

Financial Services Regulatory Authority of Ontario
Notice of Proposed Rule and Request for Comment

Proposed Rule [2020-001]
Financial Professionals Title Protection

Introduction

Pursuant to subsection 22(1) of the *Financial Services Regulatory Authority of Ontario Act, 2016* (the **FSRA Act**), the Financial Services Regulatory Authority of Ontario (**FSRA** or the **Authority**) is publishing for comment Proposed Rule [2020-001] – *Financial Professionals Title Protection* (the **Proposed Rule**) under the *Financial Professionals Title Protection Act, 2019* (FPTPA).

The text of the Proposed Rule is set out in Appendix A to this Notice. Interested persons are invited to make written representations to FSRA with respect to the Proposed Rule on or before November 12, 2020. FSRA will consult separately on [proposed Guidance](#), which will describe FSRA’s approach to administering applications under the FPTPA.

We have included throughout this Notice questions for consideration and comment. This includes questions relating to the approval criteria for credentials. These questions have been summarized at the end of this Notice.

Substance and Purpose of the Proposed Rule

Concerns have been raised by consumer and investor advocates about the wide array of titles and credentials currently used by individuals operating in Ontario’s financial services marketplace, and how it has contributed to confusion over title usage. The absence of a regulatory framework governing the use of titles has also led to questions about the expertise and knowledge of individuals providing financial planning and financial advisory services. The requirements included in this Rule aim to establish minimum standards for use of the Financial Planner and Financial Advisor titles so that consumers can have confidence in the quality of the services they receive from individuals using these titles.

The FPTPA received Royal Assent in 2019. Once proclaimed in force, the FPTPA will, subject to the transition periods described below, restrict the use of the titles “financial planner” (FP) and “financial advisor” (FA) (as well as equivalents in another language or titles that could reasonably be confused with such titles) to individuals who have obtained a credential issued by a FSRA-approved credentialing body.

The substance and purpose of the Proposed Rule is to establish:

- approval criteria for credentialing bodies that intend to offer a credential in order to ensure the effective administration of a credentialing program and that only qualified individuals are issued a credential;
- approval criteria for a credentialing body to issue FP and FA credentials in order to establish a consistent, minimum standard for title users;
- the application process; and
- a transition period for individuals already using the FP and FA titles

FSRA has developed associated Guidance, which provides additional detail on how FSRA will approach the administration of applications under the FPTPA and provisions of the Proposed Rule.

Principles for oversight of the title protection framework

The primary objective of the framework is to create minimum standards for title usage, without creating unnecessary regulatory burden for title users. The title protection framework does not create a new licensing regime for individual title users, but will recognize existing licensing and professional designation regimes administered by approved credentialing bodies, and will grant the individuals holding such licences or designations the right to use the FP or FA titles.

Individual title users will be required to hold an approved credential from a FSRA-approved credentialing body, and will be required to meet conduct requirements and professional standards as set out by their respective credentialing body. FSRA may take enforcement action where it is identified that an individual uses an FP/FA title without the authority to do so (i.e., the individual does not have an approved credential).

Financial planning and advising activities that are subject to regulation will, in addition to oversight by the credentialing body with respect to the appropriate use of title, continue to be overseen and regulated by the relevant regulatory bodies in Ontario.

The FP/FA title protection framework is designed to align with FSRA's statutory objects under the FSRA Act with respect to the FPTPA and the following key principles:

Consumer Confidence

The proposed approach protects the public interest through the implementation of new minimum standards that credentialing bodies and individual title holders must meet.

FSRA will also protect the interests of the public through oversight of the credentialing bodies, and will require compliance by individuals who use the FP or FA titles without an approved credential.

Regulatory Effectiveness and Efficiency

The title protection framework introduces new requirements for those using FP and FA titles. FSRA seeks to efficiently and effectively implement a fair and flexible framework

by leveraging existing regimes for granting and supervising financial planning and advising designations and licences, to ensure that individuals using the FP or FA titles meet minimum standards.

FSRA designed this framework to leverage existing standards and regimes already in the marketplace as a means to mitigate unnecessary burden on market participants and costs to consumers. This allows for existing standards, practices and licences/designations to be recognized as meeting minimum standards for title usage, and to enable certain individuals to continue to conduct business using the FP and FA titles without significant disruption or additional cost.

In its Annual Business Plan, FSRA outlined its strategic direction to further its mandate and objects under the FSRA Act, which includes delivering a principles-based and outcomes-focused regulatory regime, to appropriately respond to the dynamic nature of the financial services sector. FSRA's approach to the design, implementation and administration of the title protection framework is consistent with this direction. The prescribed standards outlined in the Proposed Rule seek to minimize prescriptive requirements, where appropriate, and provide for flexibility in achieving compliance. This approach is intended to accommodate the complex and diverse existing landscape of financial planners and advisors, their employers and their designation or licence granting bodies, without introducing unduly burdensome barriers for new entrants.

Background

There is currently no regulatory framework governing the use of the FP or FA titles in Ontario. As mentioned earlier in this notice, a number of concerns have been raised about the wide array of titles and credentials used by individuals in the financial services marketplace, and the fact that titles may confuse consumers seeking to understand an individual's qualifications and expertise.

Concerns have also been raised about the use of the FP and FA titles, and the fact that consumers may have difficulty understanding the qualifications and services provided by individuals using those titles. The lack of regulatory requirements for consistent use of such titles in the financial services sector has contributed to such consumer confusion.

One important goal of the new framework is to mitigate this confusion and provide confidence to consumers and investors that the individual with whom they are dealing will meet minimum standards of expertise and knowledge when providing financial planning or advisory services.

In the 2019 Ontario Budget, the government announced that it would introduce legislation to limit the use of the FP and FA titles to individuals who have obtained a credential from a credentialing body approved by FSRA. The FPTPA received Royal Assent in May 2019, but has not yet been proclaimed into force. It is anticipated that once the Proposed Rule for the title protection framework has been approved by the Minister of Finance, the FPTPA will be proclaimed.

To date, Ontario is the only Canadian jurisdiction to have passed legislation to create a title protection framework for both FP and FA title use. Saskatchewan introduced legislation similar to the FPTPA in December 2019; the legislation has not progressed beyond first reading. Quebec is the only other Canadian jurisdiction that has implemented a regulatory framework for financial planners. A jurisdictional scan of the current and proposed regulatory frameworks for financial planners and financial advisors is provided in Appendix B of this Notice.

Development of the Proposed Rule

Research and Consultation

In the fall of 2019, FSRA held targeted consultation meetings with a large number of stakeholders, including various education providers, licensing and designation/professional bodies, trade/industry associations, consumer/investor advocates and government bodies. A list of stakeholders that FSRA consulted with is provided in Appendix C of this Notice.

The purpose of this exercise was to gauge opinions in the marketplace about the use of the FP and FA titles and to obtain feedback on key elements of the framework - in particular, FP and FA credentials, transition, grandfathering, exemptions and approval criteria for credentialing bodies.

The following themes arose out of the consultations:

- The majority of stakeholders agreed that there are suitable existing professional designation programs available for FPs that provide the specialized qualifications and competencies for FP title use.
- Stakeholders indicated that determining a baseline for the FA credential could be challenging due to the broad/varied scope of FA activities (e.g., often depending on the area of financial advice or the financial product being sold) and the fact that there is no consistent definition of the activities undertaken by FA title users.
- Stakeholders expressed concerns over the introduction of measures that could lead to duplicative oversight and increased burden for FP and FA title users.
- Industry and consumer/investor advocates did not support grandfathering for either title. Stakeholders advised that years of experience should not automatically qualify an individual to use a FP or FA title, but that existing pathways to credentialing body designations and licences should be made available to those seeking to continue to use the FP and FA titles.
- The majority of stakeholders supported a transition period during which FP and FA title users could continue to use the titles before being required to obtain an approved designation or licence that would enable them to use the FP or FA title.
- Consumer/investor advocates did not support the concept of exemptions for either title.
- The majority of stakeholders noted the importance of educating consumers about the title protection framework.

In addition to conducting its own stakeholder consultations, FSRA reviewed consultations previously conducted on financial planning and financial advising, as well as research on approaches taken to regulating FPs and FAs in international jurisdictions.

FSRA has considered the findings and outcomes of its research and consultation with stakeholders to inform its policy approach and development of the Proposed Rule.

Understanding the FP and FA landscape

The existing operating environment for FP and FA title users is varied and complex. Based on research undertaken by FSRA and feedback received from stakeholders, the FP title is typically used by individuals who provide broad and/or holistic financial planning services. Holistic financial planning is the process of considering all aspects of a client's financial and personal circumstances to develop a financial plan.

FPs can work for a number of organizations, including banks, insurance companies and private investment firms, or as sole proprietors, sometimes working as fee-only financial planners. There are several existing reputable financial planning designations available in the financial services marketplace. Industry stakeholders indicated that existing market participants have a common understanding of the proficiencies required to obtain a prospective FP credential and the scope of services provided by a financial planner.

There is no readily available information about how many individuals use the FP title without a designation or licence. However, stakeholder feedback has indicated that the majority of individuals using the FP title already hold at least one relevant designation or licence.

There are also no readily available statistics on the number of individuals holding out as FAs in Ontario. However, during consultation meetings, stakeholders commented that a good proportion of the individuals currently using the FA title are already regulated by a financial services regulator or are registered to sell securities / mutual funds with a Self-Regulatory Organization (SRO) such as the Mutual Fund Dealers Association (MFDA) or the Investment Industry Regulatory Organization of Canada (IIROC) (approximately 47,000 individuals as of March 2020). As such, the conduct of many existing FA title users is overseen by a regulatory body.

There are also several existing reputable designations and licences available in the financial services marketplace that provide the necessary proficiencies for individuals to use the FA title.

Stakeholders also confirmed that there is no common definition or understanding regarding the FA title, and the activities undertaken by individuals who currently use the FA title are broad in scope and vary widely. The FA title is also used inconsistently across Ontario by individuals with varying levels of qualifications and education. FA title users currently include life insurance agents, securities representatives, bank

employees, as well as individuals who already hold a financial services designation offered in the marketplace, or are licensed by a financial services regulatory body (e.g., IIROC or MFDA).

Stakeholders in the financial services marketplace

The financial services marketplace is an interconnected landscape of a variety of stakeholders who contribute to the provision of education, designations, licensing and/or oversight of individuals using the FP and FA titles.

Education providers – organizations that offer individuals looking to enter the financial services marketplace with the courses required to obtain an existing designation/licence.

Designation/Professional Bodies – grant designations to individuals who have obtained the appropriate prerequisite qualifications (typically a robust education program and a comprehensive examination which tests the individual's competency).

The designation/professional body may or may not offer the educational courses required to be completed prior to an individual being granted a designation. Typically, designation/professional bodies also oversee the conduct of the designation holder, and have documented complaints, discipline and enforcement processes for handling instances of misconduct. The level of oversight typically undertaken by a designation/professional body may not be on a par with that undertaken by an SRO or other financial services regulatory body.

Financial services regulatory bodies (e.g., OSC, MFDA, IIROC) – license/register individuals and firms, and oversee standards and business conduct in the financial services marketplace.

Industry/trade associations – act as representatives for a specific occupation or sector, typically lobbying government on behalf of their members. They may also develop standards for industry and provide training and education for their members.

Given the number of organizations involved in the financial services marketplace, stakeholders have raised concerns about the potential for the title protection framework to lead to duplicative oversight and/or regulatory burden for market participants.

Establishing approval criteria for credentialing bodies

A key element of the implementation of the title protection framework is the establishment of approval criteria for credentialing bodies, to ensure effective oversight of a credentialing program so that only individuals meeting minimum standards are able to obtain and maintain a credential by virtue of holding a designation or licence.

Paragraph 15(1) 2 of the FPTPA provides authority to FSRA to make rules establishing criteria for credentialing bodies to be approved by FSRA under section 4 of the FPTPA, including without limitation, criteria relating to:

- i. the applicant's governance structure and practices; and
- ii. disciplinary processes the applicant must have in place for individuals holding approved credentials it has issued.

In order to determine appropriate approval criteria for credentialing bodies, FSRA conducted research on requirements set by international standard setting bodies for accreditation, such as the International Organization for Standardization (ISO) and the National Commission for Certifying Agencies, and other organizations that issue a form of credential. These organizations set the standard minimum requirements for entities wishing to become accredited as a certification body. These include, for example, requirements relating to governance, managing impartiality, safety and security of records, and examination administration. It is noted that some existing designation/professional bodies operating in the FP/FA sector have obtained accreditation with the ISO.

In addition, during FSRA's consultation sessions, stakeholders provided feedback on the criteria that should be required for entities wishing to obtain approval as a credentialing body. Suggested criteria included:

- a requirement for credential holders to adhere to a code of conduct;
- having a public interest mandate in place; and
- having internal processes and controls to effectively identify and mitigate real or perceived conflicts of interest.

FSRA's research and the feedback received during stakeholder consultation were used to inform the development of the Proposed Rule.

Establishing approval criteria for credentials

Another key element of the implementation of the title protection framework is the establishment of approval criteria for a credentialing body to permit the use of FP and FA credentials, to ensure that only individuals meeting minimum standards use the FP or FA title.

In order to do so, FSRA is required to approve specific licences and designations granted by such credentialing bodies and to confer them with the right to FP and FA title use while the individual is a licence or designation holder in good standing.

Paragraph 15(1)3 of the FPTPA grants FSRA rule-making authority to establish criteria for licences and designations to be approved under section 7 of the FPTPA as granting the right to use an FP or FA title, including, without limitation, criteria relating to:

- i. Educational requirements;
- ii. Examination requirements;

- iii. Code of ethics and professional standards; and
- iv. Continuing education requirements.

During consultation meetings, stakeholders acknowledged that the FP and FA titles are distinct and typically have different education and competency requirements. To validate this, FSRA conducted a gap analysis of the education programs for existing licences and designations typically held by FPs and FAs in Ontario. FSRA’s goal was to obtain a better understanding of the technical knowledge, professional skills and competencies covered in each education program and how those might qualify an individual to use the FP or FA titles. FSRA’s review of existing education programs established a delineation between the levels of proficiency required to use the FP and FA titles.

Based on the review of education programs and stakeholder feedback, FSRA drafted the FP and FA baseline competency profile. The intent of the profile was to establish a benchmark for the technical knowledge, professional skills and competencies that would reasonably be expected of FP and FA title users.

In early 2020, FSRA held additional targeted stakeholder consultations to obtain feedback on the FP and FA baseline competency profile. Overall, stakeholders supported the key elements included in the FP and FA baseline competency profile and FSRA’s proposed approach. Stakeholder feedback provided valuable insight into the proficiencies that should be held by FP and FA title users and confirmed FSRA’s understanding of the different skill sets, competencies and technical knowledge needed for FP and FA title users, respectively.

Table 1: Financial Planner Baseline Competency Profile

General Financial Services Knowledge
Overview of financial services marketplace
Overview of the Canadian regulatory environment related to the sector in which the individual operates
Fundamentals of Economics
Ethics
Ethics – Understanding of ethical practices and professional conduct in the financial services market, including identifying and managing conflicts of interest
Client Outcomes
Dealing with retail clients <ul style="list-style-type: none"> • Gather sufficient detailed personal and financial information about the client • Confirm a client’s risk profile • Establish financial objectives, priorities and areas of need relevant to the scope of services being provided • Periodic review of the client’s ongoing objectives, priorities and areas of need, as required, relevant to the scope of services being provided
Integrated financial planning <ul style="list-style-type: none"> • Ability to develop and present an integrated financial plan to clients, which includes a holistic analysis of a client’s financial circumstances and suitable financial planning and investment recommendations
Technical Knowledge (KYP)
Technical knowledge and competencies in all of the following: estate planning, tax planning, retirement planning, investment planning and alternatives, finance management and insurance/risk management and how these topics interconnect with each other.

Based on the feedback received, FSRA revised the FP and FA baseline competency profile (see tables 1 and 2). The content of the profile was used to support the drafting of the Proposed Rule, and will be used to supplement FSRA’s process for approving an existing licence or designation, which would grant the individual licence or designation holder the right to use the FP or FA title.

Table 2: Financial Advisor Baseline Competency Profile

General Financial Services Knowledge
Overview of financial services marketplace
Overview of the Canadian regulatory environment related to the sector in which the individual operates
Fundamentals of Economics
Ethics
Ethics – Understanding of ethical practices and professional conduct in the financial services market, including identifying and managing conflicts of interest
Client Outcomes
Dealing with retail clients <ul style="list-style-type: none"> • Gather sufficient detailed personal and financial information about the client • Confirm a client’s risk profile • Establish financial objectives, priorities and areas of need relevant to the scope of services being provided • Periodic review of the client’s ongoing objectives, priorities and areas of need, as required, relevant to the scope of services being provided
Providing suitable recommendations <ul style="list-style-type: none"> • Ability to develop and present suitable financial and investment recommendations to retail clients, relevant to the scope of services being provided
Technical Knowledge (KYP)
The curriculum should provide the technical knowledge and competencies in one or more of the following: estate planning, tax planning, retirement planning, investment planning and alternatives, finance management and insurance/risk management

Credentialing bodies will be required to demonstrate in their application to FSRA how their licence or designation aligns with the education requirements in the Proposed Rule. FSRA will assess the education program component of their credentialing programs in line with the Proposed Rule.

FSRA recognizes that there are a large number of highly qualified individuals already operating within the financial services sector who hold industry-recognized licences or designations. However, holding a financial services licence or designation may not automatically qualify an individual to use an FP or FA title. Under the title protection framework, a licence or designation must meet the approval criteria in the Proposed Rule in order to be considered for approval as a credentialing body granting the right to use the FP or FA titles.

As a result, some existing licences or designations may not meet the new minimum standards. For example, based on its review of existing licences and designations in the marketplace, FSRA does not anticipate that the Life Licence Qualification Program would meet the minimum standard for technical knowledge, professional skills and competencies for FP or FA title use because the curriculum does not fully align with the

FP/FA baseline competency profile — in particular, content relating to client outcomes. Therefore, under the new framework, those individuals that only hold this qualification would not be able to use the FP or FA title.

Given the diversity of training and experience of individuals who currently hold a financial services licence or designation, the Proposed Rule focuses on a minimum standard for title use, rather than seeking to build a consistent level of proficiency for all individuals who hold a licence or designation. This approach will help ensure that, moving forward, individuals using the FP or FA titles meet minimum standards, and consumers can have greater confidence in the quality of the financial planning and advising services they receive from FP or FA title users.

FSRA is seeking feedback on the above approach and whether the Proposed Rule and FP and FA baseline competency profile adequately reflect the technical knowledge, professional skills and competencies that should be included in a credentialing body's education program to establish the minimum standard for FP and FA title users.

FSRA is also seeking comments on whether FP and FA title users should be required to disclose to their clients the credential they hold that affords them the right to use an FP or FA title. FSRA is seeking feedback on the form that this disclosure could take and the overall consumer benefits it could achieve.

Implementing the framework

Proclamation of the FPTPA and Ministerial approval of the Proposed Rule will provide FSRA with authority to approve credentialing bodies and their licences or designations that will permit holders to use the FP and FA titles.

At a high level, FSRA anticipates the approval process and supervisory framework for credentialing bodies to operate as follows:

- Upon the coming into force of the FPTPA and the Proposed Rule, organizations that currently offer a designation or licence that they wish to submit for approval as a credential entitling FP or FA title use must apply to FSRA in order to obtain approval as a credentialing body, and must seek FSRA approval of the designation/licence as a credential granting the right to FP or FA title use.
- Organizations that wish to develop a new financial services licence/designation program must meet the same standard of approval as those that currently offer existing licences/designations.
- The application process is outlined in the Proposed Rule. Associated Guidance will provide additional detail on the application process. There will be a fee associated with the application process. Although fees have not yet been determined under the title protection framework, fees will be finalized prior to FSRA accepting applications.
- FSRA will review the submission against the approval criteria in the Proposed Rule and its associated Guidance.

- FSRA will post the list of approved credentialing bodies and approved credentials on its website. The list will be updated as credentialing bodies and their relevant credentials are approved.
- FSRA will develop a monitoring and supervision plan for its oversight of credentialing bodies. This will include ensuring that credentialing bodies remain in compliance with the terms and conditions of their approval and that they maintain effective oversight of their credentialing program to ensure that only qualified individuals are granted a FP or FA credential.

Additional details relating to the operational framework for approval of credentialing bodies and credentials will be included in associated Guidance.

Upon the coming into force of the FPTPA and the Proposed Rule:

1. No individual will be permitted to use the FP or FA titles unless they have an approved credential from a FSRA-approved credentialing body and are in good standing with that credentialing body.
2. An individual who used the FP or FA title in Ontario immediately prior to January 1, 2020, and up to the date the Rule comes into force, will be permitted to continue using the relevant title during the transition period prescribed in the Proposed Rule. FSRA interprets this to apply to any individual who used the FP or FA title while actively engaged in the business of providing services related to financial planning or advising at least the day before January 1, 2020 (e.g., December 31, 2019) and continued to conduct such business until the date the Proposed Rule comes into force. Once the transition periods prescribed in the Proposed Rule have lapsed, individuals will be subject to the provision outlined in paragraph 1 above.
3. Individuals to whom the transition provisions in the Proposed Rule apply should monitor the list of approved credentials on the FSRA website. If their current licence/designation is accepted by FSRA as an approved credential, such individuals will not be required to obtain any additional qualifications. Such individuals will be subject to the ongoing requirements of the title protection framework and the relevant approved credentialing body going forward.
4. Individuals using the FP or FA titles before the FPTPA comes into force, and who do not qualify for the transition provisions prescribed in the Proposed Rule (i.e., not using the FP or FA title prior to January 1, 2020 and continuing to use it until the Rule comes into force), will not be permitted to use the FP or FA titles once the FPTPA comes into force. Such individuals must obtain an approved credential from an approved credentialing body before they can use an FP or FA title.
5. Individuals who did not previously use an FP or FA title are prohibited from doing so until they obtain an approved credential from an approved credentialing body.
6. FSRA will develop a monitoring and supervision plan in relation to the oversight of individuals who use an FP or FA title without appropriate authority. FSRA expects that its supervisory approach in this regard will consist of complaints-based enforcement.

7. FSRA may take enforcement action where it is identified that an individual uses the FP/FA title without the authority to do so (i.e., the individual does not have an approved credential).

Consumers

FSRA intends to provide consumers with information on the new title protection framework. FSRA is seeking feedback from stakeholders on what type of information should be made available to consumers and how government, regulators, credentialing bodies and industry can educate consumers on financial planning and financial advising services in Ontario and the new FP/FA title protection regime.

Summary of the Proposed Rule

As described above, FSRA has adopted a principles-based approach to the development of the Proposed Rule in order to support its 2020/21 priorities and a flexible approach to achieving compliance, approving and supervising credentialing bodies and the credentials they grant.

The following section provides a high level summary of each provision within the Proposed Rule.

Section 1: Definitions

This section defines certain terms used in the Proposed Rule.

Sections 2 & 3: Credentialing Bodies and Credentials – Application

In order to obtain approval as a credentialing body or for a FP or FA credential, an application must be submitted to FSRA, which demonstrates compliance with the standards prescribed in the Proposed Rule and its associated Guidance.

Section 4: Credentialing Bodies – Criteria and Duties

This section outlines the criteria that must be addressed by a person or entity applying for approval as a credentialing body. It also prescribes ongoing requirements that an approved credentialing body must satisfy.

Sections 5 & 6: Credential Criteria – Financial Planning and Financial Advising

These sections set out prescribed standards required for approval of a credentialing body's licence or designation as an approved FP or FA credential.

Section 7: Transitional Matters

This section outlines the transition period available for individuals who used an FP or FA title immediately prior to January 1, 2020, and up to the date the Proposed Rule comes into force. Such individuals can continue to use the title before obtaining an approved credential, subject to the following time limits:

- (i) for FP title users, five years after the Proposed Rule comes into force; and
- (ii) for FA title users, three years after the Proposed Rule comes into force.

The transition periods will allow time for entities that already provide financial planning and advising designations or licences to apply to become approved credentialing bodies. It will also allow time for individuals who are already using the FP or FA titles to obtain an approved credential, if required. This will help provide for a smooth transition to the new regime for many individuals who were providing financial planning and advisory services prior to January 1, 2020, and up to the date the Proposed Rule comes into force.

Authority for the Proposed Rule

The following statutory provisions give FSRA authority to make the Proposed Rule:

- Subsection 21(1) of the FSRA Act authorizes FSRA to make rules in respect of any matter over which a statute gives FSRA rule-making authority.
- Paragraph 1 of subsection 15(1) of the FPTPA authorizes FSRA to make rules respecting the meaning of “good standing” for the purpose of sections 2 and 3 of the FPTPA.
- Paragraph 2 of subsection 15(1) of the FPTPA authorizes FSRA to make rules establishing criteria for credentialing bodies to be approved under section 4 of the FPTPA, including, without limitation, criteria relating to:
 - i. the applicant’s governance structure and practices; and
 - ii. disciplinary processes the applicant must have in place for individuals holding approved credentials it has issued.
- Paragraph 3 of subsection 15(1) of the FPTPA authorizes FSRA to make rules establishing criteria for credentials to be approved under section 7 of the FPTPA, including, without limitation, criteria relating to:
 - i. educational requirements;
 - ii. examination requirements;
 - iii. codes of ethics and professional standards; and
 - iv. continuing education requirements.
- Paragraph 4 of subsection 15(1) of the FPTPA authorizes FSRA to make rules governing applications for approval.
- Paragraph 5 of subsection 15(1) of the FPTPA authorizes FSRA to make rules governing approved credentialing bodies.
- Paragraph 7 of subsection 15(1) of the FPTPA authorizes FSRA to make rules respecting approved credentials.
- Paragraph 8 of subsection 15(1) of the FPTPA authorizes FSRA to make rules respecting transitional matters arising from the enactment of Schedule 25 to the *Protecting What Matters Most Act (Budget Measures), 2019*, including the treatment of credentials and other qualifications possessed by individuals before sections 2, 3, 9 and 10 of the FPTPA come into force.

Unpublished materials

FSRA has not relied on any significant unpublished study, report, decision or other written materials, other than internal reports prepared by FSRA management for the FSRA Board of Directors.

Alternatives considered

In its policy development stage, FSRA considered alternative design approaches to some of the key elements of the title protection framework.

Grandfathering

FSRA considered including a grandfathering provision for individuals who currently use the FP or FA titles without a licence or designation from an entity that would likely be suitable to be approved as a credentialing body. This approach could have allowed individuals with careers in the financial services sector to continue to operate without having to obtain additional qualifications.

FSRA, and the majority of stakeholders consulted, were not supportive of a grandfathering provision for either title. Many stakeholders commented that the length of time a title had been used should not automatically qualify an individual to use a title.

Overall, a grandfathering provision would not be consistent with the intent of the title protection framework – to establish a common minimum standard across title users so that consumers can reasonably rely on the person with whom they are dealing to be qualified to use the title.

Exemptions

FSRA also considered including exemptions as part of the overall framework. The FPTPA authorizes FSRA to make rules granting exemptions to individuals or classes of individuals. The Proposed Rule does not include provisions relating to exemptions from the FPTPA.

FSRA is seeking comments on whether the framework should allow for any exemptions. In particular, FSRA is requesting comments on the principles governing an exemption regime, the extent to which exemptions may be required, to whom they should be made available (if at all), and the benefits and drawbacks of permitting exemptions.

FSRA's position is that exemptions, if they are to be made available under the framework, would need to be grounded in key policy principles:

- Exemptions should only be made available if the benefits outweigh any potential harm to the public. FSRA would need to be satisfied that the public interest would not be harmed because the exempt credentialing body already meets, and will continue to meet, the approval criteria for credentialing bodies and FP or FA credentials as prescribed in the Proposed Rule.
- The title protection framework must ensure ongoing protection of the public interest and ensure, both now and in the future, that any class of individuals granted an exemption meet minimum standards to use the FP or FA titles. FSRA would need to be satisfied that the exempt credentialing body will meet the

approval criteria for credentialing bodies and FP/FA credentials, on both an initial and ongoing basis, as prescribed in the Proposed Rule.

- FSRA would need to be satisfied that exempt title users would be subject to ongoing conduct oversight to protect the public interest.

Fees and assessments

FSRA will incur additional costs as a result of regulating this new sector, particularly in the first few years of implementation as FSRA establishes its regulatory processes and required resources, including building information technology systems and other technical resources to support oversight of the framework. Costs will be incurred with respect to work relating to reviewing applications, monitoring and compliance of credentialing bodies, compliance and enforcement efforts relating to individuals who use the FP or FA titles without authority, and ongoing corporate support from other areas of FSRA such as finance, policy and legal services. FSRA expects the initial costs to establish and implement the framework, as well as its annual operating costs in the first year of implementation, to be approximately between \$3 million and \$4 million.

FSRA will establish fees for the FP/FA sector to support FSRA's operation as an independent, self-funded agency, on a cost recovery basis. Fees prescribed for the FP/FA sector are intended to ensure that FSRA is financially able to fulfill its regulatory mandate.

The Proposed Rule does not include provisions relating to fees, as those have yet to be determined. FSRA will finalize its approach to fees prior to finalizing the framework.

FSRA's approach to fees will be based on the following principles:

- Simplicity – low administrative burden for both FSRA and credentialing bodies.
- Consistency – predictable year-over-year, treating credentialing bodies with similar characteristics the same way (e.g., fees based on the number of credential holders).
- Fairness – direct costs should not be subsidized by another regulated sector, and common costs should be reasonably allocated to credentialing bodies based on transparent, consistent and objective metrics.
- Effectiveness and efficiency – FSRA will be an effective steward of resources, and will seek to minimize costs where practicable and where such minimization would not increase material or unacceptable regulatory risk.

Applications for approval as a credentialing body and for an FP/FA credential under the FPTPA will be subject to an application fee, in keeping with the principles above. FSRA's annual operating costs (regulatory monitoring and supervision activities in the sector) will be recovered through an annual fee.

The FPTPA requires credentialing bodies to collect from approved credential holders any fees FSRA requires those individuals to pay, and to remit those fees to FSRA.

FSRA has the authority to make rules regarding the collection, holding and remittance of such fees.

FSRA is seeking comment on this fee structure, including whether it allows for fair cost recovery, or if there are any operational challenges that credentialing bodies may experience with such a fee structure. Feedback will inform the development of a fee rule, which will be posted for consultation at a later date.

Anticipated costs and benefits

FSRA has conducted a cost-benefit analysis of the proposed title protection framework.

The principal benefit of the title protection framework is the additional protection afforded to consumers with respect to minimum standards for individuals who use the FP or FA titles. Consumers would gain additional confidence that FP and FA title users they engage are held to a consistent minimum standard.

The title protection framework should also provide additional credibility for those using the FP and FA titles in financial planning and advisory services by introducing minimum standards and a more consistent supervisory framework to oversee their conduct.

The title protection framework is also expected to provide greater recognition and understanding by consumers of the qualifications held by FP or FA title users. FSRA understands that consumers and investors will require tools and resources to educate themselves about the title protection framework. To that end, FSRA is seeking input on options for consumer education campaigns to support and follow implementation. As mentioned above, FSRA is also seeking feedback from stakeholders on how government, regulators, credentialing bodies and industry can educate consumers on financial planning and financial advising services in Ontario and on FP and FA title use.

It is expected that a proportion of existing FP and FA title users will already meet the standards that are implemented based on the licences/designations they currently have. However, there may be some individuals who will be required to upgrade their licences/designations in order to continue to use the FP or FA titles, which may involve additional cost and a time commitment.

FSRA does not anticipate charging any costs directly to consumers relating to the title protection framework. It is not expected that the implementation or operation of the framework will result in any charges to consumers, other than costs that may be passed through to consumers by FP and FA title users to offset fees charged to them by credentialing bodies.

Regulations to be revoked

FSRA is not currently making any recommendations with respect to the amendment or revocation of a regulation or provision in a regulation that relates to the implementation of the Proposed Rule. At present, there are no regulations under the FPTPA.

Summary of questions for consideration and comment

FP and FA Credentials

1. FSRA is seeking feedback on the above approach and whether the Proposed Rule and FP and FA baseline competency profile adequately reflect the technical knowledge, professional skills and competencies that should be included in a credentialing body's education program to establish the minimum standard for FP and FA title users.

Disclosure

2. FSRA is seeking comments on whether FP and FA title users should be required to disclose to their clients the credential they hold that affords them the right to use an FP or FA title. FSRA is seeking feedback on the form that this disclosure could take and the overall consumer benefits it could achieve.

Exemptions

3. FSRA is seeking comments on whether the framework should allow for any exemptions. In particular, FSRA is requesting comments on the principles governing an exemption regime, the extent to which exemptions may be required, to whom they should be made available (if at all), and the benefits and drawbacks of permitting exemptions.

Fees and Assessments

4. The FPTPA requires credentialing bodies to collect from approved credential holders any fees FSRA requires those individuals to pay, and to remit those fees to FSRA. FSRA has the authority to make rules regarding the collection, holding and remittance of such fees. FSRA is seeking comment on this fee structure, including whether it allows for fair cost recovery, or if there are any operational challenges that credentialing bodies may experience with such a fee structure.

Consumer Education

5. FSRA is seeking input on options for consumer education campaigns to support and follow implementation. As mentioned above, FSRA is also seeking feedback from stakeholders on how government, regulators, credentialing bodies and industry can educate consumers on financial planning and financial advising services in Ontario and on FP and FA title use.

Comment

Interested parties are invited to make written representations with respect to the Proposed Rule. Submissions received by November 12, 2020 will be considered.

Submissions should be submitted through the submission system on FSRA's website at: [Financial Professionals Title Protection Rule and Guidance](#)

Under the FSRA Act, FSRA is required to make all written representations publicly available. As a result, all [submissions](#) received will be posted on FSRA's website in a timely manner.

Appendix A – Proposed Rule

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Appendix A – Proposed Rule [2020-001]
Financial Professionals Title Protection

CONFIDENTIAL

Financial Professionals Title Protection Act, 2019

General Rule

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Definitions

Definitions

1. In this rule,

“Act” means the *Financial Professionals Title Protection Act, 2019*;

“Authority” means the Financial Services Regulatory Authority of Ontario continued under subsection 2 (1) of the *Financial Services Regulatory Authority of Ontario Act, 2016*;

“CEO” means the Chief Executive Officer appointed under subsection 10 (2) of the *Financial Services Regulatory Authority of Ontario Act, 2016*.

Applications

Credentialing Bodies – Application

2. A person or entity who wishes to apply for approval as a credentialing body shall submit an application to the CEO that demonstrates compliance with the requirements of subsection 4 (1).

Credentials – Application

3. (1) An approved credentialing body that wishes to apply for approval of a financial planning credential shall submit an application to the CEO that demonstrates compliance with the requirements of subsection 5 (1).

(2) An approved credentialing body that wishes to apply for approval of a financial advising credential shall submit an application to the CEO that demonstrates compliance with the requirements of subsection 6 (1).

Credentialing Bodies – Criteria and Duties

Credentialing Bodies – Criteria and Duties

4. (1) An application by a person or entity for approval as a credentialing body must demonstrate that the applicant has

- (a) an effective governance structure and administrative policies and procedures that serve the public interest,
- (b) the necessary expertise, resources, policies, procedures and administrative practices to effectively administer and maintain a credentialing program,
- (c) a code of ethics and professional standards for its officers, directors and employees that serve the public interest, and
- (d) the necessary expertise, resources, policies, procedures and administrative practices to effectively oversee the conduct of individuals holding approved credentials it has issued.

(2) An approved credentialing body shall regularly review its educational curriculum to ensure that it is up to date having regard to issues such as industry best practices, legal requirements and developments in the economy and the financial services sector.

(3) An approved credentialing body shall maintain effective processes to

(a) respond to complaints from the public related to individuals holding approved credentials it has issued, and

(b) adjudicate complaints and enforce discipline in a transparent and impartial manner.

(4) An approved credentialing body shall maintain and make public on its website:

1. A current list of individuals holding approved credentials it has issued, including the type of credential issued to each individual.

2. Information with respect to disciplinary action taken against individuals who currently hold or previously held approved credentials it has issued.

(5) An approved credentialing body shall effectively monitor and enforce the requirements of subsections 5 (3) and 6 (3).

Credential Criteria

Credential Criteria – Financial Planning

5. (1) Any financial planning credential offered by an approved credentialing body shall be

(a) based on a program designed and administered to ensure that an individual using the credential will be required to deal with the individual's clients competently, professionally, fairly, honestly and in good faith, and

(b) subject to such educational requirements related to financial planning and associated matters that provide the technical knowledge, professional skills and competencies that would reasonably be expected of an individual providing financial planning recommendations and preparing financial plans, including, without limitation, educational requirements related to:

1. The Canadian financial services marketplace and regulatory environment.
2. Estate planning, tax planning, retirement planning, investment planning, finance management and insurance/risk management.
3. Ethical practices and professional conduct.
4. Dealing with conflicts of interest.

5. Collecting personal and financial information.
6. Identifying client objectives, needs and priorities.
7. Providing suitable financial planning and investment recommendations to a client.
8. Developing and presenting an integrated financial plan for a client.

(2) An approved credentialing body shall not issue an approved financial planning credential to an individual unless the individual has passed a documented examination process that adequately tests all components of the educational curriculum established pursuant to clause (1) (b).

(3) An approved credentialing body shall require that any individual to whom it has issued an approved financial planning credential must comply with

- (a) a code of ethics and professional standards that is consistent with the standard of care described in clause (1) (a), and
- (b) continuing education requirements that reinforce the requirements described in clause (1) (b).

(4) For the purpose of section 2 of the Act, an individual's approved financial planning credential is in "good standing" if the individual continues to hold the credential and has satisfied the on-going requirements of the approved credentialing body including, without limitation, the requirements established pursuant to subsection (3).

Credential Criteria – Financial Advising

6. (1) Any financial advising credential offered by an approved credentialing body shall be

- (a) based on a program designed and administered to ensure that an individual using the credential will be required to deal with the individual's clients competently, professionally, fairly, honestly and in good faith, and
- (b) subject to such educational requirements related to financial advising and associated matters that provide the technical knowledge, professional skills and competencies that would reasonably be expected of an individual providing financial advice, including, without limitation, educational requirements related to:
 1. The Canadian financial services marketplace and regulatory environment.
 2. The products and services provided by the individual.
 3. Ethical practices and professional conduct.
 4. Dealing with conflicts of interest.
 5. Collecting personal and financial information.
 6. Identifying client objectives, needs and priorities.
 7. Providing suitable financial and investment recommendations to a client.

(2) An approved credentialing body shall not issue an approved financial advising credential to an individual unless the individual has passed a documented examination process that adequately tests all components of the educational curriculum established pursuant to clause (1) (b).

(3) An approved credentialing body shall require that any individual to whom it has issued an approved financial advising credential must comply with

(a) a code of ethics and professional standards that is consistent with the standard of care described in clause (1) (a), and

(b) continuing education requirements that reinforce the requirements described in clause (1) (b).

(4) For the purpose of section 3 of the Act, an individual's approved financial advising credential is in "good standing" if the individual continues to hold the credential and has satisfied the on-going requirements of the approved credentialing body including, without limitation, the requirements established pursuant to subsection (3).

Transitional Matters

Transitional Matters

7. (1) Subject to subsections (2) and (3), an individual who, immediately prior to January 1, 2020 and up to the date this rule comes into force, used in Ontario the title

(a) "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; or

(b) "Financial Advisor" or "conseiller financier", an abbreviation of that title, an equivalent in another language or a title that could reasonably be confused with that title,

may continue to use that same title.

(2) An individual may continue to use a title pursuant to clause (1) (a) until the earlier of,

(a) the date on which the individual complies with section 2 of the Act, or

(b) the fifth anniversary of the date this rule comes into force.

(3) An individual may continue to use a title pursuant to clause (1) (b) until the earlier of,

(a) the date on which the individual complies with section 3 of the Act, or

(b) the third anniversary of the date this rule comes into force.

Appendix B – Jurisdictional scan of FP/FA regulatory frameworks in Canada

The following chart outlines the current and proposed FP and FA regulatory frameworks in Canada, as of the date of this Notice.

Key element	Ontario	Quebec	Saskatchewan PROPOSED FRAMEWORK
Regulator	Financial Services Regulatory Authority of Ontario	Autorité des marchés financiers (AMF)	Financial and Consumer Affairs Authority of Saskatchewan
Implementation	Implementation date yet to be determined.	1998	On December 2, 2019, the Saskatchewan government introduced Bill 203, the Financial Planners and Financial Advisors Act. Legislation not yet passed. Information below is only proposed.
Type of Regime	Title protection for the FP and FA titles	Licensing (certification) for FP	Proposed title protection for the FP and FA titles
Credentialing Body Oversight	Yes, entities must apply to obtain approval to be a credentialing body and to offer a FP or FA credential.	Yes, the Institut québécois de planification financière (IQPF) is the only entity authorized by the AMF to grant financial planning diplomas.	Yes, proposed that entities must apply to obtain approval to be a credentialing body and to offer a FP or FA credential.
Title use requirements	Individual title users must obtain an approved FP or FA credential from a FSRA-approved credentialing body in order to use the FP or FA title.	Before an individual can use the title “financial planner” or “planificateur financier” (“F.PI”), he or she must obtain a diploma from the IQPF, then apply to the AMF for a certificate authorizing him/her to act in the financial planning sector using the title.	Proposed that individual title users must obtain an approved FP or FA credential from an approved credentialing body in order use the FP or FA title.
Enforcement	Ability to issue compliance orders	AMF has ability to revoke certification, lay criminal charges, and impose monetary penalties.	Proposed ability to issue compliance orders as well as public/private reprimands and administrative monetary penalties. Enforcement provisions also include a public interest test (i.e., the legislation requires the regulator to be satisfied that action taken is in the public interest).

Appendix C – List of stakeholders

Outlined below is a list of stakeholders consulted on the FP/FA title protection framework, as of the date of this Notice.

Advocis Autorité des marchés financiers	Kenmar Associates Knowledge Bureau
Canada Life Canadian Securities Institute Canadian Institute of Financial Planning Canadian Bankers Association Canadian Credit Union Association Canadian Life and Health Insurance Association CFA Institute / CFA Societies Canada Co-operators CPA Ontario	Law Society of Ontario Manulife Mutual Fund Dealers Association Neil Gross, OSC Investor Advisory Panel New Brunswick Financial and Consumer Services Commission
Department of Finance Canada Federation of Mutual Fund Dealers Financial Planning Association of Canada FP Canada FSRA Consumer Advisory Panel	Oliver's Learning Ombudsman for Banking Services and Investments Ontario Bar Association Ontario Securities Commission
Independent Financial Brokers of Canada Institute of Advanced Financial Planners Insurance Council of British Columbia Investment Funds Institute of Canada / IFSE Institute Investment Industry Regulatory Organization of Canada Investment Industry Association of Canada	Portfolio Management Association of Canada Primerica Private Capital Markets Association of Canada Saskatchewan Financial and Consumer Affairs Authority Small Investor Protection Association Sun Life