

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

<sup>1</sup> This instrument is an initiative of the Canadian Securities Administrators ("CSA") 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 notice as a concept proposal. The Alberta, Manitoba, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland insurance regulators have expressed an interest in reviewing the results of the comments.

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

<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.

#### 1.1 Proficiency Requirements

(1) An individual who is a registrant shall not:

(a) hold himself or herself out in any manner:

(i) using a title that includes the word "planner",

(ii) 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",

(iii) as providing services described by an expression that includes the word "planning", or

(iv) as providing services described by an expression that includes any

of the words "financial", "retirement", "wealth", "security", "asset" or "money" in combination with one of the words "advising", "consulting", "specialty", "expertise", "management" or "counselling", or any other expression similar to "financial planning"; or

(b) provide a written document referred to as a financial plan,

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

(c) has passed the Financial Planning Proficiency Examination approved by the regulator<sup>3</sup>

<sup>3</sup> The term "regulator" 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.

and administered in a manner approved by the regulator;

(d) has been a registrant under Canadian securities legislation<sup>4</sup>

<sup>4</sup> The term "Canadian securities legislation" is defined in NI 14-101 as meaning the statutes and other instruments listed in an appendix to

that instrument.

or a licensed life agent under the *Insurance Act* of any 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

(e) 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:

(a) hold out an individual who is registered to advise or trade on its behalf:

(i) using a title that includes the word "planner",

(ii) 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",

(iii) as providing services described by an expression that includes the word "planning", or

(iv) 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

(b) 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:

(a) using a title that includes the word "planner"; or

(b) 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:

(a) as providing services described by an expression that includes the word "planning"; or

(b) 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(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:
  - (a) obtained its designation of Specialist in Financial Consulting; and
  - (b) 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 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.
11. 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.

12. 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.

13. 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* (Québec).

(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** - 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**

(1) Subsection 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:

(a) 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

(b) holds himself or herself out as providing services described by an expression that includes any of the words "financial", "wealth", "security", "asset" or "money" combined 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".

(2) Subsections 1.1(2)(a) don't 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).

(3) 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**

(1) A registrant that intends to hold 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, shall first file with the regulator:

(a) a notice that the registrant so intends<sup>5</sup>

<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.

(b) 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(2), and

(ii) paragraph 1.1(1)(d); and

(c) any undertaking required by paragraph 1.1(1)(e).

(2) 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.

#### **Appendix - Fee Provisions**

<b>LOCAL JURISDICTION</b>	<b>FEE PROVISION</b>
<b>ALBERTA</b>	Section 59 of the <i>Securities Act</i> Alberta
BRITISH COLUMBIA	Section 35 of the <i>Securities Act</i>
MANITOBA	Section 149(z) of the <i>Securities Act</i>
NEW BRUNSWICK	Section 9 of the <i>Securities 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 the <i>Securities Act, 1988</i>
YUKON TERRITORY	Section 9 of the <i>Securities Regulations</i>