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RE: Request for Comment Proposed Amendments to MFDA Rule 1.2.5 (Misleading Business Titles Prohibited)

FAIR Canada is pleased to offer comments on the proposed amendments to MFDA Rule 1.2.5 – Misleading Business Titles Prohibited (the Rule).

FAIR Canada is a national, charitable organization dedicated to putting investors first. As a voice for Canadian investors, FAIR Canada is committed to advocating for stronger investor protections in securities regulation. Visit www.faircanada.ca for more information.

1. Executive Summary

- 1.1. FAIR Canada notes that the provision of poor financial advice, the lack of effective regulation of financial advice and the lack of regulation of financial planning, coupled with the widespread use of deceptive and misleading titles, is a matter of serious concern. The overarching problem is that Approved Persons are allowed to hold themselves out as “advisors” and “financial planners” when there is no statutory obligation to act in the client’s best interest and this is inherently misleading to consumers.
- 1.2. FAIR Canada believes that the establishment by the MFDA of minimum proficiency requirements for Approved Persons seeking to use the title “financial planner” is a step in the right direction but, on its own, will not go far enough. FAIR Canada strongly believes that what is urgently needed is a comprehensive and coordinated solution and one that keeps its focus squarely on consumers’ needs and their capabilities including the need for a statutory best interest standard

and the removal of conflicted compensation including trailing commissions.

- 1.3. FAIR Canada also believes that regulators need to conduct a rigorous assessment of various designations and the requirements to continue to hold that designation (if any) should be undertaken before determining that they meet the required level of proficiency to call themselves a “financial planner”.
- 1.4. FAIR Canada urges the MFDA to consider the recommendations made by FAIR Canada in its letters to the Expert Committee to Consider Financial Advisory and Financial Planning Alternatives Dated June 17, 2016¹ and September 23, 2015² and in our letter to the MFDA dated September 16, 2015 regarding outside business activities including financial planning.³ We urge the MFDA to work in a collaborative and coordinated fashion with other regulators, and governments in order to implement meaningful reforms that will improve investor protection. While we recognize that the Expert Panel’s jurisdiction is in Ontario and the MFDA operates throughout Canada (except for Quebec), the Panel’s recommendations may be quite relevant to other parts of Canada.⁴

We thank you for the opportunity to provide our comments and views in this submission. We welcome its public posting and would be pleased to discuss this letter with you at your convenience. Feel free to contact Marian Passmore at 416-214-3441/ marian.passmore@faircanada.ca.

Sincerely,

Canadian Foundation for Advancement of Investor Rights

CC: British Columbia Securities Commission
Alberta Securities Commission
Saskatchewan Financial Services Commission
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
New Brunswick Securities Commission
Registrar of Securities, Prince Edward Island

¹ FAIR Canada’s to the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives (June 17, 2016), available online at: <https://faircanada.ca/wp-content/uploads/2016/06/160617-FAIR-Canada-Financial-Planning-Submission-to-Expert-Committee-re-Prelim-Recommendations.pdf>

² FAIR Canada’s to the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives (September 23, 2015), available online at: http://faircanada.ca/wp-content/uploads/2011/01/150923-FinalFAIR-Canada-Sumission-to-Expert-Panel-re-Financial-Planning_signed.pdf

³ 2 FAIR Canada submission to the MFDA regarding Proposed Amendments to Rule 1.2 (Individual Qualification) (September 16, 2015), available online at: <http://faircanada.ca/submissions/request-for-comment-on-proposed-amendments-to-mfda-rule-1-2-individual-qualifications-regarding-outside-business-activities-including-financialplanning/>

⁴ We note that Quebec has regulatory requirements before someone can hold themselves out as a financial planner.

FAIR

Canadian Foundation for
Advancement of Investor Rights
Fondation canadienne pour l'avancement
des droits des investisseurs

Nova Scotia Securities Commission
Superintendent of Securities, Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon Territory
Superintendent of Securities, Nunavut