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October 20, 2021

Financial Services Regulatory Authority
5160 Yonge Street, 16th Floor
Toronto, Ontario
M2N 6L9

Dear Sir/Madam:

**RE: CANADIAN INSTITUTE OF FINANCIAL PLANNING COMMENTS ON
PROPOSED AMENDMENT 1 TO RULE 2019-001 –
ASSESSMENTS AND FEES (FSRA FEE RULE)**

Thank you for your request for comment letters regarding this important consumer protection initiative regarding the use of the titles ‘Financial Planner’ and ‘Financial Advisor’ in Ontario and specifically, on the proposed Amendment 1 to Rule 2019-001 – *Assessments and Fees* (FSRA Fee Rule).

The Canadian Institute of Financial Planning (CIFP) is pleased to represent the views of its more than 7,000 students. Further, our submission also incorporates the comments of our affiliate member organization, The Canadian Institute of Financial Planners (CIFPs), which represents over 10,000 members.

Thank you for taking our comments into consideration. Please contact **Keith Costello, President and Chief Executive Officer** of CIFP at (647) 723-6447 or kcostello@cifps.ca if you have any questions or, if you would like to meet with us to discuss this matter further. We look forward to and welcome an opportunity to participate in further discussions or consultations that you decide to undertake.

Yours very truly,



Keith Costello, BADM, MBA-Strategic Planning
President & Chief Executive Officer

OVERVIEW

The Canadian Institute of Financial Planning commends the government of Ontario for their proactive stance to restrict the use of the titles ‘Financial Planner’ and ‘Financial Advisor’ through the *Financial Professionals Title Protection Act, 2019*.

As detailed in previous consultation papers and submissions to the Financial Services Regulatory Authority, CIFP is supportive of any initiative brought forward with the intention of mitigating confusion and risk for the Canadian investing public and increasing transparency and consistency surrounding the use of such titles. The number of individuals presently practising as financial planners even though they lack the requisite education and competency represents a consumer protection concern to which we collectively cannot turn a blind eye. Consequently, any changes that bring about clarity and a greater sense of comfort for individuals who use financial planning services has to be viewed in a positive light. Imposing minimum proficiency standards for those holding out as a financial planner or, as a financial advisor is a much needed step towards this end.

CIFP commends FSRA for having accurately surveyed the landscape of the financial services industry, for drawing level-headed conclusions and for having the foresight to make recommendations that are practical, adaptable and that should stand the test of time.

CIFP is also supportive of the general approach adopted by FSRA in establishing a regulatory regime to wit, one that is principle-based and outcome-focused and that appropriately ‘responds to the dynamic nature of the financial services sector’. CIFP is in favour of a regime that aims to ‘minimize prescriptive requirements, where appropriate and provides for flexibility in achieving compliance.’ This makes for a system that is pliant and that can evolve and keep pace with an ever-changing financial services industry over the long-term.

CIFP views the standards outlined in the proposed Rule as consistent with these objectives and the approach chosen by FSRA as accommodative to 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.’

With regards to the proposed financial professionals’ fee structure, CIFP acknowledges the necessity for a fee schedule to support the FSRA mandate to operate as an independent, self-funded regulator. CIFP also applauds the approach taken such that costs are transparent and minimized at all turns to the extent possible.

The perspective and constructive recommendations of CIFP as it pertains to the proposed Amendment 1 to Rule 2019-001 – *Assessments and Fees* are detailed in the pages that follow.

FEE CALCULATION – CREDENTIAL HOLDER VARIABLE

1) Prior to finalizing the proposed fee structure, FSRA is seeking feedback on how it should apply the “credential holder” variable. For example, the number of credential holders could be determined based on whether a person:

- resides in Ontario
- conducts business in Ontario
- holds an approved credential
- uses the FP or FA title
- a combination of the above factors

CIFP is of the opinion that the fairest fee calculation method to apply the credential holder variable is through a combination of *three* of the above mentioned factors. Fees should be triggered if *any* one of the following applies to an individual:

- he or she conducts business in Ontario
- he or she holds an approved credential
- he or she uses the Financial Planner or Financial Advisor title

A fee structure based on these metrics ensures that a credential holder who derives a benefit—be it minor, major, tangible or, not directly measurable—pays an equitable fee in exchange for this benefit (assuming his or her credentialing body opts to recover costs from the credential holder directly).

An individual who holds an approved credential may opt out of using the Financial Planner or Financial Advisor title. Nonetheless, this individual will still realize a benefit under the new framework. It may be difficult to pinpoint or quantify this benefit—what value should be assigned to indirect enhancements to credibility and reputation?—but, it is indisputable he or she will realize a benefit under the FPTPA. As much as the individual may not officially advertise an approved title on his or her business card, in practical terms, the use of the title will, at a minimum, certainly come up informally in the normal course of conversation with clients as a means of describing the services he or she can provide. In fairness, a cost should be attached to this benefit and other similar advantages.

Whether the credential holder is actually domiciled in Ontario is the least relevant factor for the purposes of levying fees. If the fee calculation is based *solely* on this metric, it provides an unfair benefit to individuals who reside in other jurisdictions but, who carry on revenue-generating financial planning activities with clients who live in Ontario. The actual numbers may or may not be material, however, this would clearly be in opposition to the principle of fairness for any proposed fee structure.

In any event, if the other measures are incorporated into the fee calculation for the credential holder variable (i.e. the individual conducts business in Ontario, holds an approved credential or, uses the FP or FA title), the matter of residency will be rendered moot.

2) It has been suggested that approved CBs should have the discretion to identify credential holders in a manner that best suits their business needs and operations. For example, a CB could create a sub-designation within its membership, which could be submitted for approval to FSRA as an FP/FA credential. In this scenario, use of the FP/FA titles would be limited to those individuals who hold the designation that has been approved by FSRA. FSRA is seeking feedback on this potential approach.

CIFP is fully supportive of a framework that in all aspects is fair, flexible, accommodative and forward-looking. FSRA has done an admirable job of adhering to these tenets in the development of the title protection framework in part, by opting for a principles-based approach over one that is prescriptive.

However, in reference to the methodology through which credential holders/fee-paying individuals are identified, CIFP believes intervention from FSRA is required and appropriate. It should not be left to the discretion of credentialing bodies to make this determination but rather, it should be explicitly defined under the *FSRA Fee Rule*. Specifically, a credential holder should be universally recognized to refer to any individual who holds an approved credential in good standing.

By extension, this means any individual who holds an approved credential should be captured under the variable annual CB assessment.

Whether a credential holder chooses to use the FP or FA title is at his or her discretion but, it should be a secondary consideration for purposes of the variable CB assessment. As indicated in the response to the first question, *official* title usage, in and of itself, does not accurately reflect the benefit received by a credential holder in its entirety as it does not account for instances when he or she may use the title in an unofficial or informal capacity—not in a deliberate attempt to misuse a title but, for instance, in casual conversation with a client in which they may refer to himself or herself as a financial planner. Using that title, even in a colloquial manner carries with it commonly recognized inferences for investors and consumers—justified or not—with respect to the expertise and proficiency of the individual. It must be recognized that there is a benefit attached to this.

It is difficult to conceive but, event in the unlikely event a credential holder completely avoids informal use of a title, he or she still derives ancillary benefits from the overall title protection framework. Again, under the principle of fairness, there should be a cost tied to these benefits.

3) FSRA is seeking feedback on the potential impact of these potential approaches, including with respect to the collection of data regarding residency, title use, or business conduct of credential holders.

CIFP does not envision the collection of data relating to credential holders as a significant challenge.

If an individual holds an approved credential, the annual renewal application that he or she must submit to the credentialing body to remain in good standing will yield information relating to his or her residency. Residency information can also be easily attained based on the online profile the credential holder will maintain with the credentialing body. One would presume, this information should be kept up-to-date given the continuing education obligations and other requirements the individual has to satisfy to maintain his or her certification.

The renewal application will typically also contain disclosure questions pertaining to business misconduct and/or other events that may require further review by the credentialing body (e.g. bankruptcy, civil proceedings, investigations or hearings from regulatory or licensing bodies). Alerts as to improper business conduct can also be initiated through client complaints to the credentialing body and/or the individual's firm.

In addition, residency and business conduct information will be accessible via the public registry that FSRA has indicated it will eventually design and implement as part of the Financial Planner and Financial Advisor title protection framework as well as the oversight framework to address unauthorized title use.

Title use information can be easily gathered from the credentialing body going forward subject to a relatively minor amendment to the application and renewal forms currently in use to introduce disclosure questions on the topic. The proposed public registry will also be an important—if not, the primary—source of data as it relates to title use.

POTENTIAL FOR MULTIPLE FEES

4) FSRA is seeking feedback on how its proposed approach may impact individual credential holders.

CIFP is in favour of the stance adopted by FSRA whereby the proposed financial professionals fee structure does not offer exemptions or reductions to individuals on the basis of holding multiple approved credentials or, simply by virtue of the fact they are already overseen by a self-regulatory organization such as the Mutual Funds Dealers Association of Canada or the Investment Industry Regulatory Organization of Canada. CIFP is in agreement that doing so, may well disadvantage some credentialing bodies and provide an unwarranted benefit to certain individual credential holders at the direct expense of other individual credential holders.

While there is undoubtedly a duplication of costs under the current system and there is clearly an opportunity for refinement, there are also distinct expenses that, in the absence of being covered by some form of sponsor, such as an employer, must unfortunately be borne by the individual as a cost of doing business. It is not a perfect setup by any means but, in the broader context, presumably, the individual would have calculated that there is a favourable cost-reward benefit for him or her to hold multiple approved credentials especially, if it is not mandatory for him or her to do so.

CIFP also shares the view of FSRA that ultimately, it should be left up to each credentialing body to determine how best to recoup administrative and operational costs stemming from its participation in the framework in accordance with its specific business model. In this sense, a cookie-cutter or one-size-fits-all approach would not be suitable, effective or, in keeping with the objectives of the new framework.

The matter of multiple fees across multiple jurisdictions is important; it has also been a long-standing issue for those in the financial services sector. Harmonization is clearly the ideal solution but, this has proven to be unattainable to this point. Given this, it is prudent for FSRA to defer tackling the challenge of coordinating fees across the different regions until more jurisdictions have introduced title protection legislation. Attempting to resolve this matter at this particular moment in time will only impede the significant progress and momentum that has been made under the Ontario framework as a whole—that would not be a good trade-off in our estimation—and in any event, as well-intentioned as those efforts may be, they are unlikely to produce a positive outcome until more players are at the table.

POTENTIAL DISADVANTAGE FOR SMALLER ENTITIES

5) FSRA is seeking feedback on the potential impact of the proposed fixed fee amount on smaller entities' ability to enter the framework as CBs.

CIFP acknowledges the challenges FSRA is facing in setting the fee schedule at the appropriate level such that it balances the 'cost of overseeing the sector with the benefit of participating in the framework'. Recognizing that all approved credentialing bodies—irrespective of size and complexity—will require a minimum level of oversight from FSRA is also a point well taken in determining the fee structure.

At the same time, the concern expressed by some stakeholders that the proposed \$25,000 fixed annual CB fee is too high does have merit. This annual fee, especially when combined with the variable annual CB assessment fee and the time-limited annual assessment to recover start-up costs, is not insignificant. As is often the case, the impact will be felt most acutely by smaller entities with limited resources and it may well represent a barrier to entry for some prospective credentialing bodies.

To ensure as many credentialing bodies have a fair opportunity to participate in the system as is possible regardless of their size or their access to financial resources, perhaps consideration can be given to a tiered fixed annual CB fee schedule. For example, a credentialing body that has less than 2,000 credential holders—or, whatever threshold is deemed most appropriate—will be charged a lower fixed annual fee, perhaps \$10,000, while those with 2,000 or more credential holders, are charged a fixed annual fee of \$25,000.

At whatever amount the fixed annual CB fee is ultimately set—and of course, like all other stakeholders, CIFP would want the fee to be as low as is practicable 'without creating material or unacceptable regulatory risk'—the primary concern is ensuring that a wide net is cast to share the necessary costs such that the system is fair. This further supports the assertion that fee exemptions, as previously addressed, should not be granted. At the end of the day, all participants have a responsibility to make a proportional contribution to make the framework effective and viable and to enable FSRA to achieve its mandate over the long-term.

Moreover, spreading out costs as broadly as possible will effectively reduce the cost for each individual credentialing body. Lowering costs is one mechanism that can serve to incentivize more individuals—or, at least not deter them—to pursue an approved credential. This is a clear benefit to the industry, consumers and investors as a whole. This is in stark contrast to the current system where the exorbitant costs of some education programs and the restrictive nature of some credentialing bodies set a discouraging tone for the industry and represent hurdles that are too high for many prospective entrants to overcome.

CONCLUSION

CIFP would like to thank the Financial Services Regulatory Authority of Ontario for considering the comments and perspective contained in this submission. We extend an open invitation to your organization for further discussion of any aspect of this document or, the topic of regulating financial planners more generally at your discretion.