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HIGHVIEW FINANCIAL GROUP™
Canada's Outsourced Chief Investment Officer™

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RE: Financial Professionals Title Protection Act, 2019 (FPTPA)

Submitted to the Financial Services Regulatory Authority of Ontario via FSRA website

I appreciate the opportunity to participate in this consultation to regulate the *Financial Advisor* and *Financial Planner* titles in Ontario. For context, I am a principal with HighView Financial Group ("HighView"), a brand name used by HighView Asset Management Ltd ("HAML") and HighView Wealth Practices Inc ("HWPI"). HAML is registered in the category of Portfolio Manager in Ontario, Alberta, British Columbia, Manitoba, and Saskatchewan. HWPI is registered in Ontario as an insurance agency.

HighView is an investment counselling firm built around the concept of an outsourced chief investment officer (OCIO) for wealthy families and institutions. Creating customized wealth plans is a critical part of the advice we provide to clients. As a registrant in the category of Portfolio Manager, we are held to a legal fiduciary standard – which we openly embrace.

General Comments

Most providers of financial advice are of the view that they must put their clients' interests ahead of their own. Most clients of financial advice providers assume that their interests are put first; ahead of those of their advisors. Consequently, I support the spirit of the Financial Professionals Title Protection Act (FPTPA) – i.e. requiring a minimum standard to use specific financial advice titles.

It is my understanding that the application of FPTPA will be very focused on the Financial Advisor (FA) and Financial Planner (FP) titles; and that the scope of other titles that can be reasonably confused with FA or FP will be limited to spelling variations on the FA and FP titles. I am concerned that this will be too easily gamed by creative marketing.

To the extent that this is a valid concern, it can be neutralized by borrowing from the title regulation portion of the long-defunct Multilateral Instrument 33-107[1]. MI 33-107 was much broader in scope and scale; but used a simple approach to capture a range of similar titles. If it is too late to consider this approach today, FSRA should keep this in mind for a future step in the evolution of this legislation. Otherwise, I agree with FSRA's approach in the FPTPA's design.

The activities of financial advice providers and financial product distributors are heavily regulated. Simply adding legislation focused only on something that is unregulated is the right approach today. Some have suggested that the FPTPA should also govern title holders' activities, but I agree with the initial step of leaving that to SROs and credentialing bodies.

While the full operationalization of the FPTPA will be a step forward in consumer protection, it will not solve mass consumer confusion. The fragmented financial advice industry (in Ontario, and across Canada) will continue to confuse consumers of financial advice. Sellers of insurance products (some of which have investment features), sellers of investment products, advice-only providers, and registered portfolio managers often appear very similar to consumers.

Finally, there is the issue of whether existing self-regulatory organizations should be approved credentialing bodies under the FPTPA. This argument emphasizes individual registrants' obligations and oversight – leaning heavily on Client Focused Reforms' conflict of interest provisions[2]. While valid points, neither SRO requires credentials for registration that fully satisfy either of the FA or FP competency profile in my opinion.

If SROs become approved credentialing bodies – thereby making individual registrants approved FP or FA title holders – this entire endeavour will have been a waste of time and resources. A minimum standard should not be so high as to exclude truly qualified professionals. Nor should it be a rubber stamp for the status quo. If one goal of the FPTPA is to nudge the financial advice industry in the direction of *profession* status, the bar needs to be set reasonably high – i.e. SROs should not be approved credentialing bodies under the FPTPA.

[1] See https://www.osc.gov.on.ca/en/14002.htm

[2] CFR's conflict of interest provisions state that if a conflict cannot be avoided, it must be resolved in the client's favour.

Selected Consultation Questions

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.

My general comments address my view on FSRA's approach. With respect to the competency profiles, FSRA has seemingly covered all of the broad key areas of knowledge. It is sensible to require those using the Financial Planner (FP) title to have technical knowledge and competencies in *all* of the listed areas while requiring those using the Financial Advisor (FA) title to be competent in at least one of the listed areas of knowledge.

Critical to assessing whether the baseline competency profiles will prove effective is how FSRA will evaluate the credentialing bodies. I expect that the curriculum of a significant percentage of credentialing bodies' educational programs cover each of the required knowledge areas. FSRA's review process should differentiate between a robust curriculum that is designed around a list of specific learning outcomes (with rigorous content and examinations) and programs that only superficially cover the areas of knowledge – filtering out the latter.

In my opinion, all FSRA-approved credentials must have a sufficiently-deep curriculum that arms credential-holders with robust technical knowledge; along with the tools to apply that knowledge in serving clients. These credentials should be offered by organizations with strong codes of conduct & ethics, and good oversight.

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.

While generally a fan of disclosure, I fear that an additional disclosure form will simply be added to the already-large stack of documents that clients receive at account opening (e.g., where the financial advice provider also sells, manages, or administers financial products). In practice, by the time a client has reached the point of making a firm commitment (e.g., account opening) they have already decided that they trust the advice provider. Clients, then, generally do not review disclosure documents with any rigour. Accordingly, I am not in favour of this disclosure.

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.

It seems reasonable on the surface that FSRA should apply a reasonable amount of flexibility through the use of exemptions. However, I think this flexibility already exists in the form of the creation of competency profiles and the review of credentials and credentialing bodies. This, then, removes the need for exemptions from this proposed rule.

Thank you again for the opportunity to be heard. I would welcome further discussion of this initiative with FSRA directly, or through additional engagement sessions.

Sincerely,

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