



# Alternative Investment Management Association (AIMA)

The Forum for Hedge Funds, Managed Futures and Managed Currencies

SEP 02 2015

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

Dear Sirs:

**RE: Consultation on Financial Advisory and Financial Planning Policy Alternatives**

Please accept this letter as our submission in response to the Expert Committee's initial consultation document of June 24, 2015 (the "Report") with respect to the evolution of financial planning in Ontario. We, the Canadian National Group ("AIMA Canada") of the Alternative Investment Management Association ("AIMA") appreciate the opportunity to provide our comments on this subject.

As the global hedge fund association, AIMA has over 1,400 corporate members (with over 7,000 individual contacts) worldwide, based in over 50 countries. Members include hedge fund managers, fund of hedge funds managers, prime brokers, legal and accounting firms, investors, fund administrators and independent fund directors. AIMA's manager members manage a combined \$1.5 trillion in assets (as of March 2015). All AIMA members benefit from AIMA's active influence in policy development, its leadership in industry initiatives, including education and sound practice manuals and its excellent reputation with regulators worldwide.

AIMA is a dynamic organization that reflects its members' interests and provides them with a vibrant global network. AIMA is committed to developing industry skills and education standards and is a co-founder of the Chartered Alternative Investment Analyst designation (CAIA) - the industry's first and only specialised educational standard for alternative investment specialists. For further information, please visit AIMA's website, [www.aima.org](http://www.aima.org).

The majority of AIMA Canada's more than 110 members are managers of hedge funds and fund of funds. Most are small businesses with fewer than 20 employees and \$50 million or less in assets under management

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("AUM") the majority of which are from high net worth individuals and are typically invested in pooled funds managed by the member. Investments in these pooled funds are sold by way of private placement pursuant to exemptions from applicable prospectus requirements in each province and territory, primarily the accredited investor exemption. However many AIMA Canada members have AUM in the hundreds of millions or higher, a significant portion of which is from institutional investors. AIMA Canada manager members are required to have multiple registrations with securities regulatory authorities: Portfolio Managers ("PMs"), Investment Fund Managers ("IFMs") and in many cases as Exempt Market Dealers ("EMDs"). AIMA Canada's membership also includes accountancy and law firms with practices focused on the alternative investments sector. In addition, our manager members may act as investment advisors with discretionary responsibility over separately managed accounts held in custody at certain financial institutions. For more information about AIMA Canada please visit our web site at [www.canada.aima.org](http://www.canada.aima.org).

This comment letter has been prepared by a working group of the members of AIMA Canada, comprised of managers of hedge funds, fund of funds and accountancy and law firms with practices focused on the alternative investment sector.

## Summary and Scope of our Submission

We generally support any initiatives to educate and/or protect the interests of the public in respect of financial matters. Our principal concern with respect to the prospect of regulating financial planning is to ensure that there is no unnecessary duplication of the regulatory requirements or oversight and related compliance burdens imposed on our members. How the concepts of "financial planning" and "financial planner" are defined in any legislation will be central to this issue.

We are concerned that the regular, day to day activities of a majority of AIMA Canada members who are investment advisers could be considered to be "financial planning" and/or "giving of financial advice". The principal activity of our members is portfolio management, which includes asset allocation and, in some contexts, an assessment of the suitability of investments for particular clients. However, these particular activities of our members are already subject to registration under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing*

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*Registrant Obligations ("NI 31-103")* which includes minimum professional accreditations or proficiency standards for individuals, an extensive compliance regime and oversight and compliance audits by the applicable provincial or territorial securities regulatory authorities. At law, our members owe a fiduciary duty to their clients. Accordingly, we respectfully submit that activities which already require registration as a "portfolio manager" and are subject to regulation pursuant to applicable securities legislation be specifically excluded from the definition of "financial planning" and that firms that are registered as portfolio managers and individuals who are registered representatives of such firms not be considered to be "financial planners" in the proposed legislation.

AIMA Canada does not express any views or opinions regarding whether and how financial planning activities should be regulated or further regulated. While AIMA Canada can and does make representations on legislation or amendments to legislation from time to time, regulation of financial planners is not a matter that we are qualified or authorized to address on behalf of our members, other than as described above.

We will address the following questions from the Report in our submission: 1, 2 and 4.

## 1. What activities are within the scope of financial planning?

The term "financial planning" may be understood to encompass a wide range of services and skill sets. Financial planning may involve providing general advice with respect to areas such as portfolio management, insurance, estate planning, retirement planning, risk management, budgeting and taxation, among other matters. Portfolio management advice provided by a financial planner could be limited to global concepts such as asset allocation and could include advice regarding the construction of a portfolio and with respect to the purchase and sale of specific types of securities.

The services and advice provided by AIMA Canada members could be understood to fall within the term "financial planning" that the Expert Committee uses in the Report, however; it comprises a narrow and specialized component of a broader definition or meaning of that term. AIMA Canada members typically provide portfolio management services directly to institutional investors, high net worth investors (segregated accounts) or investment funds, the units of which are

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made available for purchase by investors. These activities require the member to be registered with applicable provincial or territorial securities regulatory authorities in the categories of portfolio manager, investment fund manager and exempt market dealer pursuant to NI 31-103. In order to become registered, the firm and its registered representatives are required to meet applicable proficiency requirements and are subject to ongoing compliance requirements under the oversight of the applicable securities regulatory authority.

The services of most AIMA Canada members are generally limited to portfolio management and assessing investor suitability. As such, they are not financial planners providing broader advice that may be potentially captured within the meaning of that term as used by the Expert Committee. The advice that AIMA Canada members provide is already subject to registration and regulatory oversight pursuant to NI 31-103.

## **2. Is the current regulatory scheme adequate?**

The Expert Committee has asked whether the current regulatory scheme governing those who engage in financial planning and/or the giving of financial advice is adequate.

The regulatory regime provided in NI 31-103 that governs the activities of investment advisers, investment fund managers and exempt market dealers as described above is adequate in our view to regulate the business undertaken by our members. We would respectfully submit that there is no need to impose additional regulation, oversight or compliance burdens on firms or individuals that limit their activities to services that require registration pursuant to applicable provincial/territorial securities legislation.

We do not express any view or opinion regarding whether financial planning, in its more general context is adequately regulated.

## **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?**

As noted above, AIMA Canada believes that organizations or firms or individuals that are subject to registration and regulatory oversight do

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not require additional regulation if they limit their business to such regulated activities. We do not express any view or opinion regarding the regulation of financial planners or the provision of financial advice by financial planners.

### **Overall recommendation and position of AIMA Canada**

Any legislation introduced to regulate financial planners will need to define the scope of the term “financial planning”. It will also need to indicate which entities or individuals will be governed by the legislation and who would be considered to be a “financial planner” that is subject to the law. We are concerned that the term “financial planning” as used by the Expert Committee may be drafted too broadly and will be an inclusive definition that lists a number of different advisory services that are already adequately regulated. Should a broad definition be adopted, it may not be necessary for a person to provide all such services in order to be considered a financial planner. We respectfully submit that the scope of the legislation should specifically exclude activities which already require registration pursuant to applicable provincial or territorial securities legislation. The inclusion of activities which are already adequately regulated will result in unnecessary duplication of regulation and a consequent unjustifiable increase in the compliance burden of AIMA Canada members.

We appreciate the opportunity to provide our views on financial planning in Ontario to the Expert Committee. Please do not hesitate to contact the members of AIMA Canada set out below with any comments or questions you might have.

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Yours truly,

**ALTERNATIVE INVESTMENT MANAGEMENT ASSOCIATION**

Per: Michael A. Burns

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