



**EXPERT COMMITTEE TO CONSIDER
FINANCIAL ADVISORY AND FINANCIAL PLANNING
POLICY ALTERNATIVES**

INITIAL CONSULTATION DOCUMENT

June 24, 2015

Ministry of Finance

1. Introduction

Currently in Ontario, no general legal framework exists to regulate the activities of individuals who offer financial planning, advice and services. The absence of a legal framework has raised questions about proficiency, quality standards and potential conflicts of interest.

To better understand these issues, the Ontario government committed in 2013 to investigating the merits of more tailored regulation of those engaged in financial planning and giving financial advice and held two consultations with stakeholders involved in the financial planning and advising sectors in 2014.

Subsequently, the Ontario government announced that it would appoint an expert committee that would be mandated to provide key recommendations and submit its final report to the government for review in 2016.

In April 2015, the Minister of Finance appointed an independent expert committee to be known as the “Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives” (Expert Committee) whose membership consists of:

- Malcolm Heins (Chair), a lawyer, director and business advisor, who successfully reformed the regulation of paralegals during his tenure as the CEO of the Law Society of Upper Canada;
- Anita Anand, a Professor of Law at the Faculty of Law, University of Toronto, with a research focus on regulation of capital markets and the inaugural Chair of the Investor Advisory Panel of the Ontario Securities Commission;
- Paul Bates, a Chartered Professional Accountant, Fellow of the Society of Management Accountants, a Certified Management Consultant and the former Chair of the Investor Education Fund, with experience in investor advocacy; and,
- Lawrence Haber, a former securities lawyer and former financial industry executive. Currently, the Chair of the Board of Diversified Royalty Corp. and a special policy advisor to Ontario Securities Commission staff.

2. Mandate of the Expert Committee

The Expert Committee will provide advice and recommendations to the Ontario government regarding whether and to what extent financial planning and the giving of financial advice should be regulated in Ontario and the appropriate scope of such regulation. Specifically, the Expert Committee's analysis will include consideration of the following:

- (a) Education, training, proficiency, ethics and enforcement requirements that should apply to those engaged in financial planning and the giving of financial advice;
- (b) Licensing and registration requirements that should apply to those engaged in financial planning and the giving of financial advice;
- (c) The legal means, if any, to address conflicts of interest and potential conflicts of interest;
- (d) The use of titles and designations and whether they should be regulated; and
- (e) The need for a central registry of information regarding providers of financial planning and financial advice, which could include the ability for consumers to register complaints and have access to the registry.

3. Core Principles to be Followed by the Expert Committee

In undertaking its activities, the Expert Committee shall endeavour to adhere, to the extent reasonably practicable, to the following core principles:

- (a) **Investor and Consumer Focus-** The Expert Committee will focus on furthering the public interest including the protection of consumers;
- (b) **Industry Consideration-** The Expert Committee will provide due consideration to the importance of the financial services industry in Ontario and to the concerns of market participants;
- (c) **Regulatory Efficiency-** The Expert Committee will seek to make recommendations that are not unduly complex and that avoid unnecessary or duplicative regulation;
- (d) **Sensitivity to Existing Policy Initiatives-** The Expert Committee will be sensitive to existing policy initiatives; and
- (e) **Enhancing Regulatory Cohesion and Consistency-** The Expert Committee will seek to avoid recommendations that would result in regulatory fragmentation or that might produce or increase opportunities for regulatory arbitrage.

4. Research and Data Gathering Process

The Expert Committee's research and data gathering process will include review, consideration and analysis of:

- (a) Transcripts and submissions made previously to the Ministry of Finance;
- (b) Information gathered by the Ministry of Finance including reports and legislation from other jurisdictions;
- (c) Academic literature;
- (d) Information that may be gleaned from a public consultation process; and
- (e) Any research commissioned by the Expert Committee.

5. Request for Submissions

The Expert Committee invites interested parties to provide a written submission addressing the following questions:

1. What activities are within the scope of financial planning? Is the provision of financial advice different from financial planning? If so, please explain the distinction.
2. Is the current regulatory scheme governing those who engage in financial planning and/or the giving of financial advice adequate?
3. What legal standard(s) should govern conflicts of interest and potential conflicts of interest that may arise in financial planning and the giving of financial advice?
4. To what extent, if at all, should the activities of those who engage in financial planning and/or giving financial advice be further regulated? Please consider the following in your response:
 - (a) Licensing and registration requirements;
 - (b) Education, training and ethical responsibilities;
 - (c) Titles and designations of individuals who engage in financial planning and/or the giving of financial advice;
 - (d) Specific activities that should be included or excluded in a regulatory scheme;
 - (e) Costs and other burdens of regulation;
 - (f) Regulation of compensation; and
 - (g) Complaints and discipline mechanisms.

5. What harm(s) and/or benefit(s) do consumers experience in the current environment?
Please provide specific evidence to support your views where available.
6. Should consumers have access to a central registry of information regarding individuals and entities that engage in financial planning and the giving of financial advice including their complaint or discipline history?

6. Process for Making Submissions

Submissions addressing the questions above may be sent by email to Fin.Adv.Pln@ontario.ca. Please use subject line: Financial Planning/Advice Consultation and please indicate the specific question to which you are responding to in your submission. Alternatively, you may send your submission by mail to:

Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives
c/o Frost Building North, Room 458
4th Floor, 95 Grosvenor Street
Toronto, Ontario
M7A 1Z1

Submissions must be received on or prior to **September 21, 2015**.

Please note that information submitted may be subject to disclosure under the *Freedom of Information and Protection of Privacy Act*. Please do not submit personal information or specific identifying details of individuals, companies or other entities unless the specific information is already publicly available. Please also note that the Expert Committee may make the submissions it receives publicly available. Please do not forward confidential information that you would not want to be made public.

If you have any questions or concerns, please contact Shameez Rabdi at (416) 325-3577 or Shameez.Rabdi@ontario.ca