

## **NOTICE OF PROPOSED MULTILATERAL INSTRUMENT 33-107**

### **PROFICIENCY REQUIREMENTS FOR REGISTRANTS HOLDING THEMSELVES OUT AS PROVIDING FINANCIAL PLANNING ADVICE**

The Canadian Securities Administrators ("CSA") are publishing for comment proposed Multilateral Instrument 33-107 – Proficiency Requirements for Registrants Holding Themselves out as Providing Financial Planning Advice.

The proposed Instrument is an initiative of all the CSA jurisdictions except Québec. The proposed Instrument is to be adopted as a rule in British Columbia, Alberta, Ontario and Nova Scotia, as a Commission regulation in Saskatchewan, and as a policy in some jurisdictions. The Manitoba and Newfoundland securities regulators have participated in this initiative and are treating this Notice as a concept proposal.

The proficiency requirements created by the proposed Instrument have been developed by a special CSA Committee sponsored by the CSA and the Joint Forum of Financial Market Regulators. The CSA Committee includes representatives drawn from government insurance regulators and insurance councils. This Notice, and any related communications from insurance regulators and councils, is intended to solicit comments from stakeholders in both the securities and insurance sectors. Any comments received will be reviewed by both securities and insurance regulators.

It is expected that the insurance regulator or insurance council of British Columbia, Saskatchewan and Ontario will recommend the adoption of an analogous regulation, by-law, or other instrument. The Alberta, Manitoba, New Brunswick, Prince Edward Island, Nova Scotia and Newfoundland insurance regulators have expressed an interest in reviewing the results of the comment process.

For ease of reference, the regulatory initiative that has culminated in the publication of the Instrument for comment is referred to in this Notice as a "CSA" or "national" initiative. However, it has not been necessary for the Québec securities and insurance regulators to participate directly in this initiative. A comprehensive regulatory regime governing financial planning came into effect in Québec on October 1, 1999, as part of a larger regime governing professions in the province.<sup>1</sup>

Comment is requested both on the proposed Instrument and on the proposed application of similar requirements to licensed life insurance agents as described below.

---

<sup>1</sup> The Commission des valeurs mobilières du Québec has been involved in this initiative as an observer, and expects that self-regulatory organizations will not duplicate the examination requirement on a national basis, thereby creating two separate examination requirements for employees of members of these organizations in Québec.

## **Substance and Purpose of the Proposed Instrument**

### ***A. Scope of Rule***

The proposed Instrument will apply to individuals and firms registered to trade or advise under securities laws. The Instrument will require individual registrants who hold themselves out under a variety of titles specified in the Instrument to satisfy an objectively determined proficiency standard. When used by securities registrants, these titles convey the impression that financial planning or similar advice is offered.

As an anti-avoidance measure, registered firms that use the restricted titles as business names or use a restricted service description will be required to provide those advertised services, and to provide them through individuals who meet the proficiency standard.

It is proposed that the same restrictions will apply to titles and service descriptions used by licensed insurance agents and agencies.

### ***B. Proficiency Standard***

The proficiency standard created by the Instrument will be:

- passing the Financial Planning Proficiency Examination (the "FPPE") now being developed by the CSA and insurance regulators
- two years of insurance or securities industry experience in the last five years
- commitment to an approved continuing education program

The FPPE will be identical for both securities registrants and insurance licensees and will be administered on a national basis.

### ***C. Transitional Grandfathering Relief***

Individuals who have completed one of the financial planning education programs or testing processes specified in the Instrument or who enroll in a specified program before the effective date of the Instrument and complete it within two years of the effective date will not need to write the FPPE.

This transitional relief will expire three years after the Instrument's effective date.

### ***D. Notice***

Registrants planning to offer financial planning and similar advice will be required to notify any applicable regulator in advance that they have satisfied the proficiency standard.

***E. Equivalency***

On an ongoing basis, regulators will have the discretion to recognize proficiency attainments as equivalent to the various elements of the CSA proficiency standard.

***F. Impact on Existing Registrants and Licensees***

The CSA wish to emphasize that the proposed Instrument will have no effect on the ability of registered dealers to act on behalf of their clients in buying or selling securities in which they are registered to trade. Similarly, the analogous insurance provisions will not prevent licensed insurance agents from selling insurance products.

However, this national initiative will restrict the use of titles by individuals that are licensed or registered to sell financial products that would convey to customers the impression that objective, comprehensive, integrated financial advice tailored to their present and future financial circumstances is being offered. These registrants and licensees will not be able to hold themselves out to the public using these titles unless they have demonstrated their competence to provide the type of advice suggested by the titles. By the same token, registered firms will not be able to hold themselves out under the equivalent business titles unless the financial planning or similar advice is provided to customers by qualified individual registrants and licensees.

***G. Industry Participation***

The concern that any person, regardless of demonstrated proficiency, is entitled to market financial planning and similar advice has been raised with the CSA by industry organizations, including The Investment Funds Institute of Canada ("IFIC"), the Investment Dealers Association of Canada ("IDA"), the Canadian Association of Insurance and Financial Advisers ("CAIFA") and the Canadian Bankers Association ("CBA"). It has been raised as well by a large number of individuals who have made a considerable personal investment of time and resources in preparing themselves to provide competent financial planning services.

The industry associations named above and certain industry educators are assisting the CSA in developing the FPPE, and making joint recommendations as to continuing education requirements and governance structure options as described under "Background of the Proposed Instrument". These organizations have not participated in other aspects of the CSA initiative.

**Summary of the Proposed Instrument**

***A. Restrictions and Proficiency Requirements***

Part 1 identifies the restricted titles and service descriptions. It also states the three elements of the proficiency standard.

### ***1. Restricted Titles and Service Descriptions***

The Instrument uses a "title-based" or "holding out" approach to identify the registrants required to meet the Instrument's proficiency standards. Subsection 1.1(1) states that an individual registrant is not permitted to hold himself or herself out under one of a variety of titles, or as providing similarly-described services, unless certain proficiency requirements have been satisfied. The proficiency requirements also apply to a person providing a client with a document referred to as a financial plan.

In addition to the title of "financial planner", paragraph 1.1(1)(a) identifies a number of other titles which the CSA consider to connote the kind of objective, comprehensive, integrated advice that consumers associate with the expression "financial planning". The restricted titles and service descriptions are identified by whether or not they contain words selected from two word pools, one a pool of "subject" words, the other a pool of "activity" words.

Any title or service that includes the word "planner" is restricted. This special treatment of the word "planner" reflects the fact that the use of the term "financial planner" has become so widespread, most notably in connection with the sale of life insurance and mutual funds, that the word "planner" has taken on an enhanced significance beyond that of other "advisory" words in a financial services context. As a result, even if used in combination with the name of a type of product such as "mutual fund", "securities" or "insurance", the term "planner" would be associated by a consumer with a broader spectrum of advice than would a simple sales recommendation. In other words, the overlap between the word "planner" and the idea of integrated financial advice is sufficiently high that even adding a product specific word to a business title would not rebut a customer's natural presumption that objective, comprehensive financial advice was offered.

The CSA are also concerned that if the Instrument were to specifically permit the use of titles such as "insurance planner" and "mutual fund planner", registrants and licensees who are currently self-designated "financial planners" would be able to adopt those titles and continue to offer the same type of advice to their clients as before. Since the Instrument is title-based, not activity-based, these registrants would be able to continue to offer broad advice going beyond a product recommendation, without satisfying the new proficiency standard. The likelihood that an investor would find product-related advice to be indistinguishable from financial planning advice would be greater in the case of a dually licensed "insurance/mutual fund planner", whose advice could be, by virtue of the products recommended alone, broad in scope.

Under the proposed Instrument, the FPPE requirement could be triggered if a registrant used a business title that included the word "planner" in relation to a non-financial business activity. With a few specific exceptions, including the sale of life insurance, registrants are required under most securities laws to be engaged full-time in their registered activities. The CSA consider it to be unlikely that a registrant would be carrying on, for example, an urban planning business and

also have an unpublicized side business of selling financial products under that title. Accordingly, the draft does not provide for this theoretical possibility.

## **2. Proficiency Requirements**

### **a. Examination**

The cornerstone of the proficiency requirements is the FPPE referred to in paragraph 1.1(1)(c). The FPPE is being developed by the CSA in consultation with measurement experts and a group of industry educational specialists. This process is described in detail under "Background of the Proposed Instrument" below.

### **b. Experience and Supervision**

Paragraph 1.1(1)(d) requires industry experience, in the form of two years of registration or licensing within the five-year period preceding the date on which the registrant files the notice required by Part 3. Because the timing of the industry experience period is not tied to the date the examination is written, registrants can choose to write the FPPE before, after or during the two-year experience period. Both the examination and the experience requirements must be satisfied, however, before the registrant can file the notice and begin to hold himself or herself out as offering financial planning or similar advice.

Consideration was given to a supervised experience requirement. Given the fundamental differences in the supervisory structures imposed by regulators on the insurance and securities sectors, the CSA concluded that developing a harmonized supervision requirement applicable to both insurance licensees and securities registrants would have policy and legislative implications beyond the scope of this project. The CSA rely on the fact that the supervisory regimes currently applicable to registered or licensed individuals and firms under relevant legislation or by-laws of self-regulatory organizations will include their financial planning and similar activities, once these become subject to regulation.

Potential harmonization of industry supervisory structures and regulatory supervisory models is a larger question currently under consideration by securities and insurance regulators. Some of the related issues are discussed in the position paper published in August 1999 by the CSA Distribution Structures Committee ((Aug. 27, 1999) 22 OSCB 5258).

### **c. Continuing Education**

Paragraph 1.1(1)(e) requires a commitment to a continuing education program approved by the regulator. In exercising its discretion, the CSA expect to rely on a harmonized standard developed by industry associations that will integrate financial planning topics and hours of study with the continuing education requirements already applicable to registrants and licensees.

## **3. Restrictions on Firms**

Subsections 1.1(2), (3) and (4) are anti-avoidance provisions. They restrict the way registered firms may hold out themselves or their individual employees and agents to the public.

Subsection 1.1(2) provides that where a firm holds out its employees or agents using any of the titles whose use is restricted for individual registrants, or provides a document referred to as a financial plan to a customer, the individual who deals with the customer must satisfy the proficiency standard.

Subsection 1.1(3) provides that a firm cannot hold itself out as a financial planning firm, or use a similar expression, unless it provides the services described by the title. Subsection 1.1(2) then operates to require that those services be provided by an individual who satisfies the proficiency standard. Consideration was given to specifying a minimum number of qualified individuals as a condition of a firm holding itself out under one of the restricted titles. However, the CSA concluded that as long as the firm's interface with the client must always be through a qualified person, the client's interests are protected. It is the responsibility of the firm to determine the number of qualified employees and agents needed to meet this requirement. The inefficiencies associated with bright-line tests of this sort are thus avoided.

Subsection 1.1(4) states that a firm cannot hold itself out as providing financial planning services, unless those services are provided directly to the customer by an individual who satisfies the proficiency standards of the Instrument.

## ***B. Exemptions***

Part 2 contains three exemption provisions.

### ***1. Grandfathering Exemptions***

Subsection 2.1(1) sets out specific grandfathering exemptions from the requirement to pass the FPPE for individuals who have passed certain examinations that test financial planning expertise. The grandfathering exemptions are based on a review by the CSA of certain programs provided by the industry associations and the content of their courses and examinations. The CSA were assisted in this review by an analysis of the course content by Brendan Wood International ("BWI"). The grandfathering exemptions include persons enrolled in multi-year programs, who will have two years after the Instrument comes into effect to complete their programs.

The proposed grandfathering exemptions are transitional provisions only. They reflect a balance between fairness to those persons who have previously completed a program that tests financial planning expertise and the public interest in ensuring a uniform, national proficiency standard. The grandfathering criteria are not intended to imply that the CSA consider that the listed examinations are equivalent to the FPPE. Grandfathering relief is provided from the FPPE only. The experience and continuing education requirements will apply to all.

The CSA have chosen to base grandfathering relief for individuals on completion of examinations and courses of study rather than letter designations and accreditations, focussing on the fact that a grandfathered individual has voluntarily submitted his or her financial planning knowledge to an objective testing process. A designation is included in the grandfathering criteria only where the designation implies a testing procedure over and above a required course of study otherwise identified as a grandfathering criterion.

Because the grandfathering criteria are testing-based rather than designation-based, subsection 2.1(1) would not grandfather individuals who have received a designation without having passed a proficiency examination through any other grandfathering process. Any such individual will be required to meet the FPPE requirement. This approach responds to concerns expressed by various stakeholders as to the grandfathering processes underlying particular designations and accreditations of financial planning expertise.

Under subsection 2.1(2) the grandfathering exemptions are only available to a registrant who files the required notice within three years after the Instrument comes into effect. Thus, an individual who is enrolled in a grandfathered course of study as of the Instrument's effective date will have two years to complete the course and one year thereafter to file the notice. An individual who has already completed a grandfathered course of study will have three years to take advantage of grandfathering relief. The three year limitation addresses the problem of "stale grandfathers", *i.e.*, individuals who decide to become registrants providing financial planning advice long after the Instrument comes into effect.

## ***2. Discretionary Equivalency Exemption***

Section 2.2 authorizes the regulator to provide an exemption from any part of the proficiency requirements to an individual who has equivalent qualifications. It is intended that discretionary exemptions will be available in limited situations, based on the general premise that everyone will be required to pass the FPPE unless grandfathered. An applicant under section 2.2 for an exemption from the FPPE would have to demonstrate submission to a testing process of equivalent rigour and content to the FPPE. For example, an exemption under section 2.2 from the experience requirement might be available to someone who had experience as a fee for service financial planner without having been a registrant, but that individual would still be required to pass the FPPE unless he or she could demonstrate equivalent educational attainments.

## ***3. Limited Exemption for Portfolio Managers***

Section 2.3 provides that registrants in the category of portfolio manager, some of whom have traditionally described their discretionary portfolio management services using terms such as "wealth management" or "asset management", are not required to meet the financial planning proficiency standard in order to continue to use these titles.

This exemption for certain restricted titles is not available to registrants other than those registered in the portfolio manager category. In the CSA's view, the restricted titles, when used by individuals registered to trade, dealers or registrants in other advisory categories, would imply financial planning or related advice.

The section 2.3 exemption is available only to registered portfolio managers that restrict their activities to discretionary portfolio management. The proficiency requirements apply to registered portfolio managers that also engage in trading or financial planning activities. While the proficiency standards applicable to portfolio managers under securities law are a rigorous test of depth of knowledge, they do not test the breadth of knowledge to the extent intended for the FPPE.

### ***C. Notice***

Part 3 requires registrants to notify the applicable regulator in a prescribed form of their intention to rely on the Instrument.

Subsection 3.1(1) requires that a registrant file a notice with the applicable regulator before holding himself, herself or itself out under one of the restricted titles or offering one of the restricted services.

Paragraph 3.1(1)(b) requires that the notice be accompanied by evidence that an individual has satisfied the examination or a grandfathering requirement. It also must be accompanied by evidence of satisfaction of the experience requirement if the notice is sent to a different regulatory authority than that of previous registration or licensing.

Paragraph 3.1(1)(c) requires the notice to include an undertaking by the registrant to be subject to an approved continuing education regime, unless the registrant already is subject to one.

For administrative convenience, under subsection 3.1(2) a registrant relying on a grandfathering exemption is not required to file the notice until the next due date for payment of the registration fee.

### ***D. Effective Date***

Part 4 states the effective date of the Instrument.

The effective date of the Instrument will coincide with the earliest date by which the FPPE can be implemented operationally. The CSA are tentatively targeting early 2001.



## **Background of the Proposed Instrument**

### ***A. General***

#### ***1. Financial Planning and Similar Advice***

The value of assets in the hands of retail investors available for investment has grown significantly during the last couple of decades. This is expected to continue over the next decade. At the same time the number of firms and individuals purporting to provide general financial advice to individuals is also increasing to meet, and to an extent create, the demand for financial advice.

"Financial planning" is a term widely used for this type of advice. Financial planning advice is generally understood by consumers to be focussed on retirement, taking a client's overall financial situation into account. The goal of a financial plan often is to achieve a certain income stream, particularly following retirement.

Individuals providing financial planning and similar advice are at present self-styled and self-educated from a regulatory point of view. There are a wide variety of letter designations and accreditations that attest to financial planning proficiency available from course providers, trade organizations, professional associations and the Financial Planners Standards Council ("FPSC"), an umbrella organization comprising course providers, trade organizations and professional associations. Despite the efforts of the FPSC, none of these designations or accreditations is generally accepted as pre-eminent, and there are no practical restrictions on the use of terms such as "financial planner" or "financial consultant".

The majority of self-styled "financial planners" are registered as salespersons of mutual fund dealers or licensed as life insurance agents, and are primarily remunerated by the sale of the products purchased to implement the plan. The CSA anticipate that an increasing proportion of "financial planners" will be employees of financial institutions, such as banks and credit unions, and of full service dealers. Other persons referring to themselves as financial planners, or by terms having a similar connotation, include employees of registered advisers and a small number of non-registrants providing financial planning services solely on a fee for service basis.

Many firms see financial planning as a way to attract and retain customers, and to increase assets under management, their range of services and related revenues. For example, banks and investment dealers are emphasizing financial planning as a strategy to increase fees to offset falling commissions. The insurance sector is moving in a similar direction to augment traditional offerings of insurance. It is anticipated that discount brokers and Internet trading firms will offer financial planning services to tap a broader market segment than they now serve.

Current proficiency requirements applicable to registered dealers and salespersons, as well as licensed insurance agents, focus on the particular products they are permitted to sell, not the overall quality of advice delivered by the registrant or licensee to his or her customers.

## **2. *Regulatory Concerns***

It is recognized that a large portion of the investing public view financial planning activities, on the one hand, and the provision of advice regarding securities and insurance transactions, on the other hand, as the same discipline. Many investors do not recognize that objective, integrated, comprehensive financial planning advice involves many considerations beyond those which are involved in a determination of the suitability of trade in a particular security for an investor. The CSA are also aware that a portion of the investing public mistakenly believes that registration under securities laws or licensing under insurance laws means the registrant or licensee is qualified to advise regarding all matters of financial planning.

Misconceptions may expose the investing public to potential harm from registrants or licensees that are not proficient in all aspects of financial planning. The investor may place undue reliance on the advisor's legal authority to trade in securities or insurance products and, consequently, may not fully investigate the registrant's financial planning credentials. Even after investigation, an investor may not be in a position to critically evaluate financial planning credentials. Either of these situations may result in improper advice. Investors may mistakenly believe that the advice they are receiving regarding securities transactions or the purchase of an insurance product is comprehensive financial planning advice when it is not. This may result in incomplete advice.

The CSA recognize that incomplete or incompetent financial planning advice provided by registrants exposes investors to unnecessary losses. The close relationship between financial advice and implementation of the advice by the purchase of financial products could then result in a negative impact on the integrity of securities markets. The proposed Instrument will help to ensure investors are not relying on a registration or licensing process to do something it was not designed to do. It will minimize the impact that improper or incomplete advice has on the integrity of financial markets.

Consumer protection regulation in the financial services sector recognizes the potential for abuse inherent in the commercial element of the relationship between financial services businesses and their customers. An increased emphasis by the financial services sector on providing advice does not change the nature of that relationship, but rather enhances the likelihood that customers will rely on the expected transparency, objectivity and competence of the advice offered.

The principal goal of the proposed Instrument is to protect the public from seeking comprehensive financial planning advice from persons who are unqualified to provide it. Where a registrant attempts to provide such advice despite lacking qualifications to do so, a client can be harmed by such things as a lack of understanding by the planner of the tax implications of various types of investments to the client's situation, a lack of understanding of estate planning implications, or the planner's knowledge being limited only to one type of investment such as mutual funds.

Where a registrant markets itself as a financial planner solely to bring customers in the door for potential product sales, it is misleading customers who are genuinely seeking and need more comprehensive advice. This CSA initiative is focused on ensuring an adequate level of proficiency for financial planning and similar advice. The CSA recognize that meeting the proficiency standard does not necessarily mean that a particular registrant will apply that knowledge advising clients. However, it is anticipated that registrants and licensees who have made the effort to achieve an acceptable proficiency level in financial planning will be motivated to actually provide proper financial planning services.

### ***3. Applicability to Both Insurance and Securities Sectors***

When the CSA Committee on Financial Planning was constituted by the securities regulatory authorities, it soon became evident that the concerns being addressed were shared by the Canadian insurance regulators. Due to the large, and increasing, number of affected persons who sold insurance products as well as securities, decisions taken by the CSA Committee would impact on agents who were separately regulated in respect of their insurance activities. At the same time, insurance agents who were not dually registered under securities law would remain unregulated in respect of their financial planning services.

Were the insurance regulators to address their own concerns through a different approach than that taken by the securities regulators, an overly complex and expensive overlay of regulatory systems could result. Greater public confusion could follow from persons holding themselves out as financial planners being subject to one of three overall regulatory regimes, depending on whether they were securities registrants, insurance licensees or both.

As an area which, outside *Québec*, had generally not been regulated at all<sup>2</sup>, financial planning presented an opportunity for insurance and securities regulators to work together not just in creating a regulatory system generally harmonized on a national basis, but also one harmonized among traditional industry sectors. The CSA decided that financial planning would best be addressed through a functional approach.

As a result, the membership of the CSA Committee was expanded to include any interested insurance regulators and insurance councils. All subcommittees of the Committee similarly have included both securities and insurance representatives. In addition, each jurisdiction having both securities and insurance representatives on the CSA Committee worked toward the goal of simultaneous adoption of a regulation, rule or policy in respect of both securities registrants and insurance licensees in the jurisdiction.

The publication of this Notice and accompanying Instrument through the usual securities publication procedure is intended to elicit public comment regarding the proposed proficiency regime directed towards securities regulators and insurance regulators. Any comments received

---

<sup>2</sup> In British Columbia, Local Policy Statement 3-22, among other things, imposes restrictions on salespersons who intend to hold themselves out as “financial planners”.

will be reviewed by both securities and insurance representatives on the CSA Committee on Financial Planning.

#### **4. *Future Rule-Making***

The principal regulatory concerns of securities regulators regarding general financial advice, including financial planning services, are proficiency, conflicts of interest driving self-interested transactions, and transparency of fees and costs for the advice. Going forward, securities regulators plan to examine the applicability of the present product-centred regulatory model under provincial securities laws to the advice delivered incidental to the sale of a product in the context of recent industry developments, including financial planning. This inquiry would include conflicts of interest, disclosure requirements and the advisory activities of those now relying on an exemption from adviser registration requirements under securities law. The most effective regulatory instrument to achieve any reforms proposed will also be considered. Insurance regulators have not at present committed themselves to participating in these next stages of the project.

#### **B. *Development of the FPPE***

##### **1. *The FPPE as a Proficiency Filter***

The CSA have concluded that it is not necessary to make a detailed assessment of courses or the competing merits of various designations in order to protect investors. Instead, the CSA have chosen to focus their proficiency standard on the FPPE, a uniform examination sponsored by the regulators that will apply across the entire financial services sector.

The FPPE will act as a proficiency filter independent of any accreditation body or course provider. In dealing with any registrant or licensee using the title "financial planner" or a similar title, or in receiving from them a "financial plan", an investor will have the comfort of knowing that the individual serving him or her has met a rigorous uniform proficiency standard. The FPPE is intended to remove from the investor the burden of assessing whether a registered or licensed adviser's proficiency is at an adequate level.

Although the FPSC had a similar objective in developing its Certified Financial Planner ("CFP") examination, after an exhaustive series of meetings with the members and former members of the FPSC it became clear to the CSA that the many divisive issues would preclude it from accomplishing this objective in a reasonable time frame (see "Alternatives Considered" below). The CSA is following a more transparent, consensual process, in which accepted procedures in the measurement profession are applied by a group of experts representing the principal industry course providers and a specialist in measurement evaluation.

Most financial planning advice will be directly or indirectly generated by, and benefit, the main institutional product vendors – mutual funds, banks, insurance companies and full service dealers. The CSA recognize that the organizations representing these institutions are in the best

position financially and operationally to support work towards a proficiency standard for financial planning and similar advice that extends across the financial services sector. These organizations have educational arms with a high degree of expertise in developing courses in the financial planning area.

An industry group consisting of the chief executive officers of CAIFA, the CBA, IFIC and the IDA have worked closely with consultants retained by the CSA in providing resources for developing the FPPE. The role of the industry group in respect of the content of the Instrument and this Notice was advisory only. A consensus was not reached on every aspect of the regime.

## 2. *Content Domains*

The CSA recognize that the key to successful implementation of the proposed Instrument is a rigorous examination developed through recognized analytic techniques. As an initial step in developing the FPPE, the CSA retained BWI to create a blueprint for test development with the assistance of the participating industry organizations and their educational experts.

BWI pooled the results of research that had already been conducted on behalf of the industry organizations participating in the development of the FPPE as to appropriate topics and proficiency levels for providers of financial planning advice to consumers. BWI divided the content into eight broad content domains: investment, retirement planning, estate planning, risk management and insurance, taxation, law and ethics, financial planning process, and fundamentals. It then developed test specifications that include the topics falling under each domain and their inter-relationship. BWI consulted the industry organizations for their preferences for how much weight to give to each content domain and their priorities for content mastery of each domain at the levels of knowledge, understanding, application, analysis and synthesis.

<b>Weights for Sampling of Domains by Level of Mastery (from BWI Report for CSA)</b>						
<i>(% exam score)</i>						
<b>Best Initial Weights</b>	<b>Levels of Mastery</b>					
<b>Domain-Level Weights</b>	Knowledge	Understanding	Application	Analysis	Synthesis	Domain weight
INVESTMENT	1.8	3.0	4.7	6.2	4.9	20.6
RETIREMENT	1.3	2.2	3.4	4.5	3.6	15.0
ESTATE	1.0	1.7	2.6	3.5	2.8	11.5
RISK MGMT & INSURANCE	1.1	1.9	3.2	3.7	3.1	13.0
TAXATION	2.5	3.2	2.9	1.9	1.0	11.5
LAW & ETHICS	2.1	2.6	2.0	1.5	0.7	8.9
FINANCIAL PLANNING PROCESS	0.9	1.5	2.3	2.4	3.0	10.0
FUNDAMENTALS	2.3	2.7	2.3	1.4	0.7	9.4
<b>TOTAL</b>	<b>13.0</b>	<b>18.6</b>	<b>23.4</b>	<b>25.1</b>	<b>19.9</b>	<b>100.0</b>

BWI identified the content that falls under each domain heading by reviewing the curriculum outlines used by the industry organizations and the content of their examinations currently in use, as well as obtaining feedback from them.

BWI found a high level of agreement, both in the definition of content domains and in their apparent emphasis.

The FPPE will be created through domain sampling, in which a sample of topics within each of the eight domains is tested on each examination, although particular core topics, if any, would be covered in every FPPE. A proficient financial planner would be required to achieve a particular level of mastery of the various domains. No two examinations would necessarily have the same items, but the various examinations are intended to have a comparable number of items from each domain. The notion of domain sampling presumes that an examinee will learn a broad content area and not be able to pass the FPPE solely by taking a cram course directed toward a particular examination.

## Sub-topics for the Eight Content Domains (from BWI Report for CSA)

### 1. Investment

Types of Instruments  
Structure/risk of packaged products  
Investment strategies  
Evaluation and analysis of products  
Economics and Economic Analysis  
Investment Objectives  
Portfolio Management & theory  
Taxation and investment choice  
Insurance Products  
Accounting  
Wills & Estates  
Borrowing to invest  
Hedging & option strategies  
Real Estate

### 2. Retirement Planning

Intro to Retirement Planning and Annuities  
CPP/QPP and other govt. benefits  
Retirement/pension plans - Public/private  
Taxation and retirement  
Economics of retirement  
Retirement investment planning  
Post-retirement investment strategies  
Insurance strategies

### 3. Estate Planning

Taxation and Death  
Family relationships-support obligations  
Intestacy and Probate  
Estate planning process  
Law: Wills, Estates, Family property  
Living Wills / Power of Attorney  
Insurance strategies  
Trusts -Testamentary/Inter-vivos  
Fiscal implications of death  
Estate planning-special situations  
Estate Planning for Small Business

### 4. Risk Mgmt & Insurance

Risk and types of insurance  
Risk – Disability, Death  
Risk – Property Loss, Liability, General  
History, Economics & Regulation  
Insurance Product Knowledge  
Mortgage insurance  
Individual & Pooled Products  
Health & Long-term care  
Contract, Guaranties clauses  
Investment purposes  
Law of insurance  
Taxation of insurance  
Small-business/Self-employed coverage

### 5. Taxation

Basic Taxation -individual/corps  
Revenue  
Tax Planning  
Law  
Transfer of property  
Interest  
Deductions  
Registered saving plans/ Insurance  
Tax tables & computation  
Tax shelters  
Education Funding  
Small Business/Self-employed Taxation

### 6. Law & Ethics

Family law  
Wills and estates  
Trusts and agency  
Individual rights and capacity  
Corporations and associations  
Insurance and pension law  
Bankruptcy  
Taxation  
Law of Real Property/Personal property  
Tort law  
Conflict of interest  
Contacts-network of professionals

### 7. Financial Planning Process

Determining client needs and goals  
Determine actual position of client-Statements  
Plan construction and Analysis  
Balancing debt and investment  
Capital budgeting techniques  
Professional responsibility  
Managing client relationships  
Managing the practice  
Creating a financial plan  
Presenting a financial plan  
Debt management  
Cash management  
Communication/Interviewing skills

### 8. Fundamentals

Time value of money  
Annuities/Perpetuities  
Measuring Investment Returns  
Monetary/ Fiscal Policy  
Economics- micro, macro  
Compound interest  
Depreciation  
Supply, Demand, Market Risk  
Financial Ins. & Inv. Reg.  
Money and Banking  
Finding/Using Fin. Info.  
Leasing

### **3. *Item (Question) Drafting and Testing***

For the development of the FPPE based on BWI's blueprint, the CSA have retained Dr. Les McLean, Professor-Emeritus in the Measurement and Evaluation Program of the Ontario Institute for Studies in Education of the University of Toronto, who is working on the project with members of the industry group. Although work on the question drafting phase of the FPPE is in its preliminary stages, it is currently anticipated that the FPPE will be a full day examination. It is expected that up to 40-50% of the FPPE will consist of constructed-response tasks rather than multiple choice questions.

For the test building process, CAIFA, The Canadian Institute of Financial Planning ("CIFP"), the Canadian Securities Institute ("CSI"), The Institute of Canadian Bankers ("ICB") and IFIC have been invited to submit questions. The questions will be reviewed by Dr. McLean and a panel of industry educational consultants to ensure they meet both content and item screening objectives. Approved questions will then go into a pool for use in the domain sampling process. This pool initially will be used to create a pilot test. Statistical methods will be used to confirm the validity and reliability of the questions used in the pilot test. Once the FPPE is in place, new questions generally would be tested by inserting test questions into actual examinations.

The CSA have not yet determined the appropriate delivery system for the FPPE. The CSA intend to continue to work with the industry organizations in developing both the FPPE and an appropriate governance structure. The CSA understand that consideration is being given to the concept of a "blended examination", where a course given by one of the industry groups could use the results of the FPPE as one of the examinations for the course. The CSA intend to make information about the topics being sampled under each of the eight domains available to course planners.

### **4. *Relationship to Courses of Study***

Because the CSA is designing the FPPE to be a comprehensive filter of financial planning expertise, the CSA will not designate any particular course as necessary preparation for the FPPE. The CSA expect that existing financial planning course providers will adapt their courses of study as necessary to prepare students adequately to pass the FPPE. Based on research conducted by BWI on behalf of the CSI and shared with the CSA, it seems that most leading financial planning courses of study currently offered could be easily adjusted.

## **Alternatives Considered**

A number of alternatives to the proposed Instrument have been considered:

### **A. *Facilitate the Return of the IDA/CSI and CBA/ICB to the FPSC***

The FPSC was established as an umbrella, standard-setting body representing various sectors of the financial services industry, including the Canadian Association of Financial Planners, CAIFA, the Canadian Institute of Chartered Accountants, the ICB, the CIFP, the Certified General Accountants Association of Canada, the CSI, the Credit Union Institute of Canada, and



the Society of Management Accountants of Canada. The FPSC ceased to be broadly representative of the financial services sector when the IDA/CSI and the CBA/ICB withdrew their support, citing irreconcilable differences relating to the examination development process, grandfathering decisions underlying the CFP designation conferred by the FPSC and the governance of the FPSC. After extensive discussion with members and former members of the FPSC with a view to facilitating a reconciliation with the FPSC, the CSA have concluded that this approach would not produce a practical result in a reasonable time frame.

***B. Approve Courses of Study and Designations***

The process of assessing courses of study and designations is complicated by the fact that there are at least 26 different letter designations and accreditations relating to financial planning advice that reflect the successful completion of a course of study, or an assessment of expertise, leading to a designation in Canada. The CSA concluded that the interests of investors would best be served by applying a single proficiency filter for all providers of financial planning advice in the form of a uniform examination with cross-sector participation. This would leave the responsibility for developing the appropriate preparation to pass the examination to financial planning educators and individuals seeking to become proficient.

***C. Sponsor a Self-Regulatory Organization for Individuals and Firms Providing Financial Planning and Similar Advice***

At present, no industry organization has the combination of resources, operational capability and broad industry representation necessary to take on an exclusive self-regulatory role for registrants and licensees offering financial planning and similar advice. Financial planning advice is difficult to separate conceptually from the spectrum of advice provided by registrants as an adjunct to product sales generally or offered as investment counselling. As a result, it would be difficult to carve out the responsibilities of a self-regulatory organization ("SRO") with exclusive jurisdiction over "financial planning" activities. Further, the proliferation of competing standards of expertise and the lack of specificity in industry-generated definitions of the activity is inconsistent with the theoretical underpinnings of the SRO concept.

A financial planning SRO would primarily include individuals who are already regulated by other SROs or professional organizations, and would create duplicate responsibilities with other SROs, such the new Mutual Fund Dealers Association, the IDA and the insurance councils. The CSA prefer to regulate financial planning as an activity within their existing regulatory frameworks rather than as a separate activity, with potentially duplicative and overlapping regulatory processes and responsibilities.

Québec has developed a comprehensive regulatory scheme for financial planners, including a new SRO, the Bureau des services financiers, the Institut québécois de la planification financière to administer an examination, and a requirement to complete a designated course considered equivalent to one year of university courses. The Québec regulatory scheme also establishes insurance requirements for financial planners, compensation funds for clients and a complaint procedure. The CSA view the Québec scheme to contain features specific to the regulatory system in Québec. The CSA did not consider certain aspects of the Québec scheme to be feasible at a national level.

***D. Enact Comprehensive National Legislation***<sup>3</sup>

This alternative could delay the implementation of a proficiency requirement for many years, and is not necessary to achieve the results of most immediate concern. A new body of legislation could have the advantage of covering all persons engaging in financial planning services, not just registrants and licensees. However, the CSA understand that the number of individuals offering financial planning advice without a product license or membership in a professional organization that regulates conduct and proficiency is negligible compared with the number of registrants and licensees. Concerns about consumer abuses have arisen predominantly in the case of persons registered to sell products who offer their services under the rubric of "financial planning" as a potentially misleading marketing device when they lack the competence or interest to provide the public with adequate financial planning services.<sup>4</sup> Regulators also are particularly concerned with activities conducted by registrants or licensees because the public is aware that the individual or firm is already regulated in respect of the services being provided.

---

<sup>3</sup>A statute dealing with financial planning and other issuers has been passed in Alberta, but it has been promulgated only in part. The part that deals with financial planning has not been proclaimed in force nor have any regulations been enacted under the statute. See The Financial Consumers Act, S.A. 1990, c. F-9.5.

<sup>4</sup>As one example, the chairman of defendant Associated Financial Planners Limited (previously called Moneystrat Inc.) in *Druiven v. Warrington*, Ont. C.J. 11971/96 (Feb. 18, 1998), testified that "'financial planning' was employed as a synonym for 'mutual fund sales'".

***E. Mandate a Disclosure Statement to Potential Customers***

Consideration was given to the proposal that a disclosure statement about relevant professional designations be provided to potential investors. The CSA decided that this approach would not provide adequate protection for investors. Given the existing panoply of designations, initials, courses and examinations, it is unreasonable to expect the average investor to be able to make an informed assessment of this disclosure, whereas a properly designed uniform examination would ensure an adequate level of competence, enabling consumers to focus on other aspects of the delivery of the advice.

**Specific Requests for Comment**

Comment is requested on all aspects of the proposed Instrument. The CSA specifically invite comment on the following issues:

1. The scope of the Instrument is based on selecting titles from a pool of various terms. Comment is solicited on whether the proposed words are over-inclusive or under-inclusive. Does the approach adequately capture those who invite reliance from consumers on their provision of financial planning services?
2. Paragraphs 1.1(1)(b) and (2)(b) of the Instrument identify individuals who "provide a document referred to as a financial plan" in imposing the proficiency requirements. Comment is requested whether this drafting approach might create unanticipated interpretive difficulties due to the manner in which firms are organized.
3. Comment is requested on the appropriate level of continuing education, including the number of hours per year. Comment also is requested on whether there should be minimum mandatory continuing education requirements for particular content domains covered in the FPPE. Comment is requested on the current availability of suitable continuing education programs for persons providing financial planning services, including whether there are any subjects that are not adequately covered.
4. The proposed grandfathering exemptions in the Instrument cover programs that were brought to the attention of the CSA for assessment. Comment is requested as to any additional programs that should be included on the list. Shortly before publication of this Notice the CSA Committee received grandfathering submissions from CAIFA and the IDA. These will be considered during the comment period.

### **Authority for the Instrument in Ontario**

Paragraph 143(1)2 of the Securities Act (Ontario) authorizes the Ontario Securities Commission to make rules, among other things, prescribing categories or subcategories of registrants, classifying registrants into categories or subcategories and prescribing the conditions of registration or other requirements for registrants or any category or subcategory, including standards of practice and business conduct of registrants in dealing with their customers and clients and prospective customers and clients.

### **Unpublished Materials**

In proposing this Instrument, the CSA have relied on the following unpublished studies, reports and other written materials:

Studies and reports prepared by BWI for the CSA or provided to BWI concerning the content of existing examinations and the development of the FPPE.

### **Anticipated Costs and Benefits**

#### ***A. Costs and Benefits of Development and Administration***

The initial out-of-pocket costs for developing the FPPE, consisting principally of consulting fees to BWI and Dr. McLean, are being borne by the Ontario Securities Commission. Significant time towards the development of the FPPE also is being provided by various industry organizations and industry participants, both in assisting the overall creation of the FPPE and in providing test items for it. However, to the extent the industry organizations blend the FPPE into the requirements for their own courses, the CSA anticipates the industry organizations could recover much, if not all, of their time commitments to this project.

On an ongoing basis, the cost of the FPPE is intended to be covered by fees payable by persons taking the FPPE on a non-profit basis. The Ontario Securities Commission plans to recover its out-of-pocket costs relating to the development of the FPPE, both initially and, if any, ongoing.

The ongoing administration of the Instrument is designed to be low cost. Registrants and insurance licensees will be required to complete a simple form just once. The same form would be filed with both the securities and insurance regulators. The CSA will not itself require ongoing filings in respect of the completion of continuing education requirements, although other organizations might do so.

***B. Costs and Benefits to Individuals and Firms Required to Comply***

Registrants currently using titles covered by the Instrument who do not intend to satisfy its proficiency standards could incur some cost in replacing letterhead, business cards and promotional material. However, as the Instrument is not expected to come into effect before 2001, ample time should be available to use up much of this material. Additional costs would be incurred by a firm, if any, that uses one of the restricted titles in its corporate name and does not intend to have salespersons that satisfy the proficiency standards. The CSA have taken into consideration the costs that might be borne by firms currently using titles covered by the Instrument in generally providing grandfathering exemptions to persons who have already completed appropriate industry examinations.

The Instrument should reduce the concern for unqualified persons competing unfairly against those who have made the commitment to attain the knowledge and skill required for providing a high level financial planning service. Moreover, to the extent persons hold themselves out as financial planners despite being unqualified, the reputation of those who provide a proper financial planning service can be harmed. Concerns that anybody can call themselves a financial planner without being qualified to provide financial planning advice have been expressed by those in the industry directly to the CSA and provincial governments as well as through the media.

The proposed proficiency standards should benefit registrants and licensees in providing quality assurance to a public currently faced with evaluating different designations. A uniform standard also should have the effect of leveling the playing field among the various industry sectors that provide financial planning services, and give individuals and small firms the recognition that might otherwise be accorded only to large firms with more substantial marketing resources.

Costs, including time expended to become sufficiently proficient, the tuition fees for courses and the examination fee, will be incurred by people who are required to write the FPPE and their employers. However, the CSA believe that for those who do provide financial planning services, these costs will be outweighed by the higher quality of service provided to the public. To the extent registrants would have taken adequate courses in any event, the Instrument will not impose significant additional costs, and likely will not impose any additional costs in the case of industry courses that choose to incorporate the FPPE into their requirements.

The continuing education requirement is not expected to impose significant costs on registrants as a result of being harmonized with industry requirements. In the case of those registrants or licensees not otherwise subject to industry continuing education requirements, the CSA again are of the view that the proficiency gains from fulfilling these requirements will more than offset the costs.

The development of a cross-industry, cross-regulator, largely national examination will maximize mobility among related occupations and across the country at the lowest cost. Someone working in one industry group who satisfies the requirements of the Instrument will

remain qualified for holding out as a financial planner on changing to a different industry group. Moreover, compliance with a single set of requirements will, for the first time, simultaneously satisfy obligations under both securities and insurance laws. Only one form is required to be completed, though it still must be filed with both regulators if applicable. The CSA and the insurance regulators hope this cooperative initiative will serve as an example for future coordination of the two regulatory structures.

### **Comments**

Interested parties are invited to make written submissions with respect to the proposed Instrument by March 6, 2000.

Submissions should be sent to the Canadian securities regulatory authorities, insurance regulatory authorities and insurance councils listed below in care of the Ontario Securities Commission, in duplicate, as indicated below:

British Columbia Securities Commission

Alberta Securities Commission

Saskatchewan Securities Commission

The Manitoba Securities Commission

Ontario Securities Commission

Office of the Administrator, New Brunswick

Registrar of Securities, Prince Edward Island

Nova Scotia Securities Commission

Securities Division, Department of Government Services and Lands, Government of  
Newfoundland and Labrador

Registrar of Securities, Government of the Northwest Territories

Registrar of Securities, Government of Nunavut

Registrar of Securities, Government of the Yukon Territory

Insurance Council of British Columbia

Alberta Insurance Council

Superintendent of Insurance, Saskatchewan

Insurance Councils of Saskatchewan

Superintendent of Insurance, Manitoba

Financial Services Commission, Ontario

Superintendent of Insurance, New Brunswick

Superintendent of Insurance, Nova Scotia

Superintendent of Insurance, Prince Edward Island

Insurance Division, Department of Government Services and Lands, Government of  
Newfoundland and Labrador

Superintendent of Insurance, Yukon Territory

c/o John Stevenson, Secretary  
Ontario Securities Commission  
20 Queen Street West  
Suite 800, Box 55  
Toronto, Ontario  
M5H 3S8  
E-mail: [jstevenson@osc.gov.on.ca](mailto:jstevenson@osc.gov.on.ca)

A diskette containing the submissions (in DOS or Windows format, preferably WordPerfect) should also be submitted. Alternatively, comments may be sent via e-mail to the above address, and also to any of the individuals noted below at their respective e-mail addresses.

It is not necessary to submit comments to multiple regulatory authorities because copies of comment letters will be circulated to each of the persons listed below. However, registrants and licensees might also wish to send their letters directly to their local regulators. All comments will be evaluated on a consultative basis by the CSA Committee on Financial Planning, including those persons listed below.

As securities legislation in certain provinces requires that a summary of the comments received during the comment period be published, confidentiality of submissions received cannot be maintained.

Questions may be referred to any of the following:

### **British Columbia**

#### **Securities**

Wendy Sullivan  
Chief Examiner  
British Columbia Securities Commission  
(604) 899-6752  
or 1-800-373-6393 (in British Columbia)  
E-mail: [wsullivan@bcsc.bc.ca](mailto:wsullivan@bcsc.bc.ca)

Noreen Bent  
Senior Legal Counsel  
British Columbia Securities Commission  
(604) 899-6741  
or 1-800-373-6393 (in British Columbia)  
E-mail: [nbent@bcsc.bc.ca](mailto:nbent@bcsc.bc.ca)

**Insurance**

Agnes Healey  
Director, Licensing and Administration  
Insurance Council of British Columbia  
(604) 688-0321, ext. 325

**Alberta**

**Securities**

Melinda Ando  
Legal Counsel  
Alberta Securities Commission  
(403) 297-7274  
E-mail: melinda.ando@seccom.ab.ca

Wayne Alford  
Legal Counsel  
Alberta Securities Commission  
(403) 297-2092  
E-mail: Wayne.Alford@seccom.ab.ca

**Insurance**

Joanne Abram  
General Manager  
Alberta Insurance Council  
(780) 421-4148  
E-mail: jabram@abcouncil.ab.ca

**Saskatchewan**

**Securities**

Barbara Shourounis  
Director  
Saskatchewan Securities Commission  
(306) 787-5842  
E-mail: barbara.shourounis.ssc@govmail.gov.sk.ca

**Insurance**

John Waugh  
Director, Regulatory Affairs  
Insurance Councils of Saskatchewan  
(306) 352-7870  
E-mail: John.Waugh@ibas.sk.ca



## **Manitoba**

### **Securities**

Chris Besko  
Assistant Legal Counsel  
The Manitoba Securities Commission  
(204) 945-2561  
E-mail: [cbesko@cca.gov.mb.ca](mailto:cbesko@cca.gov.mb.ca)

### **Insurance**

Lucy Couture  
Acting Superintendent of Insurance  
Department of Consumer & Corporate Affairs  
Manitoba  
(204) 945-1123  
E-mail: [lcouture@cca.gov.mb.ca](mailto:lcouture@cca.gov.mb.ca)

## **Ontario**

### **Securities**

Julia Dublin  
Senior Legal Counsel  
General Counsel's Office  
Ontario Securities Commission  
(416) 593-8103  
E-mail: [jdublin@osc.gov.on.ca](mailto:jdublin@osc.gov.on.ca)

Ralph Lindzon  
Senior Legal Counsel  
General Counsel's Office  
Ontario Securities Commission  
(416) 593-8207  
E-mail: [rlindzon@osc.gov.on.ca](mailto:rlindzon@osc.gov.on.ca)

### **Insurance**

Martin Ship  
Senior Manager, Insurance and Deposit Institutions Policy  
Policy and Communications Branch  
Financial Services Commission of Ontario  
(416) 590-7270  
E-mail: [mship@fsc.gov.on.ca](mailto:mship@fsc.gov.on.ca)

**Prince Edward Island**

**Securities**

Mark Gallant  
Department of Community Affairs & Attorney General  
Prince Edward Island  
(902) 368-4552  
E-mail: mlgallant@gov.pe.ca

**Newfoundland**

**Securities**

Susan Powell  
Securities Analyst  
Department of Government Services and Lands  
Government of Newfoundland and Labrador  
(709) 729-4875  
E-mail: spowell@mail.gov.nf.ca

**Insurance**

Doug Connolly  
Director of Insurance and Pensions  
Department of Government Services and Lands  
Government of Newfoundland and Labrador  
(709) 729-4909  
E-mail: dconnolly@mail.gov.nf.ca

**Proposed Instrument**

The text of the proposed Instrument follows, together with footnotes that are not part of the proposed Instrument, but have been included to provide background and explanation.

DATED: December 6, 1999.

## MULTILATERAL INSTRUMENT 33-107<sup>1</sup>

### PROFICIENCY REQUIREMENTS FOR REGISTRANTS HOLDING THEMSELVES OUT AS PROVIDING FINANCIAL PLANNING ADVICE

#### PART 1 PROFICIENCY REQUIREMENTS<sup>2</sup>

##### 1.1 Proficiency Requirements

- (1) An individual who is a registrant shall not:
  - (1) hold himself or herself out in any manner:
    - (1) using a title that includes the word "planner",
    - (2) using a title that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "adviser", "advisor", "consultant", "specialist", "expert", "manager" or "counsellor", or any other title similar to "financial planner",
    - (3) as providing services described by an expression that includes the word "planning", or
    - (4) as providing services described by an expression that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in

---

<sup>1</sup>This instrument is an initiative of the Canadian Securities Administrators in conjunction with the various provincial insurance regulators and insurance councils. It is expected to be adopted as a rule in British Columbia, Alberta, Ontario and Nova Scotia, as a Commission regulation in Saskatchewan, and as a policy in some jurisdictions. The Commission des valeurs mobilières du Québec has not participated in this initiative because a comprehensive regulatory regime governing financial planners came into effect in Quebec on October 1, 1999. The Manitoba and Newfoundland securities regulators have participated in this initiative and are treating this instrument as a concept proposal.

<sup>2</sup>A national definition instrument has been adopted as National Instrument 14-101 Definitions (NI 14-101). It contains definitions of certain terms used in more than one national or multilateral instrument. NI 14-101 provides that a term used in a multilateral instrument and defined in the statute relating to securities of the applicable jurisdiction, the definition of which is not restricted to a specific portion of the statute, will have the meaning given to it in that statute, unless the context otherwise requires. NI 14-101 also provides that a provision or a reference within a provision of a multilateral instrument that specifically refers by name to a jurisdiction, other than the local jurisdiction, shall not have any effect in the local jurisdiction, unless otherwise stated in the provision.

combination with any of the words "advising", "consulting", "specialty", "expertise", "management" or "counselling", or any other expression similar to "financial planning"; or

- (2) provide a document referred to as a financial plan,

unless, except as provided in Part 2, the individual:

- (3) has passed the Financial Planning Proficiency Examination approved by the regulator<sup>3</sup> and administered in a manner approved by the regulator;
- (4) has been a registrant under Canadian securities legislation<sup>4</sup> or a licensed life agent under the *Insurance Adjusters, Agents and Brokers Act* (Newfoundland), the *Act Respecting Market Intermediaries* (Quebec), the *Saskatchewan Insurance Act* (Saskatchewan) or the *Insurance Act* of any other jurisdiction for at least two years during the five year period immediately preceding the day on which a notice is filed pursuant to section 3.1; and
- (5) is subject to or has undertaken to comply with a continuing education regime approved by the regulator.

- (2) A registrant other than an individual shall not:

- (1) hold out an individual who is registered to advise or trade on its behalf:
  - (1) using a title that includes the word "planner",

---

<sup>3</sup>The term Aregulator@ is defined in NI 14-101 as meaning, in a local jurisdiction, the person set out in an appendix to that instrument opposite the name of the local jurisdiction.

<sup>4</sup>The term ACanadian securities legislation@ is defined in NI 14-101 as meaning the statutes and other instruments listed in an appendix to that instrument.

- (2) using a title that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "adviser", "advisor", "consultant", "specialist", "expert", "manager" or "counsellor", or any other title similar to "financial planner",
- (3) as providing services described by an expression that includes the word "planning", or
- (4) as providing services described by an expression that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "advising", "consulting", "specialty", "expertise", "management" or "counselling", or any other expression similar to "financial planning",

unless the individual has satisfied the requirements of subsection (1); or

- (2) provide a document referred to as a financial plan, unless the individual providing the plan on behalf of the registrant has satisfied the requirements of subsection (1).
- (3) A registrant other than an individual shall not hold itself out in any manner:
  - (1) using a title that includes the word "planner"; or
  - (2) using a title that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "adviser", "advisor", "manager", "consultant", "specialist", "expert" or "counsellor", or any other title similar to "financial planner",

unless it provides the services described by the title and provides those services directly to the client by an individual who has satisfied the requirements of subsection (1).

- (4) A registrant other than an individual shall not hold itself out in any manner:
  - (3) as providing services described by an expression that includes the word "planning"; or
  - (4) as providing services described by an expression that includes any of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with any of the words "advising", "consulting", "specialty", "expertise",

"management" or "counselling", or any other expression similar to "financial planning",

unless those services are provided directly to the client by an individual who has satisfied the requirements of subsection (1).

## **PART 2 EXEMPTIONS**

### **2.1 Grandfathering**

- (1) Subject to subsection (2), an individual need not satisfy the requirement contained in paragraph 1.1(1)(c) if the individual falls into one of the following categories:
1. Individuals who, as of \$, 2001, have passed the Professional Proficiency Examination administered by the Financial Planners Standards Council.
  2. Individuals who, as of \$, 2001, hold the designation of Personal Financial Planner administered by The Institute of Canadian Bankers.
  3. Individuals who, as of \$, 2001, have passed the Professional Financial Planning Course and examinations offered by the Canadian Securities Institute.
  4. Individuals who, as of \$, 2001, have completed a comprehensive financial planning program offered by The Canadian Institute of Financial Planning and passed the associated examinations.
  5. Individuals who, as of \$, 2001, have passed the Registered Financial Planner examination and hold the designation of Registered Financial Planner administered by the Canadian Association of Financial Planners.
  6. Individuals who, as of \$, 2001, have passed the courses and examinations in the Chartered Financial Consultant program administered by the Canadian Association of Insurance and Financial Advisors.
  7. Individuals who, as of \$, 2001, hold the designation of Specialist in Financial Counselling administered by The Institute of Canadian Bankers and, within two years after \$, 2001, have passed its Insurance and Estate Planning Course and Taxation and Investment Course.

8. Individuals who, as of \$, 2001, were enrolled in a course of study of the Specialist in Financial Counselling Program of The Institute of Canadian Bankers and, within two years after \$, 2001, have:
    - (1) obtained its designation of Specialist in Financial Counselling; and
    - (2) passed its Insurance and Estate Planning Course and Taxation and Investment Course.
  9. Individuals who, as of \$, 2001, were enrolled in a course of study approved by the Financial Planners Standards Council and, within two years after \$, 2001, have passed the Professional Proficiency Examination administered by it.
  10. Individuals who, as of \$, 2001, were enrolled in the comprehensive financial planning program offered by The Canadian Institute of Financial Planning and, within two years after \$, 2001, have passed the associated examinations.
  11. Individuals who, as of \$, 2001, were enrolled in a course of study of the Personal Financial Planning Program of The Institute of Canadian Bankers and, within two years after \$, 2001, have obtained its designation of Personal Financial Planner.
  12. Individuals who, as of \$, 2001, were enrolled in the Professional Financial Planning Course offered by the Canadian Securities Institute and, within two years after \$, 2001, have passed the associated examinations.
  13. Individuals who, as of \$, 2001, were enrolled in the Chartered Financial Consultant program administered by the Canadian Association of Insurance and Financial Advisors and, within two years after \$, 2001, have passed the associated examinations.
  14. Individuals who, as of \$, 2001, have received a diploma from the Institut québécois de planification financière and were authorized by it to use the title of financial planner under the *Act respecting the distribution of financial products and services* (Quebec).
- (2) Subsection (1) does not apply to an individual who files the notice under section 3.1 more than three years after \$, 2001.

**2.2 Equivalency B** Where the regulator is satisfied that an individual has qualifications that are equivalent to any requirement specified in subsection 1.1(1), the regulator may exempt the individual from that requirement.

### **2.3 Portfolio Managers**

- (4) Paragraph 1.1(1)(a) does not apply to a registrant in the category of portfolio manager who is engaged solely in managing the investment portfolios of clients through discretionary authority granted by one or more clients, provided that the registrant:
  - (1) holds himself or herself out under a title that includes any of the words "financial", "wealth", "security", "asset" or "money" in combination with the word "manager", and not under a title that includes any of the other word combinations listed in subparagraph 1.1(1)(a)(ii) nor the word "planner", nor under any other title similar to "financial planner"; or
  - (2) holds himself or herself out as providing services described by an expression that includes any of the words "financial", "wealth", "security", "asset" or "money" in combination with the word "management", and not described by an expression that includes any of the other word combinations listed in subparagraph 1.1(1)(a)(iv) nor the word "planning", nor described by any other expression similar to "financial planning".
- (5) Paragraph 1.1(2)(a) does not apply to a registrant in the category of portfolio manager that is engaged in the business of managing the investment portfolios of clients through discretionary authority granted by one or more clients, provided that the individuals held out to advise on its behalf are exempt from paragraph 1.1(1)(a) under subsection (1).
- (6) Subsections 1.1(3) and (4) do not apply to a registrant in the category of portfolio manager that is engaged solely in the business of managing the investment portfolios of clients through discretionary authority granted by one or more clients, provided that the titles or services held out by the registrant are limited to the titles or services permitted to a registrant who is exempt under subsection (1).



## **PART 3 NOTICE**

### **3.1 Notice**

- (7) Before a registrant holds himself, herself, itself or another registrant out in a manner described in section 1.1, or provide a document referred to as a financial plan, he, she or it shall file with the regulator:
- (1) a notice that the registrant so intends<sup>5</sup>;
  - (2) if the registrant is an individual, evidence that the individual has fulfilled the requirements set out in:
    - (i) paragraph 1.1(1)(c) or subsection 2.1(1), and
    - (ii) paragraph 1.1(1)(d); and
  - (3) any undertaking required by paragraph 1.1(1)(e).
- (8) Despite subsection (1), a registrant that relies on section 2.1 is not required to file any material under subsection (1) until the first day on which the registration fee payable by the registrant is due under the applicable provision set out in the Appendix, following the date on which the registrant first relies on the section.

## **PART 4 EFFECTIVE DATE**

**4.1 Effective Date** - This Multilateral Instrument comes into force on !, 2001.

---

<sup>5</sup>See Form 33-107F1 for individual registrants, in effect for three years following the effective date, Form 33-107F2 for individual registrants, in effect following the expiry of Form 33-107F1, and Form 33-107F3 for firm registrants.

**Appendix - Fee Provisions**

<b>LOCAL JURISDICTION</b>	<b>FEE PROVISION</b>
ALBERTA	Section 59 of the <i>Securities Act</i>
BRITISH COLUMBIA	Section 35 of the <i>Securities Act</i>
MANITOBA	Section 10 of the <i>Securities Act</i>
NEW BRUNSWICK	Section 9 of the <i>Security Frauds Prevention Act</i>
NEWFOUNDLAND	Section 30 of the <i>Securities Act</i>
NORTHWEST TERRITORIES	Section 7 of the <i>Securities Act</i>
NOVA SCOTIA	Section 35 of the <i>Securities Act</i>
NUNAVUT	
ONTARIO	Section 29 of the <i>Securities Act</i>
PRINCE EDWARD ISLAND	Section 4 of the <i>Securities Act</i>
SASKATCHEWAN	Section 31 of <i>The Securities Act, 1988</i>
YUKON TERRITORY	Section 9 of the <i>Securities Regulations</i>

**MULTILATERAL INSTRUMENT 33-107  
PROFICIENCY REQUIREMENTS FOR REGISTRANTS  
HOLDING THEMSELVES OUT AS PROVIDING  
FINANCIAL PLANNING ADVICE**

**FORM 33-107F1**

**NOTICE BY INDIVIDUAL REGISTRANT**

**This Form is in effect until \$, 2004.**

This is notice that I intend to hold myself out in the manner described in subsection 1.1(1) of Multilateral Instrument 33-107 or to provide documents referred to as financial plans.

Name: \_\_\_\_\_

Date of birth: \_\_\_\_\_

Name of registrant firm: \_\_\_\_\_

**1. Education**

*Complete one of A or B below:*

A. I have passed the Financial Planning Proficiency Examination. *[Attach evidence of passing]* .  
\_\_\_\_\_

*OR*

B. I am exempt from having to pass the Financial Planning Proficiency Examination because:  
*[Check one and attach evidence.]*

1. I passed the Professional Proficiency Examination administered by the Financial Planners Standards Council on or before ! , 2001. \_\_\_\_\_

2. I held the designation of Personal Financial Planner administered by The Institute of Canadian Bankers on ! , 2001. \_\_\_\_\_

3. I passed the Professional Financial Planning Course and examinations offered by the Canadian Securities Institute on or before ! , 2001. \_\_\_\_\_

4. I completed the comprehensive financial planning program offered by The Canadian Institute of Financial Planning and passed the associated examinations on or before ! , 2001. \_\_\_\_\_

5. I passed the Registered Financial Planner examination on or before ! , 2001 and held the designation of Registered Financial Planner administered by the Canadian Association of Financial Planners on that date. \_\_\_\_\_
6. I passed the courses and examinations in the Chartered Financial Consultant program administered by the Canadian Association of Insurance and Financial Advisors on or before ! , 2001. \_\_\_\_\_
7. I held the designation of Specialist in Financial Counselling administered by The Institute of Canadian Bankers on or before ! , 2001 and passed its Insurance and Estate Planning Course and Taxation and Investment Course on or before ! , 2003. \_\_\_\_\_
8. I was enrolled in a course of study of the Specialist in Financial Counselling Program of The Institute of Canadian Bankers on ! , 2001, passed its Insurance and Estate Planning Course and Taxation and Investment Course on or before ! , 2003 and held its designation of Specialist in Financial Counselling on ! , 2003. \_\_\_\_\_
9. I was enrolled in a course of study approved by the Financial Planners Standards Council on ! , 2001 and passed its Professional Proficiency Examination on or before ! , 2003. \_\_\_\_\_
10. I was enrolled in the comprehensive financial planning program offered by The Canadian Institute of Financial Planning on ! , 2001 and passed the associated examinations on or before ! , 2003. \_\_\_\_\_
11. I was enrolled in a course of study of the Personal Financial Planning Program of The Institute of Canadian Bankers on ! , 2001 and obtained its designation of Personal Financial Planner on or before ! , 2003. \_\_\_\_\_
12. I was enrolled in the Professional Financial Planning Course offered by the Canadian Securities Institute on ! , 2001 and passed the associated examinations on or before ! , 2003. \_\_\_\_\_  
—
13. I was enrolled in the Chartered Financial Consultant program administered by the Canadian Association of Insurance and Financial Advisors on ! , 2001 and passed the associated examinations on or before ! , 2003. \_\_\_\_\_
14. I received a diploma from the Institut québécois de planification financière and was authorized by it to use the title of financial planner under the *Act respecting the distribution of financial products and services* (Quebec) on or before ! , 1999. \_\_\_\_\_

**2. Experience**

*[Delete any portion that does not apply]* I have been [registered under securities legislation] and/or [licensed under insurance legislation] for at least two of the previous five years in the following province: \_\_\_\_\_ *[Provide evidence of registration if this notice is sent to a different regulatory authority than that of previous registration/licensing].*

**3. Continuing Education**

I [am subject to]/[undertake to comply with] the continuing education regime established for financial planning by the following organization: \_\_\_\_\_

The personal information requested on this form is collected under the authority and used for the purposes of administering provincial and territorial securities and insurance legislation. I consent to the disclosure of any information contained on this form except my date of birth. In British Columbia, if you have any questions about how the freedom of information legislation applies to the personal information collected on this form, call the Manager, Public Information and Records (Securities) at [telephone number] or write the Manager, [address] or call the Manager, Public Information and Records (Insurance) at [telephone number] or write the Manager, [address]. In Alberta, if you have any questions about how the freedom of information legislation applies to the personal information collected on this form, call the Information Officer (Securities) at [telephone number] or write the Information Officer, [address] or call the Information Officer (Insurance) at [telephone number] or write the Information Officer, [address].

Dated: \_\_\_\_\_

**This date may not be later than ! , 2004.**

Signature

**MULTILATERAL INSTRUMENT 33-107  
PROFICIENCY REQUIREMENTS FOR REGISTRANTS  
HOLDING THEMSELVES OUT AS PROVIDING  
FINANCIAL PLANNING ADVICE**

**FORM 33-107F2**

**NOTICE BY INDIVIDUAL REGISTRANT**

**This Form is in effect after \$, 2004.**

This is notice that I intend to hold myself out in the manner described in subsection 1.1(1) of Multilateral Instrument 33-107 or to provide documents referred to as financial plans.

Name: \_\_\_\_\_

Date of birth: \_\_\_\_\_

Name of registrant firm: \_\_\_\_\_

**1. Education**

I have passed the Financial Planning Proficiency Examination. *[Attach evidence of passing]*

**2. Experience**

*[Delete any portion that does not apply]* I have been [registered under securities legislation] and/or [licensed under insurance legislation] for at least two of the previous five years in the following province:  
\_\_\_\_\_ *[Provide evidence of registration if this notice is sent to a different regulatory authority than that of previous registration/licensing]*

**3. Continuing Education**

I [am subject to]/[undertake to comply with] the continuing education regime established for financial planning by the following organization: \_\_\_\_\_

The personal information requested on this form is collected under the authority and used for the purposes of administering provincial and territorial securities and insurance legislation. I consent to the disclosure of any information contained on this form other than my date of birth. In British Columbia, if

you have any questions about how the freedom of information legislation applies to the personal information collected on this form, call the Manager, Public Information and Records (Securities) at [telephone number] or write the Manager, [address] or call the Manager, Public Information and Records (Insurance) at [telephone number] or write the Manager, [address]. In Alberta, if you have any questions about how the freedom of information legislation applies to the personal information collected on this form, call the Information Officer (Securities) at [telephone number] or write the Information Officer, [address] or call the Information Officer (Insurance) at [telephone number] or write the Information Officer, [address].

Dated: \_\_\_\_\_

Signature

**MULTILATERAL INSTRUMENT 33-107  
PROFICIENCY REQUIREMENTS FOR REGISTRANTS  
HOLDING THEMSELVES OUT AS PROVIDING  
FINANCIAL PLANNING ADVICE**

**FORM 33-107F3**

**NOTICE BY REGISTRANT FIRM**

This is notice that the firm intends to hold itself out or hold out individuals who are registered to trade or advise on its behalf in the manner described in subsection 1.1(2), (3) or (4) of Multilateral Instrument 33-107 or to provide documents referred to as financial plans.

Name of registrant firm: \_\_\_\_\_

Head office business address: \_\_\_\_\_

Dated: \_\_\_\_\_

Signature

Name of signatory: \_\_\_\_\_