal legislation) or to provincial regulation in most provinces. The only two provinces with any regulation about who can call themselves financial planners are Quebec and British Columbia. However, the CSA (Canadian Securities Administrators), under the direction of the OSC, is attempting to implement a baseline of professional standards nationwide at the provincial level. In addition, the Financial Advisors Association of Canada, called Advocis, has proposed a national regulatory model for financial planners, which includes a consumer dispute resolution mechanism.

The issue of regulation of financial planners has moved recently into the public arena in Canada, following revelations about questionable and potentially illegal activities in the financial services sector. The Ontario Securities Commission filed charges in 2005 related to the collapse of a hedge fund company targeted to average investors that had attracted over 26,000 clients and more than \$830 million in assets in the space of two years. Many of the investors in this hedge fund company were unable to recover their money. The Supreme Court of Canada's decision in *Canadian Western Bank versus Alberta* permits provinces to regulate the sale and promotion of insurance services by banks and may affect the ability of provinces to regulate bank employee financial planners.

These cases have brought the issue of the non-regulation of many financial planning activities to the public stage and set in motion a series of consultations by bodies such as the Ontario Securities Commission and the Canadian Council of Insurance Regulators (CCIR)/Canadian Insurance Services Regulatory Organizations (CISRO). The OSC is looking at the issues faced by small investors and CCIR/CISRO is looking into the issue of industry practices concerning the activities of the insurance industry and insurance brokers.

As indicated above, Advocis has also proposed a regulatory scheme. While private standards bodies such as Advocis or the Financial Planners Standards Council have codes of ethics and standards, it is unclear if these are adequate or effective versus government regulation.

Further to this, the Financial Consumer Agency of Canada (FCAC) noted in a July 10, 2007, survey that many Canadians are not well-informed about financial products and services—or about their rights in the marketplace. Many Canadians using the services of financial planners are mid-life; they are arranging their affairs in advance of retirement; and they may be vulnerable in attempting to plan all of their investments for their retirement. Financial planners likewise deal with others' money and recommend investments and other financial transactions. As with credit counsellors, regulations are incomplete and financial planners are actually less regulated.

Research purpose and objectives

Discussion among selected consumers:

- To explore similarities and differences in the perceptions of consumers who have experience using financial planners.
- To gain insights into the perceived roles and responsibilities of financial planners, whether positive or negative, from the consumer viewpoint.

Discussion among financial planners who manage portfolios with a range of value:

- To explore the similarities and differences among financial planners related to their perceptions about the impact of proposed regulation on their roles and responsibilities.
- To gain insights into the perceived positive and negative impacts of regulations on Financial Planners from their own perspective.

Methodology

Two (2) focus groups were conducted in Toronto. The first group comprised financial planners. The second group comprised consumers who use the services of a financial planner/advisor.

Location	Dates	Group Composition
Toronto	November 17 5:30 pm	Financial planners/advisors
Toronto	November 8:00 pm	Consumers

For each group, 10 people were recruited, with an expectation that each group would have approximately eight participants. Guidelines were established for recruiting the two groups.

Planners:

- A good mix of financial planners employed by banks or credit unions, financial planners with franchise arrangements and independent financial planners (minimum of 2, maximum of 3 for each category)
- A minimum of five recruits to be certified members of an industry organization; a minimum of three not to be members

Consumers:

- A good mix of ages between 30 and 60
- All participants to be employed full-time or part-time or to be homemakers
- All participants to have annual household income over \$50,000 and at least some post-secondary education
- All participants to have investable assets and to currently use the services of a financial planner for your investments
- A good balance between consumers who use a financial planner associated with a bank or major brokerage firm and consumers who use an independent financial planner (minimum of 4 recruits in each category)

Each focus group session was approximately two hours in length and was conducted according to a discussion guide developed in consultation with the client team. A \$75 cash incentive was given to each participant in the consumers group; a cash incentive of \$150 was given to each participant in the financial planners/advisors group.

Derek Leebosh, Senior Associate – Public Affairs, of Environics Research Group, acted as Project Director and moderated the focus groups.

All qualitative research work was conducted in accordance with the professional standards established by the Marketing Research and Intelligence Association (MRIA – previously the Professional Market Research Society and the Canadian Association of Market Research Organizations).

Statement of Limitations

The objectives of this research initiative are exploratory and therefore best addressed qualitatively. Such research provides insight into the range of opinions held within a population, rather than the weights of the opinions held, as would be measured in a quantitative study. The results of this type of research should be viewed as indicative rather than projective.

Executive Summary

Financial planners

Most financial planners offer both investment services and financial planning services; for many, the financial planning they do is limited to investment planning and some retirement planning, and is generally done as part of investment management.

A few financial planners either specialize in preparing comprehensive financial plans (which include tax plans, estate plans, wills, and insurance as well as investment and retirement planning) or offer both comprehensive financial planning and some other professional service, most often investment management.

Financial planners consider the main challenge they face in dealing with clients to be obtaining all the information they require to prepare a plan and advise their clients.

Planners also encounter difficulties in getting their clients to read materials provided to them and make regular contact to update their plans as required.

Planners do not express resistance to the idea of provincially mandated certification and regulation although not all are convinced that it is necessary.

Many planners are already members of one of several professional organizations that certify financial planners and offer voluntary regulation, including appropriate business practices and a mechanism for handling complaints. Reasons for voluntary certification include:

- Required by employer (banks)
- Provides credibility
- Establishes standards
- Enhancement of professional knowledge and expertise
- Provincial regulation and certification is inevitable.

Planners working in large firms noted that their work is generally subject to internal regulation; their companies have established guidelines and maintain supervision over advisor-client relationships. Planners who are members of professional organizations also accept regulation by these bodies

Some participants felt strongly that the profession of financial planner should be more clearly defined, and differentiated from the profession of investment professional.

Reasons for questioning necessity of certification and regulation:

- It's not something that clients look for
- Real skill of financial planning cannot be taught in a few courses
- No history of abuses of trust or of a tolerance of incompetence within the industry

- Potential for abuse lies in investments, not in planning – and those who manage investments are already regulated

Reasons for supporting certification and regulation

- Errors in judgement, lack of comprehensive knowledge, or omission of key elements in financial plans can result in serious long-term consequences for clients
- Potential for abuse of trust among immigrant communities, where people are more likely to seek out a financial advisor who is a member of the community, but who may not be knowledgeable about or willing to conform to accepted Canadian business practices.
- Planners who are also investment professionals could use the role of a planner to engage in improper practices as an investment professional.

All the financial planners/advisors in this research agreed that there is certain information that they disclose to clients as a rule:

- Risks involved in investment
- Potential conflicts of interest
- How the planner/advisor is remunerated

Most financial planners/advisors work for banks or other large financial institutions that have a formal complaint resolution process in place; most felt that complaints are more likely to deal with activity related to investments, and added that there are also organizations that play a role in complaints that relate directly to issues involving securities or investments.

Clients of Financial Planners

Very few had formal professional/client relationships with a specific individual who served as their financial planner, and very few of the persons they considered to be their financial planners were primarily engaged in financial planning. Most were not aware of the full range of services a financial planner may be expected to perform, and many considered anyone who gave them advice on investment issues to be a financial planner.

Most understand financial planners or advisors to be people who give them individually tailored advice about investments, and who also trade and manage investments on their behalf, or work for the same bank or firm that does handle their investments.

The key expectations mentioned by participants include:

- The financial advisor/planner will be knowledgeable about investment products and strategies
- The financial advisor/planner is willing to determine the client's goals and preferences and advise or manage investments in accordance with the client's wishes and needs.

- The financial advisor/planner will inform the client about financial products and investment issues, provide full information about levels of risk associated with various products, pay close attention to the client's level of risk tolerance, and respect that level in all advice and transactions.
- The financial advisor/planner will disclose to the client relevant issues having to do with remuneration and conflict of interest.
- The financial advisor/planner will generate for the client a better rate of return than the client would have generated if managing their own investments.
- The financial advisor/planner will be available to the client for consultation as needed.

Participants reported a range of different kinds of relationships with their advisors.

- Some have a business relationship with a bank, and receive investment advice from investment specialists in their local branch via in-person, telephone or online banking.
- Some have a direct relationship with a planner or advisor, who may work in a bank, in an investment firm, or independently.
- Some have a casual relationship with friends or associates who are investment professionals and who give them advice on investments

Most felt that the final decision about their investments was in their hands, and that if their advisor was also the person who performed the actual transactions, they expected their advisor to do what they told them to do.

Most participants said that they investigate the investments and products proposed by their advisor; this includes reading materials provided by their advisor. This is interesting in light of financial planners' concerns that their clients do not appear to read the materials they provide to clients.

Most appeared to be reasonably satisfied with their relationship with their advisors and with the advice and services provided. However, some felt that their relationship did not meet their expectations, particularly in terms of the quality of the service provided.

Some felt that the planners/advisors they dealt with were more like "salesmen" – interested in them primarily when there was a product to be marketed and a profit or commission to be earned. Some participants also felt that as small investors they did not receive as much attention from their planner/advisors as a larger investor would.

Participants who have chosen a specific business relationship with a single individual, rather than just doing business with whoever is available in their bank to assist them, were most likely to do so through referral or word-of-mouth from friends, family or colleagues.

Others responded to promotions, such as free "investment courses" or intercepts in malls and other public places, set up by the financial planner/advisor or their firm to attract new business.

Most clients of financial planners/advisors are aware that the industry is not currently regulated in Ontario, and that there is no guarantee that a person who calls themselves a financial advisor has any particular expertise in that area.

A few felt that this was not necessarily a convincing argument for certification and regulation of financial planners, since all such people can do is give advice unless they also have a stockbroker's licence.

Some were aware that some professional organisations do certify financial planners, set standards of qualification and require their members to follow a code of business practices.

Most felt that financial planners should be provincially regulated and certified in order to more fully protect consumers, even though some noted that anyone who is actually engaged in buying and selling stocks, mutual funds or other securities is already regulated by the province.

Most are not aware of any specific mechanisms that currently exist for handling any complaints that consumers may have concerning the actions of financial planners, or any formal means of seeking recourse for any harm resulting from a financial planner's actions. It was felt that certification and regulation would create such mechanisms.

Participants felt strongly that full disclosure about remuneration issues and conflicts of interest arising from potential income from sales of investments and financial products is an important aspect of the relationship between financial planner/advisor and client.

Most assumed that financial planners/advisors who also manage portfolios and sell investment products receive commissions from their sales. Some thought that planners/advisors employed by banks would be on salary, with at most a small commission when they sell certain financial products to the client, while most assumed that independent planners/advisors were more likely to make the largest part of their income on commissions.

Detailed Findings Part I: Financial Planners

One focus group session was conducted with financial planners; the discussion topics in this group focused on planner's functions or business activities, their relationships with their clients, their business practices with respect to issues such as disclosure and handling of complaints and their attitudes toward certification and regulation of their profession.

Functions of financial planners and advisors

Most of the financial planners and advisors in this research are employed by or have franchise arrangements with large financial institutions such as banks, investment houses and insurance companies. While they identified themselves as financial planners before taking part in this research, these participants often perform a variety of functions in addition to financial planning; in fact, financial planning may for some be the smallest portion of their daily business activities.

I wear many hats in the branch because you are sort of jack-of-all-trades, from lending, to investing, to estate planning, everything is involved.

The financial planners and advisors who took part in this research did include in their description of their professional services the provision of varying levels of financial advice and planning, which may or may not include detailed and comprehensive plans, to consumers.

I basically do comprehensive wealth management of clients and do some comprehensive financial plans but it depends on the client whether they want a full plan but that's my focus. It's financial planning and making sure that people know what their goals are and help them get that.

However, for the vast majority, such planning or advice is only a small part of what they do. Most consider the primary part of their job to involve selling investments and other securities, and managing portfolios on behalf of their clients, and believe that this is primarily what their clients expect from them.

I consider myself a financial advisor but my main job is selling investments.

I would consider myself definitely a financial planner. . . I really do start every client with a comprehensive plan with layers of financial planning and the last part I do is in investments.

Because investment is the focus of their work for most financial planners, most if not all of the financial planning they do is in support of the investment sales and management that comprises the bulk of this work.

But the majority, 99 percent of people, the plan is designed to give you the comfort to know what you should do in terms of your investments. It's a means to an end for the bank, the brokerage houses and everyone else. There is no cost to the plan. You can walk away with it and there is no cost.

People don't go to somebody for a financial plan, they go because of investing. It's about their money.

The planning services that financial planners provide for clients range from basic investment plans to extensive plans that look at overall wealth management, insurance, tax planning, wills and estate planning. While most financial planners and advisors in this research both prepare

some kind of plan, generally limited to investments and investment-focused retirement planning, and handle investments or securities, there were a few participants who specialize in financial planning or provide both services; these professionals generally charge separate fees for preparing financial plans, while those who are primarily investment managers generally prepare plans as a part of their overall investment-related services.

There are virtually no, there are very, very few people who do nothing but financial planning. And usually it's a service that is sold to corporations and it's to the senior executives at corporations and usually the members of that financial planning firm will be CAs, lawyers.

. . . We do one-off financial planning advice for fees for clients and investment management services for clients.

Some participants noted that at one time, financial planning was a service aimed primarily for wealthy people with significant investments and property who required not only investment but tax and estate planning in order to maximize their earnings. Such individuals also employed a number of professionals – lawyers, accountants, investment brokers – to manage all the aspects of their financial situations; these professionals would implement the various aspects of the plan. As reliance on government and employment-related pension plans has declined, the need for investment and retirement planning, as well as other aspects of comprehensive financial planning, has grown among middle-class consumers, and banks and brokerages have become more engaged in providing such services to all of their clients. This has resulted in a shift in the focus of financial planning for some. Middle-class clients, with less complex financial circumstances and with a primary focus on preparing for retirement through an investment strategy, are best served by a planner who offers both a financial plan and the investment services to implement its primary component.

. . . we started to get into financial planning about eight years ago, so that's now a part of what we offer to most clients at least half decent net worth and up clients. We look after investments but now they really want us to focus also on adding financial planning to that, so we do provide financial plans and that gets us into insurance solutions also.

In the old days the brokerage business was for wealthy people only and it was assumed that they could look after their financial platform. They were just in there to – should I buy Shell Oil or Imperial Oil or should I be in oil at all? It was strict investment. But what people are looking for today, generally speaking, are a more holistic financial solution. They want their provider to ask the question – what's the money for? They need more comprehensive advice. They're looking for more comprehensive advice from one person who understands their whole situation and can give them the appropriate advice and if necessary send them on to a specialist for whatever.

Main challenges of dealing with clients

Most of the financial planners in this research considered the main challenge they faced in dealing with clients to be that of gathering all the necessary information to prepare an appropriate plan and advise their clients effectively. This includes not only information on their financial circumstances but also their goals, risk tolerance and investment philosophies.

When we meet with new clients that we spend a lot of time upfront to make sure that their expectations and our expectations sort of fit and that we have the same kind of investment philosophy and stuff like that.

It's always a challenge to figure out exactly what the client wants. Where are there and what are they really looking for around their financial aspects of life and trying to get all that out. And then sort of matching up when you listen to them in terms of what they need. And sometimes there's an education gap to fill there.

Participants noted that on many occasions, they find that clients are not strongly motivated to provide the planner/advisor with the requested – and essential – information and documentation. Some clients also try to keep information from the advisors because they do not want spouses or family members to learn about certain financial assets or decisions.

The other issue that I have in terms of the planning side of things is that what I find mostly people will say they want to have a financial plan and then you give them a questionnaire or tell them that they have to pull together all these documents. And then it's like – oh, don't want to do it, too much trouble. Why can't you just do a financial plan?

Gathering information is a challenge. You send a questionnaire. Half the people won't do it and the people who really should be doing it, they don't. So you really have to get a meeting to see people.

Participants were also concerned that clients are often not interested in keeping up to date on materials sent out to them, or enthusiastic about meeting regularly to review their plans, circumstances, investments and goals to reflect changes.

Clients not reading all the information that's sent out, and that's valid.

I like to meet with clients at least once a year for an annual review and I do find that there are some clients that are too busy or things are going well. It's like, oh no, they don't really have time.

This reluctance to provide complete information on the part of clients can be particularly difficult when certain information must be gathered to conform to regulations set out by various financial organizations and associations and by the banks or institutions they work for.

There are brand new forms out again now that everybody in Ontario, we have to talk to them, and some kind of questions about their financial status, net worth, family status and their working experience.

It's getting to the point where for the IBA firms, you have to ask a lot of questions. The money laundering, you're responsible for asking all kinds of things.

The difficulty of getting full disclosure of necessary information from clients is of sufficient concern that some planner/advisors have adopted specific strategies to make it easier for clients to keep in touch and for the planner/advisor to gather information. While many of the planners/advisors in this research prefer to meet with clients in person and in their office for an annual review, a few have moved to less formal methods of communication – telephone and email – and are willing to go to their clients when a face-to-face meeting is necessary.

Too many advisors try to inflict what they want onto the client as opposed to understanding each individual client. So if we know we have a client that isn't keen on meeting, we'll do telephone. Some clients today, particularly younger ones, are happier with internet. They really don't want to sit down and talk and they're pretty well briefed and they're happy with the internet.

I visit clients in their home. And I think by sitting in someone's home, they can't trick me. I can see the way they have their furniture. I can see the way they live. I can see how much money they really have. I can see their lifestyle. And somebody may tell you what they think they want but you can see they live very frugally and you can see other people with a BMW in the driveway and they've got this and they've got that and you pretty well know that they're up to here in debt.

Attitudes toward regulation and certification

In general, the financial planners/advisors in this research did not express resistance to the idea of certification and regulation of their functions as planners. Many of the participants have voluntarily joined one of the existing professional organizations of financial planners. Some have done so because they believe that membership in a professional organization provides credibility and establishes standards. Certification courses are seen by some not only as a means of standardization that would enhance the profile of the industry, but also as a professional resource – a means of ensuring that one has all the information and expertise necessary to meet the client's needs. Some felt that provincial regulation and certification is inevitable, and have decided to take action now rather than wait to be forced into it.

I believe in the certification and having the stamp on your card and having CFP and MBA after my name was important to me and that was important for me to do. I think it gave me credibility with the clients. And CFP is known around the world. It's an international designation.

I thought I'd picked up everything that I really needed to know, but I thought by doing the course, I knew if there were any gaps in my knowledge I would fill them in. And secondly, if this became a requirement anywhere along the lines, then I'd get the accreditation on my schedule rather than on somebody else's.

I think that when I did my six courses on the CFP, we did an entire course on insurance, an entire course on estates and wills and whatnot. And when I send my clients forms and give them a one-page tick box with eight hours of financial planning, and I say to them – what are your biggest worries, number 1, 3 and 5 out of 10. And they send that to me and I do a first meeting I address their things. So I am talking about their insurance and their wills and the power of attorney and all that stuff. I mean death is the last thing I end up doing for them and so they're going to have to all fit together and that's why this training is good from CFP and I value that. And I think my clients value that it is the big picture, not just - oh give me your money; this is where I'm going to.

I think that there needs to be some kind of standard like just what we were talking about. Even to do financial planning, I you think you need to know about estate planning and wills and tax planning.

Some of the financial planners/advisors have taken certification courses and joined an association as mandated by their employers. Given that certification is a prerequisite for their employment, a legal requirement for certification as a financial planner does not concern them, as long as the legally accepted certifications include the one demanded by their employer.

I have a PFP and it was a requirement of my job. They brought it in 2003 and you either got the designation or you got another job somewhere else.

With regard to the need for regulation, financial planners/advisors working in large firms noted that their work is generally subject to internal regulation; their companies have established guidelines and maintain supervision over advisor-client relationships. As these planners/advisors are already accustomed to meeting a set of professional guidelines, they tended not to be concerned about the introduction of provincially-mandated regulations concerning their business practices – assuming, of course, that these are similar in direction and requirements to the internal regulations they already observe.

Although it's not regulated in the province, but in our organization it's quite regulated. Because when I do a plan I have to get my manager to approve it and then you have all the people come in and review it once in a while just to make sure it's done properly.

A few believed that certification would be of primary benefit for entrants into the profession, not for established and experienced professionals of long standing. Their assumption was that anyone who has a significant track record in the industry would not need to take the professional courses that would be part of a certification process or to demonstrate their competence through any evaluation process that might bypass the need for courses. This would be particularly true for those whose client base is built primarily through referrals.

Certainly if I was 24 getting into the business, I would think it would be essential. But I think when you've got grey hair and you're a little older and I've got an extensive business background, it's just not an issue. But I think people sometimes try to make it an issue.

Some participants felt strongly that the profession of financial planner should be more clearly defined, and differentiated from the profession of investment professional. They were uncomfortable with the idea that the term "financial planning" is used to refer to everything from simply establishing a client's goals and risk tolerance in order to guide their investments appropriately, to drawing up a full wealth management plan that includes all the client's needs. Some noted that most people have no need for comprehensive financial plans because their financial circumstances do not warrant it – most people with a moderate amount of assets are primarily interested in investing for retirement, and this level of planning is one that any competent investment professional can deliver without having to work with a certified financial planner, or being certified as one themselves. On the other hand, some feel that the term financial planner should be reserved for those who prepare complete plans only, and that the plans they prepare should be executed by other professionals, such as investment specialists, accountants, lawyers, and others.

You need a clear definition of what a financial planner is and then people should meet that however it's defined. Right now everybody is a financial planner in terms of what they do and people speak loosely because it's kind of vague. I do a plan for people but I've never held it out to be a financial plan because it doesn't include estates and benefits and all of the tax situations and all of that. But I think most people before they sell investments do that very elementary process of the plan as far as I see from what I'm hearing. What we do is a part of a financial plan. We're handling your investments that will deliver their lifestyle in their time. All the other stuff we're not qualified to do. So I think if you had a definition of a financial planner, then you could put altogether what people needed to qualify for that.

I maintain that there should be a cost for the plan and then if necessary they should take that to an investment expert to execute that portion of the plan. They should take it to their accountant or whoever.

Need for regulation and certification

While none of the participants voiced strong resistance to certification or provincial regulation of the financial planning industry, a few did not feel that such a legal requirement was necessary. For some, there was no indication in their own practice that certification was something a client would look for. Others felt that the real skills of their profession – the personal qualities – could not be taught or tested, and that certification would not really mean anything.

I've been in this business 16 years and no one's ever asked me if I'm a certified financial planner.

So that certification doesn't do anything except prove you can take facts from a book and put them onto paper. It's your ability to communicate and your ability to give people the confidence they need, and at the end of the day the results are going to be strengthening the bond.

Others noted that they are not aware of a history of abuses of trust or of a tolerance of incompetence within the industry that would suggest a real need for such consumer protection legislation.

I could be wrong on this, but I don't see the newspaper full of stories saying that people are out there calling themselves financial planners who really know nothing about it and the public is losing from that.

Some, however, were concerned that there could be a potential for abuse of trust when clients are relying on the advice of financial planners who are not competent or whose work does not meet a professional standard. They noted that errors in judgement, lack of comprehensive knowledge, or omission of key elements in financial plans can result in serious long-term consequences for clients, who may have no recourse other than expensive lawsuits.

If people aren't trained properly then they're giving people misinformation and you can give people a rude awakening – like retirement realize that that assumption of inflation being one percent and gains being 12 percent a year doesn't fly.

Doing a financial plan is something we have to be very responsible. So I think some of us bankers are scared for the customers.

I also wonder if the seeds have been planted for a few bad plans. We haven't been doing it for that many years as an industry. So if 20 years later people will pull out their old plans and say – look at this error; look at this mistake. And then you get a few lawsuits coming out.

A few participants identified some specific areas of concern where they thought the danger of abuse was particularly strong. One participant felt that there was a particularly high potential for abuse of trust among immigrant communities, where people are more likely to seek out a financial advisor who is a member of the community, but who may not be knowledgeable about or willing to conform to accepted Canadian business practices.

I think the danger is in the new immigrant area where they're dealing with people that they're comfortable with because of language. And they don't know what the hell they're doing because they do not believe in regulation. I've met these people. They don't have regulations in their own country. And people are going to go to their own people. I would think there's probably a great danger.

The biggest area of concern, however, was not with the possibility that financial planners would prepare inadequate plans, but that planners who are also investment professionals would use the role of a planner to engage in improper practices as an investment professional.

But by and large the problem is going to be coming down to if somebody has sold inappropriate investments to somebody. That's where the bulk of the problems are going to come down to. Now what would be troubling is if somebody has used a financial plan as the guise to sell those investments. And here I'm thinking of perhaps maybe they've sold somebody some tax shelters.

Participants also noted that since most financial planners/advisors also hold licences to sell investments, securities or insurance, they are in effect already certified and regulated by law, at least with respect to those aspects of their business activities – and that it is those activities where the greatest potential for abuse can be found. These participants tended to feel that clients are already protected where the danger is greatest – on the investment management side.

And you were asking whether they needed protection from financial plans. Well I agree it is not financial plans, it's the investments that people can be ruined in.

You're going to catch all of us out on whether we don't understand you sufficiently to buy your solution and get you where you need to go in the tolerance levels that you want. And it all comes back to the investment.

Participants also noted that actual malfeasance is far more likely to occur in the area of investment than in financial planning, because that is where the greatest opportunities lie for someone who wishes to use the client's resources for their own personal gain.

And I think there would be very few people who would say – let me do an entire financial plan for you because all I really want to do is put you in the wrong investment because that's an enormous amount of work to your point to do a very small ... I wouldn't bother. You just need to say – give me your money; I've got a great new investment.

The financial planner probably has too much work to rip people off. Criminals would probably rather just do the investment side and then they're right in on the money.

Disclosure of conflicts of interest and remuneration

All the financial planners/advisors in this research agreed that there is certain information that they disclose to clients as a rule. The key areas of disclosure that are universally agreed on are: the risks involved in investment – both in general, and with respect to certain kinds of investments; potential conflicts of interest, such as advising the acquisition of in-house products that will earn money for the planner/advisor's firm; and how the planner/advisor is remunerated, especially when a portion of the remuneration comes from investment management.

If you were selling something that was your in-house product, you'd have to disclose that and how you're compensated and so on.

But within the documentation that we have a client there's an awful lot that we point out, such as our managers get paid, markets are unstable. People may have a duo designation. They may be able to sell insurance as well as sell you investments and people should know that in case you're talking to them about insurance.

There are some specific investments that when we talk about them that we have to disclose.

Not, really but as a financial planner but only when you sell mutual funds you have to give them the whole, I think there's six steps that you must perform.

While some of these disclosures are required of anyone who holds a brokerage licence, some financial planners/advisors disclose more than they are legally required to because they feel it is the "honourable" or "professional" way to conduct business.

We do it because it's a professional sort of thing to do. We were doing this before. We just did it kind of thing because it's the sort of professional way of approaching things.

I think as a minimum it's honourable to disclose and that's why I think we do it in our letter of engagement and I do it before I even meet the people in my fee schedule which is in my brochure.

Others noted that those who are currently members of the existing professional organisations that do provide certification are required by their organization's professional code of ethics to make full disclosures in specific areas.

Well, as a CFP, if you think it's on the honours of the CFP, you have to tell them how you're compensated.

If you are taking somebody on and you're a member of the CFP, you're a CFP, and you've been doing financial planning work for an individual, you must disclose.

A few, however, wondered whether detailed disclosure was appropriate in all cases, especially when the issue is relatively minor and they are concerned that they may be providing their clients with more information than they can assimilate.

I don't do any GIC business but GICs you can get paid for and whether you get 1/16 of a point or 1/32, when does it become material from a client's standpoint? And when are you overloading them?

Complaint mechanisms

Most financial planners/advisors work for banks or other large financial institutions that have a formal complaint resolution process in place, often with involving a special division or ombudsman whose function it is to handle complaints. Others work for companies where complaints are referred to a manager for resolution.

In our company if it is a complaint, you're out of it and it's got to be handed over to compliance. And I think that's true, and in fact in some offices I've been in, only one person is allowed to open the mail to make sure that they're aren't any complaints.

Basically we refer to the manager first. And then they can go on upwards all the way to the ombudsman.

Well on our statements there's the name of the investment advisor and there's the name of the manager, with a phone number. So if they're not happy with how you deal with them they can phone the manager directly.

Some participants observed that complaints are more likely by far to deal with activity related to investments, rather than financial planning, and that there are several organizations whose mandate involves companies or individuals whose business is trading, underwriting or advising with respect to securities which play a role in complaints that relate directly to issues involving securities or investments.

There's a new NRD [National Registration Database] thing on the computer now that if there's a complaint you've got to register it and so that's it's immediately assigned, so they'll come in to audit us every two years.

I mean, I think the point is we're required on opening the account the opening documents, here's how to complain. Here's how a complaint happens. Our phone numbers are there. They can contact us. I think that most people are aware that there's an Ontario Securities Commission. They can phone the OSC.

The complaints are more on the investment side, never on the financial planning side.

Detailed Findings Part II: Clients of Financial Planners

The second group was conducted with participants who considered themselves to be clients of financial planners. The discussions focused on participants' understanding, experiences and relationships with the persons they considered their financial planners, however, in the course of the discussion it became clear that very few participants had formal professional/client relationships with a specific individual who served as their financial planner, and very few of the persons they considered to be their financial planners were primarily engaged in performing the functions of a professional financial planner. Many considered anyone who gave them advice on investment issues to be a financial planner – some also used the term advisor. Thus, the

information gathered on participants' relationships with the professionals they consider to be financial planners may not be relevant in considering the relationships that professional financial planners have with their clients.

Participants were also asked about their perspective on certification and regulation of the financial planning profession and on several associated topics, including disclosure of remuneration and conflict of interest, and complaint mechanisms.

Clients' understanding of the function of a financial planner

According to the Investor Education Fund, a non-profit organization funded by the Ontario Securities Commission, a financial planner is "an adviser who looks at your financial situation and builds a complete plan to help you reach your goals. The process may cover: financial planning, risk management, investment planning, tax planning, retirement planning, and estate planning."

People who identified themselves as clients of financial planners or advisors in this research did not, for the most part, demonstrate a clear awareness of what a financial planner is or what is involved in financial planning. Rather, they generally understand financial planners/advisors (most used the terms interchangeably) to be people who give them individually tailored advice about investments, and who generally also trade and manage investments on their behalf, or work for the same bank or firm that does handle their investments.

Is it just informing you what is out there, like what different products are out there and what you can make a good return on? Is that what a financial planner is supposed to do? (Client)

It's like they just give you advice and they say depending on your risk tolerance, these are the mutual funds you should be looking at. (Client)

I know of several different kinds of financial planners. There are those who will for a sum manage money for you so you don't lose money and you have to pay them a certain amount, a percentage of the amount of money that they manage every year. It's like a fee, a commission and whether they earn money or they don't, they're supposed to manage your money, take good care of it and don't lose it. Another kind of financial advisor is the kind that I have, a planner who buys and sells stocks. He works for a bank and buys and sells from a mutual; not a mutual fund, an RRSP. They are not mutual funds. There is another kind of financial planner that I can get from my corner bank who will sell me whatever the bank has. (Client)

They ask you what your goals are and then they determine your risk tolerance, you know, how to spread your risk around. I guess your age bracket helps determine that as well. Then I think it was a matter of opening up RRSPs and then just leaving it there. (Client)

A few participants also mentioned professionals who create for their clients more detailed financial plans that cover issues such as taxes, estates, wills, and insurance as well as investment matters, based on their specific needs, goals and circumstances, but for the most part, there was little awareness that a financial planner does more – or can do more – than advise them on investment strategies.

Well, there's the buying and selling of investments but also if you go to, I don't know if it's a fee-based or like an hourly rate kind of person who will sit with you and come up with a financial plan. It wouldn't necessarily be you should buy this specific stock or this specific mutual fund. It's also you need insurance, do you have a will or if you want to retire in 20 years. Yeah, estate planning or if you want to retire in 20 years, you have to save this much money; otherwise, you're going to be poor or destitute. (Client)

You sit there, you give them how much all your expenses are, how much your assets are, what you intend to spend your retirement doing and how much you think that's going to cost. They come up with a financial plan. (Client)

Clients' expectations of financial planners

Clients' expectations of financial planners/advisors can be said to fall into two general areas: the establishment of a professional relationship of trust, and a solid performance in investment returns. The way that these participants described their expectations underlined the fact that most see their planner/advisor as someone who is primarily dealing with investment issues.

The key expectations mentioned by participants include:

- The financial advisor/planner will be knowledgeable, both about the investment products available and about the process required to determine what products are right for each individual client.

Just make sure that they can provide good advice and they have good financial expertise. I think the trust is really important, building a good mutual relationship like that. (Client)

What we'd expect is a trust-based relationship because you're dealing with somebody's money, that they have excellent product knowledge in market trends so they can direct you according to what your goals might be. (Client)

- The financial advisor/planner is willing to determine the client's goals and preferences and advise or manage investments in accordance with the client's wishes and needs.

Be willing to discuss those goals with you, whatever your financial goals might be. (Client)

He or she must have an idea of your goals, what different financial products are out there and different companies, how much they follow-up with you whether it's every quarter or every year and why they chose the products that they're trying to sell. (Client)

- The financial advisor/planner will inform the client about financial products and investment issues, provide full information about levels of risk associated with various products, pay close attention to the client's level of risk tolerance, and respect that level in all advice and transactions.

The banks should explain the different kinds of products there are or whatever the institution. The financial planner should explain the different kinds of mutual funds, stocks, products and long and short-term risks. (Client)

This brings into the question of risk tolerance. How do you feel about risk? Do you like risk or don't like risk? How much money do you want to make? A planner should have some kind of expertise to be able to give you advice if you want it and should understand your goals. I like a planner who can offer me choices. (Client)

They will not sell you one with high risk if you say you're low risk. (Client)

- The financial advisor/planner will disclose to the client relevant issues having to do with remuneration and conflict of interest.

There is another one that I came up with that is if they do get paid a percentage or how that works. (Client)

I think it goes back to when you were talking about how they get paid. To make more disclosure about what their interests are so that you know what their interests are and if they're working in your best interest. (Client)

When they're selling you a product, you want to know to what extent they are working in their own best interest or in your best interest. (Client)

- The financial advisor/planner will generate for the client a better rate of return than the client would have generated if managing their own investments.

I would expect since I'm paying this person and they're an expert, the return that I get on the investments I make with them should be higher than what I would make on my own. (Client)

I just mainly want it for growth and to look down the road for retirement so I don't have to struggle when I get there. I know our pension is pretty good but I don't know 12 years down the road what's going to happen to it. Nobody knows if the government is going to

be around in 12 years like whether the government retirement is going to be around in 15 or 20 years down the road. (Client)

I've done a lot of stuff on my own so I just felt I wanted to see if someone, a professional, could get me better returns than I could on my own. That was the reason. (Client)

... we thought maybe we should look to somebody else's projections as opposed to our own. Just organizing our money to make sure we continued to invest, continue to have savings and we set money aside for the MBA. (Client)

- The financial advisor/planner will be available to the client for consultation as needed.

A financial planner should call you back if you make a telephone call and want to ask a question or should be available to talk for a few minutes. They're often pretty busy but they should talk to you. (Client)

Relationship with financial planner or advisor

Participants who identify themselves as clients of financial planners/advisors reported a range of different kinds of relationships with their advisors. In examining the relationships and experiences that the participants describe with their advisors, it is important to keep in mind that very few participants in this research have a formal business relationship with a professional financial planner whose primary service is the development of a comprehensive plan. Some have a business relationship with a bank, and receive information on investments from one or more investment specialists in their local branch via in-person consultations, and/or telephone or online banking. Some have a casual relationship with friends or associates who are investment professionals and who give them advice on managing their own portfolio of investments. Only one participant mentioned functions performed by their financial advisor that would be characteristic of the business activities of a financial planner.

I've been investing for about 15 years and most of it has been through a discount brokerage or through the bank but in the past few years I've had, I think she's officially a chartered financial planner but I'm not sure. She's with Investors Group and we did a thorough, she went through all my expenses and came up with how much I could actually save monthly. She did a financial plan and then we talked about insurance as well. You were asking about the different things that they sell too. I guess there's general financial planning and she does insurance and mutual funds. I don't think she specifically can do stocks so I would have to go through someone else at Investors Group to do stocks. I don't think she is licensed to do that for stocks. Then I know she talks about wills, estates and things like that but I don't know if she would be that involved in that. (Client)

Some participants appeared to have a formal or at least regular relationship with an advisor, generally an investment specialist with their bank, but occasionally a broker, either working with

an investment firm or independently – but their services did not extend beyond investment planning and some basic advice on savings strategies.

She did take care of the investments and she kind of focused not so much on long-term goals like retirement but more short-term. The forced saving plan; the monthly withdrawal into the RSP and things like that she really pushed for and she set things up. (Client)

I go to the same person every time. It's just at HSBC at Head Office so I'll go in and I'll book my appointments. I've been seeing the same person for I would say about three years. She's almost like my contact so when we did our mortgage, she didn't actually take care of it but she referred us to the person who would. (Client)

When I graduated from university decades ago, I was in debt \$15,000 or \$20,000 and I had to pay back a student loan so I had a negative net worth. I wanted to wind up with a positive net worth so I looked for somebody to help me invest my money. You know, we went through these same kinds of discussions that you do with a financial planner, the typical things so I had a rough plan to do it. Everybody does when you want to save up some money. (Client)

Others invest through their banks and may deal with any number of investment specialists over the course of their business relationship with that bank. Again, any financial planning is limited for the most part to investment strategies, and there is no continuity with one professional so that a relationship of trust can be established or the investment specialist can gain a full understanding of the client's needs, goals and tolerances.

I wanted something with a higher return so I just went to the manager and asked him if they had a financial planner or advisor. I don't know what the difference is. There are four different managers and depending on the day and their availability, you'll probably see all four different ones at different times. (Client)

I know that the group, it was at [an investment arm of a major bank], the one that I was referring to, they do make a plan. They make a bunch of charts and stuff. (Client)

I have a financial advisor but they work for the bank. When I place my calls, they are pretty good about calling me back and if I see something or have heard of a product that maybe they haven't called me about, then I take the initiative to give them a call. You get just a, it's one of those [bank customer service and trading service] where you just get whoever answers the phone, type of thing. You don't have anybody designated to your account. (Client)

Even when no formal relationship exists with a specific investment specialist or other banking employee, some participants attempt to maintain contact with one person that they view as "their" advisor.

In person and I want to see the same person every time so I book an appointment so I know that they have allocated a finite amount of time. (Client)

I'll phone the bank and try to get the same person but sometimes you know lack of time or due to the schedule, you get a different person. (Client)

Those who rely on friends on the industry for financial advice have the benefit of a relationship that may include both trust and a knowledge of what investments may be appropriate, but no financial planning is involved, and there is no recourse of any kind if any concerns arise about the appropriateness of the advice.

It's just a friend of mine who I went to university with. Then he branched off into working for Edward Jones Investments. Once in a while, if I ask him, he'll say about what most people are looking toward right now, at the time that we're speaking. He hasn't pushed anything and he hasn't taken the salesman approach because of our friendship. (Client)

He's been my friend for 45 years, but he hasn't been my financial planner that long. He's been my financial planner for 28 years. When I left university, about that time, he became a broker, well a financial analyst.... He is an engineer and became a financial analyst so he advises me on the buying and selling of stocks. (Client)

Those participants who have a professional relationship with an advisor or team of advisors maintain contact with their advisors in several ways. Some prefer face-to-face contact, while others may only meet in person on a regular basis in the initial phase of the relationship; later, they depend on phone and email for most if not all of their communications with their advisors.

It's been only a few years so at first, we met in person over several weeks and we did a lot of things with the plan and stuff. Now it's more, I haven't seen her in person since. I've called a few times and e-mailed a few times so that's it. (Client)

Basically, I just do all my banking through EasyLine so I just use their phone line to call in and say I want to purchase this much in an RSP. They advise me; well, they check what your risk tolerance is. (Client)

I just go with TD and I've got different, well four or five managers and whoever is available that day will go to see you. (Client)

Most participants did feel strongly that while their advisor might provide insight, information and suggestions well worth considering, the final decision about their investments was in their hands, and that if their advisor was also the person who performed the actual transactions, they expected their advisor to do what they told them to do, even if it went against their advice.

They're allowed to advise you of what you're supposed to do but you're the one who is going to give that command. (Client)

The questions that I answered they said okay, you're in medium, say it was. But because of what I knew for myself, what I had just researched myself, I know I have answered these questions but I do want something of a higher risk so I want to do this. They read their disclaimer or they read whatever you suggested but it's still my decision and I can put my money where I want. (Client)

Then he might make a suggestion but ultimately, of course, I make the decision myself, to do it or not to do it. Because it's a friend, I don't want any tension to arise if it wasn't the best decision. I take full responsibility for that. (Client)

Before deciding whether to act on specific advice from the planner/advisor, most participants said that they investigate the investments and products proposed, even if all they do is read the material provided by their advisor. They do feel that it is their responsibility to understand what has been suggested, and make an informed decision. A few mentioned that some people they know invest with more than one firm or individual, and compare the information they receive in order to make decisions. This is interesting in light of financial planners' concerns that their clients do not appear to read the materials they provide to clients.

I don't right that minute go and purchase whatever she said. Usually she'll give me some sort of literature and I'll read it over or she'll send me something, I'll read it over and then decide whether it's something I want to invest in. (Client)

I've never gone to another planner; however, my wife has two or three. She didn't put her money in one place. She's got more than one, two I guess in order to compare what they say which is also what her brother and her father did. (Client)

Assessments of financial planners and advisors

Most participants who consider themselves to be clients of financial planners or advisors appeared to be reasonably satisfied with their relationship with their advisors and with the advice and services provided. However, some did feel that their relationship with their financial planner/advisor did not meet their expectations, particularly in terms of the quality of the service provided.

I do think it's a case to an extent of you get what you pay for but no, I haven't found that my personal expectations have necessarily been met in terms of taking the time to explain all the products, their availability, that kind of thing. (Client)

Some participants felt that the planners/advisors they dealt with were more like "salesmen" than advisors – interested in them primarily when there was a product to be marketed and a profit or commission to be earned. There was concern among some that pushing a product might be more important to some planners/advisors than respecting the goals and wishes of a client.

Some of them fall into the same category as a regular sales person where there's a lot of interest to get your sale but after that, you never hear from them until you initiate the call or something's changed in your life. (Client)

Sometimes they do act like salesmen. Whatever they're pushing like if they want to push money market funds, depending on your risk, they'll say put your money in money market funds unless you are proactive and say I want a higher risk. (Client)

Some participants also felt that as small investors they did not receive as much attention from their planner/advisors as a larger investor would – that the investment professionals at their bank or brokerage did not make enough of a profit on their investments to merit proactive and personal attention.

You have to call them. It's not like they call you because you're not high on their list. You don't have \$10,000 to save and you don't have \$10,000 in your account to invest \$20,000. If you have say under \$5,000 it's like, I won't worry about him. He's not worth the problems or the risk. I'll worry about Joe Blow over there who's got \$20,000 to invest or whatever or say half a million. I'll go for the big accounts. (Client)

Choosing a financial planner or advisor

Not all participants have actually gone through the process of choosing a financial advisor – those who rely on the advice of friends have simply incorporated this element into their friendship over time, while those who deal with the investment specialists at their personal bank have added an additional service to the ones they already receive from their bank. In both of these situations, an existing relationship has expanded to include financial or investment advice.

He was a friend of mine. I just asked him a couple of times what to look into but it was also from a family of friends who suggested GICs and other investment vehicles. I have a bunch of those and I would go to him afterwards and say what do I do after the five year term comes to an end? Do I reinvest it or what are some of the vehicles I could put it into? (Client)

I just walked in the bank and said I wanted better returns than the average savings account they could give me. (Client)

However, among those participants who have chosen a specific business relationship with a single individual, either a financial planner or an investment specialist that they considered a planner or advisor, the most common method for doing so was through referral or word-of-mouth from friends, family or colleagues.

It was probably through a mutual friend, somebody who had just gotten into it just like somebody who gets insurance and then can describe it. (Client)

It was a colleague who got a financial planner. She was very excited about her so she referred me to her. (Client)

Other participants mentioned that they felt the best way to find a good planner/advisor would be through referral, because that way they could ask about the planner/advisor's performance and business practices. Some added that if they were going to look for a planner/advisor, they would probably do so through referrals. It is interesting to note that a few of those participants who currently manage their investments through a bank without having a formal business relationship with a specific advisor/investment specialist were interested in seeking out a planner/advisor who was not affiliated with a bank.

I would actually like to see somebody independent like not associated with the bank but I would only do it through a referral. (Client)

I guess if I was looking for a planner you would probably want to have references to see if other people had a good rapport with this person. (Client)

The other thing is someone who gets their business from referrals from their existing customers so if you're my friend and you refer me to him, then I trust you that the person that is doing your investments is somebody who has worked well for you. (Client)

Others responded to promotions set up by the financial planner/advisor or their firm to attract new business. Rather than seek out a planner/advisor because they felt a need for advice, these participants were essentially offered the option of engaging a professional to provide this service, and decided to accept based on their sense of the planner/advisor's trustworthiness and expertise and their own need for the service. There was little indication that these participants "check out" the credentials of these professionals before entering into a business relationship with them, or that they would have known how to do so if they had wanted to.

Initially I went to a course they were giving at night school at a high school and it was over a period of a few weeks. After that, of course, they offered their services to you. Well, it was on investments, money management and different products like RRSPs and stuff like that so that's how they got me to take the course. It was free; it wasn't something that you had to pay for. (Client)

There was one day we were at a mall and there were a couple of people who were advertising their services. I approached a guy and the guy started telling me, started talking to me. I think it's based on a comfort level to just see how knowledgeable they are. (Client)

Some participants made a point of requesting information about the financial planner/advisor or investment team's business practices and performance before making a decision. Despite the indication given by the financial planners who participated in this research that disclosure is an accepted – and in some cases required – business practice, not all participants felt that the information they wanted was readily offered.

I asked what their return for their clients was. The person I was dealing with was pretty new so I wanted hers and I also wanted her supervisor's because he's the one who supervised all that she was doing. They were quite defensive about giving me that. (Client)

Regulation and certification

Most clients of financial planners/advisors are aware that the industry is not currently regulated in Ontario, and that there is no guarantee that a person who calls themselves a financial advisor has any particular expertise in that area.

Planners don't have to be regulated, right so anybody could put their name ... I could put my name, Jerry, Financial Planner and if you don't know me, you would think I know what I'm doing with your money. (Client)

You can be a chartered financial planner but I think you could still use the term financial planner even if you're not. (Client)

But if I say I'm a financial planner, I don't have to be regulated. I don't have to take any courses. (Client)

However, a few felt that this was not necessarily a convincing argument for certification and regulation of financial planners, since all such people can do is give advice unless they also have a stockbroker's licence.

But if you're just advising and saying you should buy this mutual fund or this stock, you're not selling that so you're advising them. The person would have to go to a stockbroker. There is no standard. It's just I'm telling you oh I heard of a good stock. Now it's your decision if you want to buy it or not. (Client)

Because all they're telling you is what they think. They say you should put this in this stock or mutual fund but at the end of the day, it's your decision where you put your money. (Client)

Some assumed that, even without any provincial regulation or certification, a person hired by a reputable investment firm or bank as a financial planner would have to meet a set of qualifications set by the company as the minimum requirement for hiring someone to the position.

The assumption is that if they've been hired by a reputable financial institution, organization or a bank, I am going with the assumption they would have to have qualifications. (Client)

At the same time, some participants were aware that some professional organisations do certify financial planners, set standards of qualification and require their members to follow a code of business practices – but that these standards can vary from organisation to organisation.

There are various levels of certification but I don't think there is a standard of certification. (Client)

You can be a certified planner but you don't have to be. There's nothing saying you have to do this. If you want to take that education, you just write some tests or something. (Client)

Some participants mentioned that they had known people who had engaged uncertified persons as financial advisors and had not received the quality of service they had expected.

I know of a couple of instances very close to my family where people took the advice of uncertified financial planners or just the personal advice of somebody who knew somebody who said they knew something and they got a pig in a poke. It wasn't what they thought. (Client)

Most participants did feel that financial planners should be provincially regulated and certified. For most, the fact that planners are often responsible for managing their clients' investments and giving advice that can have serious consequences for a client's lifestyle, is sufficient reason for requiring such action.

I'm a registered architect which is a profession in the Province of Ontario with legislation. I would expect my financial planner to have some kind of certificate or qualification as I do. It doesn't seem right. You probably all have some kind of qualification from a school or a certificate of some kind. Why wouldn't your financial planner have one? (Client)

They should because they're dealing with your money. (Client)

I know I'd feel more comfortable if they were standardized and certified because no matter how much you've got, if you've got \$1 million or if you've got \$5,000, to you it's a lot of money. You want to make sure that the person, him or her, is looking out for your best interests regardless of how much is in that portfolio. (Client)

I just agree that it would be good if they were. I think people need to be educated more but there also needs to be certain standards you have to live up to, to be able to call yourself a financial planner. (Client)

Some participants noted that anyone who is actually engaged in buying and selling stocks, mutual funds or other securities is already regulated by the province because they must have a licence to do any of these things. It should be noted that most participants do not really distinguish between financial planners, financial advisors and investment professionals.

If they want to buy and sell mutual funds or buy and sell stocks, you have to have a licence for those particularly. (Client)

I know there are a variety of levels of qualification and it's not standardized. A broker has a very precise level of qualification who's allowed to buy and sell stocks. (Client)

Complaint mechanism

Participants who consider themselves to be clients of financial planners or advisors are not, for the most part, aware of any specific mechanisms that currently exist for handling any complaints that consumers may have concerning the actions of financial planners, or any formal means of seeking recourse for any harm resulting from a financial planner's actions.

I don't think there's any legal recourse. (Client)

I don't know if they have an ombudsman or some sort of complaints department. I don't know if they'd do anything. (Client)

One of the positive consequences that participants felt would follow on provincial regulation and certification of financial planners was the establishment of a specific complaint process and a means of recourse for those who have legitimate complaints. However, it should be noted that because participants do not really differentiate between financial planners and investment professionals, most of the concerns they expressed about financial planners were issues that are already covered by the organisations who already respond to complaints about investment professionals, such as the Ontario Securities Commission.

This way you have recourse if you don't like what they've done. If you've got a bad planner and you're upset, you can always go somewhere and say well, so and so, I don't like what they're doing. It's the same with doctors or lawyers and stuff like that. (Client)

I didn't go to a financial planner for a long time because I didn't feel that they were safe. I couldn't tell if someone was good versus or not, they were good or not. On the news and stuff, I've heard stories of people who had brokers who just constantly turned their account just to get the commissions on them. I think that's something that you should be able to go to some sort of body and complain about. (Client)

Disclosure of conflicts of interest and remuneration

Participants felt strongly that full disclosure about remuneration issues and conflicts of interest arising from potential income from sales of investments and financial products is an important aspect of the relationship between financial planner/advisor and client.

Tell me how they get paid because some might get paid upfront, some might get paid a percentage so you know you should be aware of how much they're taking from you to make that advice to try to get the best return. (Client)

Most participants assumed that financial planners/advisors who also manage portfolios and sell investment products receive commissions from their sales; this assumption was often based on what participants perceived as typical, or even "high-pressure" sales tactics.

I think looking at the people at the banks, they are sales people. They say financial planner, mortgage broker or whatever but they're sales people. Well, I think they get commissions on the sales. (Client)

I know for some products they do get more commission on than others. If it's a new product that the big organization wants to push, they'll increase the incentive. You don't know when they're advising you for this product if it's really a good product or it just means they'll get more money. (Client)

My guess would be that they do given how aggressively they'll push their products sometimes so there's got to be a reason for that. (Client)

Some participants appeared to be somewhat cynical about the issue of remuneration, again assuming that the investment industry would naturally be set up in such a way that banks, brokerages and investment professionals would benefit financially from selling investments.

They corner the market and every different way they make the money. (Client)

The mutual fund does and the bank owns the mutual fund so they're making money somewhere. (Client)

Some participants, however, thought that planners/advisors employed by banks would be on salary, with at most a small commission when they sell certain financial products to the client.

Normally it's through the banks so it is salary.(Client)

The bank is salaried. I really don't know if they make an extra commission if they sell us a mutual fund or whatever. (Client)

It was thought by some that independent planners/advisors were more likely to make the largest part of their income on sales commissions.

I think depending if they're working for a bank, it would be their salary. If you're independent, I think it depends on which company you're selling a product for and you get your fees based on that.

Some participants appeared to be quite knowledgeable about the various ways in which planners/advisors who act primarily as investment professionals are paid for their services, including flat fees, commissions and percentages.

There are planners that charge a fee so they don't charge a commission on their sales so it's more a flat fee. Then there's I think buying mutual funds I'll get a front-end load or back-end load depending on how I purchase it. I guess you normally get the back-end load if you sell it. If you buy stocks, there maybe a commission. If you buy insurance, part of what you pay is a commission to the person you bought it through. (Client)

I'm aware of two different ways that it works, the one that I use and the one which my brother-in-law uses. In the case where I buy and sell stocks with a broker, he makes a commission on the amount of stock that's bought and sold. The second method is by a percentage of your total portfolio. (Client)

Clearly, most participants could benefit from information about how the investment professionals that they consider to be their financial planners/advisors are paid. Since the planners indicated that most of them do disclose this information, the key question is whether this information is being provided to clients in such a way that they understand both the various fees, commissions and percentages ("points") and the implications of these in terms of potential conflicts of interest.

Conclusions

The results of this research suggest that the financial planning industry in Canada has, in recent years, become significantly larger and more complex. Financial planners traditionally have prepared comprehensive plans covering investments, taxes, insurance, wills and estate planning among other elements, which the client then turned to other specialists to implement. Now, however, it is more often the case that professionals in these areas offer limited financial planning services to clients as part of their primary service. This has become particularly common among investment professionals.

A number of these professionals have been certified by various professional associations as financial planners, and others have the expertise and experience to perform all the varied tasks required to produce a comprehensive financial plan, but while they can prepare such plans, few of them function primarily as financial planners. Many are also licensed as insurance agents or dealers in

mutual fund stocks and other securities.

Most consumers associate financial planning with investments and retirement planning, and consider a financial planner to be anyone who provides them with some degree of financial advice, particularly with respect to investment choices, products or strategies. While some of the people identified by participants in this research as financial planners may well be certified as financial advisors and able to provide a comprehensive financial plan, the specifics of their relationships with their advisors tend to focus on investment planning and management.

The financial planners in this research indicated that they take care to disclose conflicts of interest, particularly where sales of stocks, bonds, GICs, mutual funds and other securities are concerned, and to provide clients with a fee schedule and information about other sources of remuneration for services provided. They also felt that clients were well informed concerning complaint mechanisms, both in-house and through organizations such as professional associations and the Ontario Securities Commission where appropriate. However, most consumers in this research were not always clear on the potential conflicts of interest or income sources, and did not think that they had access to avenues of complaint.

These findings tend to support those of other research indicating that Canadian consumers are not well-informed about financial products and services or about their rights as consumers in the financial marketplace. They also suggest that financial planners' efforts to educate their clients may be falling short of the goal, and that other educational efforts in this area may be needed.

With respect to certification and regulation, most participants, financial planners and consumers alike, are either in favour of this development or willing to accept it as something which may not be necessary, but will likely provide some benefits for consumers. It is not clear that certification would resolve the confusion of consumers between comprehensive financial planning and limited planning in support of investment management, but it will enable them to distinguish between professionals who are also financial planners and other professionals who are not qualified to provide a variety of financial planning services.

As well, while most financial planners feel that it is not at all common for persons to pose as financial planners with the intent of abusing their position of trust with their clients, provincial certification will also such individuals from using the status of financial planner to establish relationships with vulnerable clients.

APPENDIX – DISCUSSION AGENDAS

November 12, 2008

**Discussion Guide
EnviroNics Research
Attitudes towards Regulation of Financial Planners
Planners Session
PN 6392
Public Interest Advocacy Centre**

1.0 Introduction to Procedures (10 minutes)

Welcome to the group. We want to hear your opinions. Not what you think other people think – but what you think!

Feel free to agree or disagree. Even if you are just one person among ten that takes a certain point of view, you could represent many other people who feel the same way as you do.

You don't have to direct all your comments to me; you can exchange ideas and arguments with each other too.

You are being taped and observed to help me write my report.

I may take some notes during the group to remind myself of things also.

The host/hostess will pay you your incentives at the end of the session.

Let's go around the table so that each of you can tell us your name and a little bit about yourself, such as where you work as a financial planner and how long you have been doing it and how you would describe your practice.

2.0 Paired Exercise – Challenges for Financial Planners in Dealing with Clients (15 minutes)

As you know from the questions we asked you to recruit you to this session, we are going to be discussing some of the issues that you face as financial planners both in general and particularly with regard to your interaction with your clients.

I want you to work together in pairs and spend a few minutes with your partner and create a list of what you see as the biggest challenges you have to deal with in working with your clients. Once everyone has done that I want each team to report back to the group about what they came up with.

What are the main challenges you face as a financial planner in general?

What about challenges you face in dealing with your clients?

How do you try to deal with those challenges?

3.0 Accreditation/Certification of Planners (30 minutes)

Are each of you accredited or certified as financial planners in any way?

Why?

Why not?

Do you have to be to do your work?

Do you need any formal certification or accreditation to be a financial planner in Ontario?

Which organizations are you part of? **PROBE:** Advocis, FPSC, IAFP, any other financial planner designations like those in Quebec and other professional designations like CGA?

Is there a reason why you became a member of that particular [financial planner] organization?

Do those organizations have any standards you have to meet to be a member?

Is there a problem with financial planners not currently being a regulated profession in Ontario?

Why? Why not?

Are financial planners regulated as a profession in any other provinces? **PROBE:** Quebec, BC?

Should it be the same across Canada?

Do prospective clients ever want to know if you're certified or not?

Do you think that there is a problem right now with people "hanging out a shingle" and calling themselves "financial planners" who are not actually qualified in any way?

Is there any downside to requiring financial planners to be certified or regulated?

What about other forms of certification or professional accreditation do any of you have?

Does it make a difference to you if you have any sort of professional designation such as "CGA" or "CA" or "investment dealer" or "broker"?

What about insurance for errors and omissions?

4.0 Disclosure rules (20 minutes)

Right now, is there anything you are legally obliged to disclose to your clients?
What?

For example about how you are compensated, or about whether you personally benefit more from putting their money in some types of investments than in others?

Do there need to be more rules about what financial planners need to disclose to their clients? What?

Are there enough rules already?

What do you do with your clients in terms of disclosing how much risk is associated with some financial products compared to others?

Are there any requirements right now about what you are supposed to know about your clients and their personal or financial circumstances? In other words, what should they disclose to you?

How deep do you typically go in asking them questions about this? How deep are [you] obliged to go?

Do you think that the clients of financial planners need more financial education or education about consumer protection?

5.0 Dealing with Complaints (20 minutes)

How do you deal with complaints in your practice?

Have any of you ever had any? What happened?

Who do people complain to? Do you think they know where to complain to?

Overall do you think the system works or can it be improved?

Can you think of anything else that ought to be done to protect clients of financial planners?

Thanks for your participation!

November 11, 2008

**Discussion Guide
Environics Research
Attitudes towards Regulation of Financial Planners
Consumers
PN 6392
Public Interest Advocacy Centre**

1.0 Introduction to Procedures (10 minutes)

Welcome to the group. We want to hear your opinions. Not what you think other people think – but what you think!

Feel free to agree or disagree. Even if you are just one person among ten that takes a certain point of view, you could represent millions of Canadians who feel the same way as you do.

You don't have to direct all your comments to me; you can exchange ideas and arguments with each other too.

You are being taped and observed to help me write my report.

I may take some notes during the group to remind myself of things also.

The host/hostess will pay you your incentives at the end of the session.

Let's go around the table so that each of you can tell us your name and a little bit about yourself, such as what kind of work you do if you work outside the home and who lives with you in your house.

2.0 Paired Exercise – Expectations from a Financial Planner (15 minutes)

As you know from the questions we asked you to recruit you to this session, we are going to be discussing financial planners. I want you to work together in pairs and spend a few minutes with your partner and create a list of what your expectations are from a financial planner. Once everyone has done that I want each team to report back to the group about what they came up with.

What do you expect from a financial planner?

Do they live up to those expectations?

3.0 Reasons for Using a Financial Planner (15 minutes)

Can you each tell me something about how long you have had a financial planner and who your planner works for and what sort of services they offer you?

PROBE: Investment? (i.e.: stocks, bonds etc...), Estate Planning? Retirement Planning? Tax Planning? Other things?

What caused you to get one in the first place? What made you think you needed one?

What sort of financial advice were you looking for?

Do you get the advice and service you were looking for?

4.0 Choice of a Financial Planner (15 minutes)

How did you go about choosing a financial planner?

Was there a referral? If so, from whom?

PROBE: Referral from friends or family? Bank? Someone else?

Did you “shop around” at all for a planner? How so?

Did you check the planner’s references?

What about their qualifications? Did you check that at all?

5.0 Relationship with Financial Planner (20 minutes)

What sort of a relationship do you have with your financial planner?

PROBE: How often do you meet? Do you talk on the phone often? Exchange e-mails?

Do you tend to accept their advice most of the time or do you also do your own research or run their advice by other people you know?
Do you know how they get paid?

What sort of an arrangement do you have with your planner?

PROBE: Do you pay them a retainer? Are there management fees? Do they get a commission from the funds or products that they get you to buy?

Is there some other way in which your planner gets compensated?

Did you ever see any kind of a “disclosure document” that explains how they get paid?

Over the years has the kind of relationship that you have with your planner changed at all?

What sorts of products does your planner tend to recommend? Do they push certain kinds of products? Why do you think they do that?

Do they ever encourage you to buy any products that have higher risk or that involve higher fees?

6.0 Good and Bad Experiences, Complaints and Certification (20 minutes)

Have you ever switched planners? Why?

Have any of you had any particularly good or bad experiences with a financial planner?

What happened?

Did you lodge a complaint? Where would you complain to?

Have you heard any stories of people having really bad experiences with their planners?

As far as you know, is there any “consumer protection” in Ontario with regard to financial planners? Do you have any recourse?

As far as you know, do financial planners necessarily have any qualifications? Do they need to be certified? Do they need to be part of any organization?

Is it important to you that a financial planner that you retain has some sort of formal certification or that they are considered a regulated profession?

In what way are financial planners regulated by government?

Do you assume this to be the case or do you know this for a fact?

Are there any professional associations for planners that you have ever heard of? What are they?

Can you think of anything else that ought to be done to protect clients of financial planners?

Thanks for your participation!