

**DIRECTIVES OF THE BSF CONCERNING
SECTIONS 100 AND 101 OF THE ACT**Bureau des
services financiers**Directives of the Bureau des services financiers concerning sections 100 and 101 of the act respecting the distribution of financial products and services (Bill 188)**

At the meeting of its board of directors held on December 15, 2000, the Bureau des services financiers adopted two directives concerning the application of sections 100 and 101 of Bill 188 with respect to the financial planners who are authorized by their professional order rather than by the Bureau.

Context

As many people are now aware, the Bureau may enter into agreements with certain professional orders whereby the latter can authorize their members to use the title of financial planner. When such an agreement is signed:

- these financial planners are managed and supervised by their professional order;
- these financial planners must meet the requirements and comply with the rules determined by their professional order;
- the provisions of Bill 188 respecting financial planners authorized by the Bureau do not apply to the members authorized by their professional order to use the title.

The Bureau has actually entered into agreements with four professional orders¹. In all the discussions relative to the signing of these agreements, the Bureau always tried to seek as much possible the standardization of the schemes to which all financial planners are subject, whether they are authorized by the Bureau or by a professional order.

It's in the same spirit of standardization that the Bureau adopted the following two directives:

¹ Agreements were signed with the Ordre professionnel des notaires du Québec, the Ordre professionnel des comptables agréés du Québec, the Ordre professionnel des comptables généraux licenciés du Québec and the Ordre professionnel des administrateurs agréés du Québec.

1- Sharing of commissions with a financial planner who is a member of a professional order (sections 100 et 143)

Section 100 provides that:

A firm may share a commission it receives only with another firm, an independent representative or independent partnership, a real estate broker governed by the Real Estate Brokerage Act (R.S.Q., chapter C-73.1), a securities dealer or securities adviser governed by the Securities Act, a deposit institution, an insurer or a confederation within the meaning of the Savings and Credit Unions Act.

The commission shall be shared in the manner determined by regulation.

The firm shall enter every sharing of a commission in a register, in accordance with the regulations.

When reading this section, we find that financial planners who are authorized as such by a professional order are not mentioned in the list of persons who may receive a commission sharing from a firm. Indeed, such financial planner is not a representative within the meaning of the Act and may not register as an independent representative with the Bureau.

On the other hand, all the other financial planners must be certified by the Bureau to use this title. When the latter register as independent representatives, they become persons with whom a firm may specifically share its commission.

In this context, the Bureau wondered whether a firm, an independent partnership or an independent representative could also share his or its commission with a financial planner authorized by a professional order that signed an agreement.

Since financial planners authorized by a professional order can act as such just as much as financial planners authorized by the Bureau, it would be appropriate that the firms, independent partnerships and independent representatives be able to interact in the same way with them.

Directive

The Bureau deems acceptable that the firms share their commissions with a financial planner who is a member of a professional order that entered into an agreement with the Bureau. Thus, these financial planners could be paid for certain activities (ex.: referencing) provided that their professional order allows them to receive an amount coming from a sharing of commission.

The same directive also applies to independent representatives and independent partnerships that, pursuant to section 143 of Bill 188, are limited in the choice of the persons with whom they can share a commission. Thus, they will be allowed **in the same way to share their commission with a financial planner who is a member of a professional order.**

2- Representation of firms in matters of financial planning

Section 101 provides that:

Notwithstanding section 56, a single-sector firm or an independent partnership all the representatives of which are financial planners may make itself known as a financial planning firm or partnership.

Only financial planners or firms or independent partnerships acting through a financial planner may make themselves known as offering financial planning services.

This section allows independent partnerships and firms registered with the Bureau and acting through financial planners, to reveal the fact that the partnership or firm may offer financial planning services.

However, the financial planners who are authorized by a professional order are not representatives. The Bureau does not issue any certificate to them. The firms through which these representatives act (notarial firms, accounting firms, etc.) may not therefore be considered as firms or independent partnerships within the meaning of Bill 188.

The Bureau is of the opinion that the primary purpose of section 101 is to allow a company or partnership to present to its clients the services offered by the financial planners working on its behalf.

Since the financial planners authorized by a professional order may also act as such and therefore offer the same services as those authorized by the Bureau, it would be appropriate that the partnerships of professionals on behalf of which they act (notarial, accounting or chartered administrators firms) also be allowed to present these services to their clients.

Directive

The Bureau considers acceptable that a partnership regrouping professionals who are members of a professional order that entered into an agreement with the Bureau make itself known as offering financial planning services if it acts through at least one member who is authorized by the order to use the title of financial planner. The name of this partnership must have been indicated to the professional order by the member who is a financial planner when he registered in the register (roll of the order).

Also, the Bureau considers acceptable that an independent partnership or a firm registered with the Bureau in a sector other than financial planning make itself known as offering financial planning services if it has in its employ a financial planner who is authorized to use this title by a professional order.