

# CIFPs REGULATORY UPDATE: JANUARY 2020

## MFDA: INTRODUCTION OF CONTINUING EDUCATION REQUIREMENT

In 2015, the Mutual Fund Dealers Association of Canada published a Discussion Paper for public comment on the development of continuing education requirements for Approved Persons of MFDA members. Fast forward to 2020 and the impending introduction of a continuing education requirement promises to be one of the most significant changes to the financial services industry in recent times with direct implications to CIFPs members.

The MFDA has been open and engaging with stakeholders throughout the planning stages and CIFPs has made multiple submissions representing its membership on various aspects of the CE program.

The MFDA has been pragmatic and has been careful to develop its new CE program in consideration of the existing CE systems overseen by the Investment Industry Regulatory Organization of Canada (IIROC) and the Chambre de la sécurité financière. By proposing CE rules and policies that, in all material aspects, are similar to those implemented by IIROC and the Chambre, the MFDA has minimized the effort needed for Members and Approved Persons to satisfy the new requirements when they do eventually come into force.

The new CE program will consist of three components:

- i) business conduct
- ii) professional development *and*
- iii) MFDA compliance

The MFDA proposes that for each CE cycle (i.e. 24 months), Chief Compliance Officers, Ultimate Designated Persons and Branch Managers will be required to accumulate:

- 8 credits in Business Conduct (e.g. ethics, MFDA rules and policies, relevant legislation and its application) *and*
- 2 credits in MFDA Compliance (i.e. education material relating to the conduct of Members and Participants that has been specifically designated by the MFDA)

Specifically for Dealing Representatives, in addition to the requirements listed above, individuals must, also complete 20 credits in the area of Professional Development (e.g. products, financial planning, different financial planning topics such as retirement, taxation, investments, etc.).

The MFDA has yet to formally announce a launch date for its CE program but presumably, they are inching ever closer to that moment. Last September, the Canadian Securities Administrators—an umbrella organization of Canada's provincial and territorial securities

regulators—published a *Notice of Approval/Non-objection* with respect to MFDA rules 1.2 (Definitions), 1.2.6 (Continuing Education) and Policy 9 (Continuing Education Requirements). Collectively, these rules will establish the CE requirements and set out the minimum standards for compliance with these requirements for Members and Approved Persons.

With an expansive catalogue of continuing education titles, CIFPs will be well-positioned to meet the new MFDA CE standard (subject to approval from the MFDA as will be the case with all prospective continuing education providers).

For more information on the new continuing education program, visit the MFDA Web site: <https://mfda.ca/>.

## FINANCIAL PROFESSIONAL TITLE PROTECTION ACT, 2019

A long-standing area of concern is that basically any individual can hang out a shingle as a financial planner or a financial advisor regardless of whether or not he or she has the training, education, experience or qualifications to substantiate those titles (Québec is the exception to the rule in Canada).

How ironic that despite Canada having one of the most stringent regulatory regimes in the world, it is only when financial advice is actually paired with the sale of an investment product that the planner/advisor has to answer to the various bodies charged with the oversight of the financial services industry. Individuals who offer just advice or just planning services bypass this scrutiny. By extension, this also means these individuals are not subject to registration requirements and compliance audits and they do not have to adhere to standards of proficiency and rules of conduct. Most importantly, especially from the perspective of the unsuspecting Canadian public, these individuals can use any title they wish to describe themselves and the services they offer provided it is not prohibited by law—‘Financial Planner’ and ‘Financial Advisor’ fall into this category.

After numerous attempts to address this issue spanning several years, it appears things are finally about to change, at least in Ontario.

The *Financial Professional Title Protection Act, 2019* was introduced as part of Ontario’s Budget 2019. The proposed new framework is being developed to require that individuals using the title ‘Financial Planner’ and ‘Financial Advisor’ have an appropriate credential from an accredited credentialing body.

Section 2 of the Act prohibits ‘any individual from using the title ‘Financial Planner’ or ‘planificateur financier’, an abbreviation of that title, an equivalent in another language or a title that could reasonably be confused with that title unless the individual has obtained an approved financial planning credential from an approved credentialing body and the credential is in good standing’. Similarly, Section 3 of the Act applies the same prohibition for the use of the title ‘Financial Advisor’ or ‘conseiller financier’.

This appears to be a win-win all the way around. Financial planners and financial advisors would benefit from the knowledge that professionals in their space would be held to a higher standard. Most importantly, Canadian families would be able to reach their financial goals with the confidence that they are dealing with someone who has adequate training and expertise.

The Financial Services Regulatory Authority of Ontario (FSRA), which assumed the regulatory duties of the Financial Services Commission of Ontario (FSCO) and the Deposit Insurance Corporation of Ontario (DICO) as of June 8, 2019, has indicated the new title protection framework will take a measured approach to enhance consumer protection without introducing an unnecessary regulatory burden and will be mindful of the current regulatory oversight of licensees and registrants.

The *Financial Professional Title Protection Act* is a good first step especially considering previous attempts to move this issue forward were plagued by inevitable impasses. This said, the legislation is still very much a work in progress with important details yet to be defined. CIFPs, on behalf of its membership, has been involved in the two stakeholder meetings that took place in 2019 and have made follow-up submissions to the FSRA.

Following Ontario's lead, the government of Saskatchewan has recently introduced the *Financial Planners and Financial Advisors Act* to regulate who can use the titles of 'Financial Planner' and 'Financial Advisor'. CIFPs accepted an invitation from the Financial and Consumer Affairs Authority of Saskatchewan to draft a submission offering our perspective on the title protection statute.

For more information, visit the Financial Services Regulatory Authority of Ontario Web site:  
<https://www.fsrao.ca/consumers/financial-planning-and-advice>