

February 28, 2023

The Honourable Ernie L. Steeves
Minister of Finance and Treasury Board
P.O. Box 600
Fredericton, NB E3B 5H1

Sent via email: wwwfin@gnb.ca

Dear Minister,

Re: 2023-2024 Pre-Budget Consultation

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments in regard to New Brunswick's 2023-2024 Pre-Budget Consultation.

1. ABOUT ADVOCIS

Advocis is the association of choice for financial advisors and planners. With over 17,000 member-clients across the country, we are the definitive voice of the profession. Advocis champions professionalism, consumer protection, and the value of financial advice. We advocate for an environment where all Canadians have access to the professional advice they need.

Advocis members advise consumers on wealth management; risk management; estate, retirement and tax planning; employee benefits; and life, accident and sickness, critical illness and disability insurance. In doing so, Advocis members help consumers make sound financial decisions, ultimately leading to greater financial stability and independence. In all that they do, our members are driven by Advocis' motto: *non solis nobis* – not for ourselves alone.

2. OUR COMMENTS

Raising the Professional Bar for Financial Professionals: A Title Protection Framework

We ask the Government of New Brunswick to introduce title protection legislation in 2023-2024. We have been strong supporters of developing a framework to restrict the titles of financial advisor ("FA") and financial planner ("FP") to qualified professionals in all provinces of Canada. The regulation of the FA and FP titles is an important measure to protect consumers as they navigate the financial services industry.



Consumer research surveys show that the majority of consumers believe that FA and FP titles are already regulated, even when there are no regulations in place.¹ Research surveys of New Brunswick, commissioned by Advocis in 2019, painted a similar picture.² Findings of these surveys demonstrate that most participants mistakenly believe that FAs are already regulated and that 90% of New Brunswick residents call for and support legislation regulating the financial professional titles.³ These findings highlight that consumers view FA and FP titles as indicative of professionalism. Consumers rely on these titles to find professionals who possess the skills and knowledge to assist them with reaching their financial goals. This is particularly important as Canadians, whose savings have been significantly impacted during the COVID-19 pandemic, are aiming to recover their losses.⁴ Lack of regulation in this space coupled with the significant amount of trust and reliance consumers put on these titles expose New Brunswickers to vulnerability and risks.

A comprehensive title protection regime enhances consumer protection. It sets higher professional standards and removes uncertainty about the quality of financial professionals using those titles by restricting their use to those who have satisfied objective criteria. Perhaps most importantly, a title protection framework would align regulatory reality with consumer's existing expectations regarding users of these ubiquitous titles.

Developing a title protection framework would also align New Brunswick with other provinces that have recognized the benefits of a title protection framework in bridging the gap in consumer protection. Ontario's title protection framework went into effect in March 2022 and Saskatchewan is in the final stages of implementing a similar framework as it has passed the necessary legislation and conducted two rounds of regulatory consultations.

We would emphasize that title protection is a non-partisan consumer protection matter. In both Ontario⁵ and Saskatchewan⁶, the legislation received unanimous support from all parties in their respective legislatures.

¹ Findings of FSRA-commissioned consumer research conducted by Forum Research Inc., between November 12 and December 3, 2020, show that 56% of survey respondents assumed that FP and FA titles are regulated by a government regulator. For more information, please see: www.fsrao.ca/industry/financial-planners-and-advisors-sector/notice-changes-and-request-further--fotp-rule#appendixd.

² Advocis/Abacus Data, "Regulating Financial Advisors: A Survey of 800 New Brunswick Residents" (March 4th – March 11th, 2019). At: simislegacy.advocis.ca/secure/govt-relations/2019-NB-Advocis-Poll.pdf.

³ *Ibid.*

⁴ Findings of Abacus Data show that the pandemic has hurt the personal finances of 1 in 3 Canadians or almost 10 million people. For more information please see: Abacus Data, "Affordability anxiety continues as income and wealth disparity, made worse by the pandemic, drives priorities for political agenda" (August 13, 2021). At: <https://abacusdata.ca/affordability-anxiety-persists/>.

⁵ For more information, please see Hansard debates of Bill 138 "Plan to Build Ontario Together Act, 2019" Schedule 12. At: <https://www.ola.org/en/legislative-business/bills/parliament-42/session-1/bill-138/debates>. Specifically see: Ontario, Legislative Assembly, Official Report of Debates (Hansard), 42nd Parl 1st Sess, No 124, 131, 132; and Ontario, Legislative Assembly, Standing Committee on Finance and Economic Affairs "Plan to Build Ontario Together Act, 2019" in *Official Report of Debates (Hansard)*, No F-9 (2 December 2019).

⁶ For more information, please see Hansard debates of Bill 203: "The Financial Planners and Financial Advisors Act". At: https://docs.legassembly.sk.ca/legdocs/Legislative%20Assembly/Hansard/Indexes/28/28L_F_SU-f.htm#mh541. Specifically see: Saskatchewan, Legislative Assembly, Official Report of Debates (Hansard), 28th Parl 4th Sess, No 22A (2 December 2019); Saskatchewan, Legislative Assembly, Official Report of Debates (Hansard), 28th Parl 4th Sess, No 40A (18 June 2020); and Saskatchewan, Legislative Assembly, Official Report of Debates (Hansard), 28th Parl 4th Sess, No 44A (24 June 2020).



We appreciate that the Financial and Consumer Services Commission of New Brunswick (“FCNB”) has previously conducted public consultations on a title protection regulatory framework which Advocis commented on.⁷ It has been a pleasure to work with the FCNB to comment on the key foundational aspects of a potential framework. We believe that it is time for the New Brunswick government to take this important consumer protection initiative to the next step by passing legislation enabling the creation of a title protection regulatory framework.

Professional Standards in the Framework Must be High

The entire purpose of a title protection framework must be to protect consumers, so the standards set for both the Financial Advisor and Financial Planner title must be high. The framework should not simply legitimize product-based sales licenses as proxies for professional financial advice and planning.

It is true that financial advisors and financial planners were once viewed primarily as transactional conduits to purchasing products. Over time, the roles of financial professionals and their relationships with clients have changed. Holistic advice now takes centre stage – it is advice, not product, that consumers seek – and any transaction in product is only a means to an end of fulfilling the client’s financial plan. An effective title protection framework must ensure the quality of that advice and steer away from a product-centric approach.

Further, it is critical that both titles be backed by high standards. Research surveys show that most consumers do not differentiate between the FA and FP titles and that they expect the same standards of professionalism from users of both titles.⁸ Regardless of whether a professional uses the FA or FP title, consumers rightly expect broad-based and comprehensive advice that puts the client’s interests first.

Implementation Need Not Be Burdensome

It is natural for governments to be concerned that developing a title protection framework could be expensive and burdensome on public resources. The experience of other provinces shows that it does not need to be. We invite New Brunswick to consider the structural approach taken by Ontario in regard to the financing and administration of its framework.

In Ontario, the government passed high-level legislation⁹ that created its framework and delegated the task of filling in the details to a regulator. The regulator is charged with administering the framework, with start-up and annual fees charged to the participants in the

⁷ The Financial Advisors Association of Canada, Advocis, “Response to FCNB Consultation Notice – Title Protection 2021 Regulation of Financial Planner and Financial Advisor Titles” (October 25, 2021). At: https://www.advocis.ca/wp-content/uploads/2022/09/2021-10-25_Advocis_Response_to_FCNB_Title_Protection_Consultationv3.pdf

⁸Supra note 1. Research results demonstrate that only 31% of consumers are confidently able to explain the difference between FPs and FAs and only 6% are completely confident. For more information, please see Appendix C at: <http://www.fsrao.ca/industry/financial-planners-and-advisors-sector/notice-changes-and-request-further-comment-fntp-rule>.

⁹Financial Professionals Title Protection Act, SO 2019, c 7, Schedule 25.



framework on a cost recovery basis. As a result, consumers benefit from the enhanced protections without a net burden on public finances.

New Brunswick could take a similar approach. The Legislative Assembly of New Brunswick could introduce high-level legislation that sets out the mandates of the title protection framework and its overall operational and accountability structure. The FCNB, as the regulatory authority which has already started the consultation process, would be the natural candidate to take the lead in administering and operating New Brunswick's framework.

3. **CONCLUSION**

Financial advice is critical to modern consumers' well-being and it is our collective responsibility to establish and enforce high standards that ensure the quality of that advice. Introducing a title protection framework would be a meaningful step forward in protecting New Brunswick's consumers. However, the standards in the framework must be focused on the holistic advisor-client relationship, rather than product sales. Properly set, the framework can bring about tremendous benefits without additional burden on the government.

We look forward to further productive discussions with the Government of New Brunswick and the FCNB. Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Advocacy and General Counsel at jryu@advocis.ca.

Sincerely,

"original signed by"

Greg Pollock, M.Ed., LL.M., C.Dir., CFP
President and CEO

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Catherine Wood, CFP, CLU, TEP, CHS, MBA, MIST, ICD.D.
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