PUBLICATION OF STAKEHOLDERS' RESPONSES TO THE SECOND ROUND OF CONSULTATIONS.

Proposed regulations:
The Financial Planners and Financial Advisors Regulations

STAKEHOLDERS

1. Advocis
2. Benefits Alliance
3. Canada Life
4. Canadian Advocacy Council of CFA Societies Canada
5. Canadian Bankers Association
6. Canadian Credit Union Association
7. Canadian Life and Health Insurance Association
8. Conexus Credit Union
9. Cooperators
10. CPA Saskatchewan
11. Edward Jones
12. FAIR Canada
13. Federation of Mutual Fund Dealers
14. Financial Planning Association of Canada
15. Financial Services Regulatory Authority of Ontario
16. FP Canada
17. [redacted]
18. Independent Financial Brokers of Canada
19. Investment Industry Association of Canada
20. [redacted]
21. Kenmar Associates Investor Education and Protection
22. The Canadian Institute of Financial Planning
23. The Investment Funds Institute of Canada

March 2023

Advocis The Financial Advisors Association of Canada

September 22, 2022

Financial and Consumer Affairs Authority of Saskatchewan
Suite 601, 1919 Saskatchewan Drive
Regina, SK S4P 4H2

Sent via email to: finplannerconsult@gov.sk.ca

Dear Sirs/Mesdames,

Re: Notice of Proposed Changes and Request for Further Comment
Proposed Regulations [2022-001]
The Financial Planners and Financial Advisors Regulations

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments to the Financial and Consumer Affairs Authority of Saskatchewan ("FCAA") in regard to its Notice of Proposed Regulations and Request for Comment, Proposed Regulations [2022-001] The Financial Planners and Financial Advisors Regulations (the "Consultation").

1. ABOUT ADVOCIS

Advocis is the association of choice for financial advisors and planners. With over 17,000 member-clients across the country, we are the definitive voice of the profession. Advocis champions professionalism, consumer protection, and the value of financial advice. We advocate for an environment where all Canadians have access to the professional advice they need.

Advocis members advise consumers on wealth management; risk management; estate, retirement and tax planning; employee benefits; and life, accident and sickness, critical illness and disability insurance. In doing so, Advocis members help consumers make sound financial decisions, ultimately leading to greater financial stability and independence. In all that they do, our members are driven by Advocis' motto: *non solis nobis* – not for ourselves alone.

2. OUR COMMENTS

Advocis supports the ongoing work of the FCAA towards restricting the titles of Financial Advisor ("FA") and Financial Planner ("FP") to qualified individuals. Regulating these ubiquitous titles will enhance consumer protection. Furthermore, most consumers erroneously believe

these titles are already regulated,[1] signalling a level of professional skill and conduct that is not grounded in reality. Regulating these titles will address this untenable situation and protect Saskatchewanians.

Like the FCAA, we believe that consumer protection needs to be placed at the centre of the title protection framework. For this reason, we commend the FCAA for the proposals and questions raised in the Consultation.

We believe that the FCAA can protect the public if a credentialing body ceases to be active, while also treating credential holders fairly. In the short-term, another credentialing body would be appointed by the FCAA to supervise the defunct entity's credential holders and act as caretaker. As a longer-term fix, all remaining credentialing bodies would be invited to propose transition plans to bring the defunct entity's credential holders into their respective bodies.

We support the FCAA's proposal to raise the bar for the FA basic competency profile ("BCP"). By implementing the product-agnostic Comprehensive Approach, the FCAA would better align the FA title to client expectations and ensure a higher level of technical competence and enhance consumer protection by removing implicit product bias.

Although we support harmonization generally, we do not believe that consumer protection should be sacrificed to achieve greater harmonization. Here, we believe that the improvement to consumer protection gained by holding FAs to a higher standard outweighs the costs from reduced harmonization. In fact, Saskatchewan could take the role of flag bearer and encourage other jurisdictions to "harmonize up" as title protection frameworks mature across the country in the coming years.

The Comprehensive Approach eliminates the need for additional disclosure. However, even if a product-centred FA BCP is ultimately chosen, we believe the inclusion of a product listing may cause additional confusion, undermining the benefits of title protection.

Similarly, when considering implementation periods and transition dates, we support an approach that will be easily understood by consumers and stakeholders.

[1] In September 2019, Advocis asked 800 Saskatchewanians about their thoughts on the regulation of Financial Advisors. Abacus Data carried out the poll, yielding the following eye-opening results:

- 51% of respondents believed the title of "Financial Advisor" was already regulated, with the misperception being even greater amongst lower-income residents;
- 82% believed that a professional code of conduct for Financial Advisors should be mandatory; and
- 87% supported legislation to regulate the title of Financial Advisor.

Advocis commissioned similar polling in other provinces, and the results were similar.

Finally, we support the efforts of the FCAA to keep fees reasonable. To the extent possible, the FCAA should leverage the work done by other regulators to reduce the costs that it incurs.

We have provided our specific responses to the Consultation questions below.

I. Credentialing Bodies – Process when Approval Revoked or Operations Cease

> The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.

We believe that consumer protection can be achieved while treating credential holders fairly in the event that a credentialing body ceases operations or loses its approval from the FCAA (the "Default Event"). In the short-term, supervisory responsibility over the credential holders of the credentialing body suffering the Default Event (the "Defunct CB") should be transferred to another credentialing body that is continuing to operate within the framework (each, a "Remaining CB"). In the long run, the Remaining CBs would have an incentive to create transition plan(s) to bring credential holders of the Defunct CB under their jurisdictions. We explain further below.

a. Short-term Supervision:

In the short-term, the focus must be ensuring that consumer protection is not compromised because of the Default Event.

To achieve this, the FCAA and the remaining credentialing bodies should meet expeditiously (within 30 days of the Default Event). The purpose of that meeting should be for the FCAA to determine which of the Remaining CBs shall be appointed to oversee the credential holders of the Defunct CB in the immediate term (the "Appointed CB"). In making this determination, the FCAA should be guided by a consideration of which Remaining CB has the desire and capacity to be appointed to this role, and the FCAA's views on the performance of the Remaining CBs as a quasi-regulator under the framework to that point.

For an interim period (up to one year), the Appointed CB will oversee the credential holders of the Defunct CB. The Remaining CBs and the FCAA will communicate with credential holders and the broader public that complaints regarding credential holders of the Defunct CB should be directed to the Appointed CB. To support the additional obligations of the Appointed CB during the interim period, the FCAA may wish to reallocate some funding from the fees paid by the

Defunct CB to the Appointed CB. These resources can be used to retain temporary staff and other supports required for the increased investigative and other demands.

Provided that they maintain themselves in good standing, the credential holders of the Defunct CB should be permitted to continue using the protected title(s) under the supervision of the Appointed CB during the interim period (one year). During the interim period, these credential holders would continue to disclose the credential they earned from the Defunct CB, notwithstanding the fact that the conferring entity is defunct, until they earn a new credential that confers the right to a title.

This proposal will maintain consumer protection and credential holder supervision through the interim period.

b. Long-term Solution:

We commend the FCAA's focus on achieving consumer protection and fairness for credential holders.

Below, we propose a fair long-term solution based on two key considerations. First, the Remaining CBs have an incentive to bring the credential holders of the Defunct CB into their membership. Second, the credentials are fundamentally similar given that they each satisfy the applicable FA or FP BCPs.

Thus, within three months of the Default Event, the Remaining CBs may voluntarily develop and submit *ad hoc* transition plans (the "Credential Transition Plans") to grant their credential to the credential holders from the Defunct CB. These Credential Transition Plans will explain what actions or additional courses (if any) are required to transition to the Remaining CB. Such transitional requirements should take no longer than six months to complete. The FCAA can then review and approve these Credential Transition Plans on an expedited basis.

After those Credential Transition Plans are approved, the credential holder from the Defunct CB would have six months to complete the requirements. Once all requirements are completed, the Remaining CB would grant its credential to the credential holder, with that credential holder now becoming a full member of that Remaining CB. From that point on (even if there is time remaining in the interim period), the credential holder's "new" credentialing body will take over supervision from the Appointed CB (assuming the Appointed CB is different than the credential holder's new CB). Regarding credential disclosure, the credential holder would immediately cease disclosing the credential of the Defunct CB in favour of the new credential just earned.

Any credential holders who fail to complete a Credential Transition Plan within one year of the Default Event, or fail to earn another recognized credential in some other manner, will lose the right to use the protected title.

We believe that this approach will maintain consumer protection and credential holder supervision throughout. It also treats credential holders fairly, minimizes barriers to their continued participation in the industry, and ensures that the transition from the Defunct CB is orderly and transparent.

II. Approval Criteria for FA Credentials

> We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e. estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management). The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies. In considering this approach, please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectations and better alignment with other existing financial sector regulatory frameworks. Also please comment on whether there are any other advantages the Comprehensive Approach has over the Product-Focused Approach not identified in this paper.

Advocis strongly supports the Comprehensive Approach proposed for the FA BCP. This higher bar would align with modern consumers' expectations of FAs. There was a time when FAs were seen primarily as transactional conduits to purchasing product. But their role has evolved, with the client relationship now taking centre stage. On the technical front, this means requiring that FA credential holders demonstrate proficiency in multiple substantive areas—not just one or two narrow fields—so they are equipped to provide holistic advice. On the client relationship front, this means having a "client-first" mindset.

We agree wholeheartedly with the FCAA's analysis that the Comprehensive Approach to the FA BCP better aligns with both client expectations and other financial sector regulatory frameworks.

Clients expect their financial advisor to provide broad-based, comprehensive financial advice. If FAs' knowledge is limited to specific products, they will be unable to provide this advice, leading to worse client outcomes. In addition, most consumers are unable to distinguish between FPs

and FAs.[2] We believe that the title protection provides a unique opportunity to ensure that the knowledge and skills of all financial professionals meet the expectations of their clients, and it is the client's reasonable expectations that should drive the FCAA's decisions on the FA BCP.

We also agree that the FA requirements should not simply duplicate existing product-focused licensing regimes. Duplication of existing licensing requirements misses the opportunity to improve consumer protection within the industry. Instead, the value of title protection comes from raising the standards and professionalism within the financial advice sector.[3]

In contrast, a product-centric approach is regressive and runs counter to the modern, professional vision of financial advice that puts the client relationship at its core and makes ancillary any transaction in product. Entrenching product bias in the FA BCP would undermine the FCAA's expectations that the credential holder act ethically in identifying or managing conflicts of interest. A credential curriculum that is, at its core, predicated on transacting in a product represents a source of conflict and bias that will necessarily harm the quality of client recommendation.

By rejecting a two-tiered approach, the Comprehensive Approach would fulfill the goals of the title protection framework: to establish minimum standards for use of the FP and FA titles so that consumers and investors can have confidence that the persons using these titles conduct themselves appropriately when providing financial planning or financial advisory services.

[2] FSRA conducted consumer research in advance of its second consultation. It found that only 31% of consumers are confident that they can explain the difference between FPs and FAs, and only 6% are completely confident. The research also found that the type of services that FP clients and FA clients expect from their professionals is also very similar. See *Appendix C - Consumer research for the FP/FA Title Protection Framework of Notice of changes and request for further comment on FPTP Rule* (May 11, 2021) at: http://fsrao.ca/industry/financial-planners-andadvisors-sector/notice-changes-and-request-further-comment-fptp-rule.

[3] After all, the purpose of creating this new framework is not to ensure so-called financial advisors and planners have skills in regard to product sales, which the FCAA rightly acknowledges falls under existing product licensing regimes. Instead, the framework is intended to address client-centric advice and planning skills, which is where the regulatory gap exists.

III. Decrease in Harmonization

Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different education programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan. While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization. Also please provide comments regarding any other potential disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain the FA credential results in a need for consequential amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerns whether the transition period for an FA's compliance with the FPFAA set out in section 9(3) of the Proposed Regulations should be lengthened to match that of an FP?

Although Advocis supports harmonization generally, this goal must not put consumers at risk and should not be put above the more important objective of increasing consumer protection. As we discussed above, the Comprehensive Approach better protects consumers and meets client expectations. In our view, the consumer protection benefits from raising the bar on professionalism within the financial advice sector outweigh any costs associated with decreased harmonization between Ontario and Saskatchewan.

Employing the Comprehensive Approach may cause some confusion in the short term, because credentials that qualify for the FA title in Ontario may not qualify in Saskatchewan. However, these sorts of bumps are to be expected when adopting a new framework.[4]

We believe that the title protection frameworks across Canada will gradually harmonize up in the years following initial implementation, as financial advice and planning increasingly becomes a recognized profession.

By adopting the Comprehensive Approach now, Saskatchewan can lead the way in establishing high consumer protection standards across Canada. Ontario will review its own framework in the coming years. Saskatchewan's leadership will encourage other jurisdictions to increase their

[4] Note that even if the FCAA "falls back" to the lower FA BC, there would still be a lack of harmonization with Quebec's approach to title protection for its financial professionals. Harmonization is desirable *all else equal* but it cannot come at the expense of consumer protection.

expectations to meet the Saskatchewan standard. Harmonization which raises the bar will benefit consumers across Canada.

Although we hope that title protection can be fully implemented as soon as possible, we recognize that the Comprehensive Approach requires FA-qualifying credentials to be more rigorous than those that would qualify under a product-focused approach, bringing them substantially into line with the standard set for FP-qualifying credentials. Therefore, we would support a transition period for the FA title of the same length as that for the FP title. Setting the same deadlines for both protected titles would also simplify the title protection transition, to the benefit of consumers and industry stakeholders.

IV. Mandatory disclosure of credentials

> We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Please comment on whether this additional disclosure requirement is preferred and the form that it should take. Also please comment on whether this additional disclosure is warranted if the Comprehensive Approach to the FA BCP, as described under the Approval criteria for credentials heading, is adopted.

As a benefit of the Comprehensive Approach to the FA BCP, additional FA-specific disclosure related to product sales licenses is not required. Since the Comprehensive Approach is product-agnostic and broad, there is no need to identify product-specific limits in the protected title. In fact, this issue exemplifies why the Comprehensive Approach makes sense: title protection is not about moving product; it is about quality financial advice.

While we support the Comprehensive Approach, even if the FA BCP proposed in the 2021 draft (or the FA BCP adopted by FSRA) is implemented, we do not believe that a listing of products in the protected title would necessarily help the consumer. The financial professional is already required to disclose the credential that enables them to use the protected title, allowing their clients to understand their advisor's education *bona fides* and the credentialing body responsible for their oversight. Even under the non-comprehensive approach, we believe many FAs will choose to qualify to advise on multiple products. Providing this laundry list of products could easily overwhelm the consumer, reducing the utility of the disclosure and the wider title protection regime.

Furthermore, we believe that including a product listing in the protected title risks conflating the product licensing regime with the title protection framework. A licence is the minimum regulatory requirement to transact in a particular product, requiring certain technical knowledge. In contrast, the protected title indicates that the financial professional has developed the skills and knowledge required to provide financial advice to clients. Although many advisors maintain relevant licenses to transact in the products, this is not always the case.

As a result, including a product listing in the protected title may increase consumer confusion by implying that the financial professional is actively licensed to sell the product. We urge the FCAA to avoid the public confusion which could result from blurring the distinction between product licence and protected title.

V. Transition Date and Implementation Period

Whether you support an implementation period and provide a suggested length of time for said period.

We do not support an implementation period.

We believe that adding an implementation period will make implementation unnecessarily confusing for consumers and industry stakeholders. The framework already has a transition date, two different transition periods, and an in-force date.

Instead, we suggest that the FCAA consider taking an approach similar to FSRA. The FCAA should identify and work with key prospective credentialing bodies (such as those already approved under the Ontario title protection regime). The FCAA can pre-vet these credentialing bodies and their credentials before the in-force date. Then the FCAA will be able to announce these credentialing bodies and credentials on the launch date of the Saskatchewan title protection framework.

Whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force. In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects that an alternate date may have on the protections afforded by the legislation as well as the implementation process.

We believe that two criteria must be met for the transition date to be effective:

i) It must be clear for all stakeholders; and
ii) It must be in the past, to prevent individuals from "gaming the system" to gain access to the transition period.

We note that FSRA chose a transition date of "before January 1, 2020". Since the FCAA's framework is rolling out about one year after FSRA's, perhaps the FCAA could simply make the Saskatchewan transition date "before January 1, 2021". This date will be easy for consumers and industry stakeholders to understand and will prevent unscrupulous actors from gaming the system.

VI. Fees and Fee Structure

Please provide your feedback regarding the proposed fee structure and amounts.

We appreciate the efforts the FCAA is making to ensure that the costs of the title protection framework are reasonable. Since many financial professionals serve clients in multiple jurisdictions, harmonization (where it does not harm consumer protection) and the reduction of unnecessary duplication is beneficial.

With respect to the initial application to become a credentialing body and for approval of the credential(s), we urge the FCAA to consider whether it can leverage the work undertaken by other jurisdictions operating largely similar title protection frameworks. For instance, FSRA conducted a review of the resources, operational processes and disciplinary structure of the credentialing bodies that it approved. Can the FCAA leverage the work done by FSRA to allow for an expedited review? This would help reduce the costs incurred by the FCAA and passed on to industry participants (and ultimately consumers).

In the case of credentials, we recognize that where the BCPs differ substantially—such as for the Comprehensive Approach to the FA BCP—the FCAA needs to conduct its own fresh review. However, if the BCPs are very similar—as is the case for the FP BCP—we urge the FCAA to consider leveraging the work of other regulators (such as FSRA).

With respect to the annual fee, we wish to clarify one point. Where a credential qualifies the holder to use both the FA and FP title, does the fee remain $50 per credential holder? Or, like FSRA, would the fee be per credential holder *and* per title, effectively doubling the fee incurred for a single credential that is approved for both titles?

We note that in Ontario no credential has thus far been approved to use both protected titles. We believe that several approved credentials would meet the Ontario BCPs for both titles; however, we believe this “double fee” issue has discouraged some credentialing bodies from seeking approval to use both protected titles for a given single credential. We urge the FCAA to charge a single fee per credential, regardless of the number of protected titles it qualifies for, to provide greater flexibility to Saskatchewan market participants who meet the standards required to use the protected titles.

3. CONCLUSION

We commend the FCAA for its work to improve consumer protection through this Consultation on its proposed title protection framework. We support the FCAA in these efforts.

If a credentialing body becomes defunct, we believe that the FCAA can protect the public, while also treating credential holders fairly. In the short-term, another credentialing body should supervise the credential holders on an interim basis. Other credentialing bodies can then propose and implement transition plans for these credential holders to obtain new credentials.

We support the FCAA's proposal to raise standards for the FA BCP. By implementing the Comprehensive Approach, the FCAA would better align the FA title to client expectations, thereby ensuring a higher level of technical competence and consumer protection.

Although we support harmonization generally, we believe that the improvement to consumer protection gained by holding FAs to a higher standard outweighs the costs from reduced harmonization. We believe that other jurisdictions will follow Saskatchewan's lead and require a higher standard for FAs in the coming years.

The Comprehensive Approach eliminates the need for additional disclosure. However, even if a product-centred FA BCP is chosen, we believe the inclusion of a product listing may cause additional confusion, undermining the benefits of disclosure.

Similarly, when considering implementation periods and transition dates, we support an approach that will be easily understood by consumers and stakeholders.

Finally, we support the efforts of the FCAA to keep fees reasonable. In particular, we urge the FCAA to leverage the work of other regulators to reduce costs.

We would welcome the opportunity to further discuss this initiative with you. Should you have any questions, please do not hesitate to contact the undersigned, or [redacted] Advocacy and General Counsel at [redacted]

Sincerely,

Original signed by

[redacted]

Original signed by

[redacted]

Benefits Alliance

Comprehensive/Fact Based Standards for Financial Advisors

Benefits Alliance ("BA") is pleased to participate in this important consultation as we strongly believe that there is a growing need for higher standards, professionalism, and specialization within the financial services sector. We look forward to working with the Financial and Consumer Affairs Authority of Saskatchewan ("FCAA") and would like to provide the following thoughts for your consideration.

About Us

BA is a national organization consisting of 28 independent member firms with more than 250 advisors, which collectively administer over 8,000 employee benefit plans, covering approximately 550,000 employees, with $1.4 billion of group insurance premiums, as well as 1,500 group retirement plans that have over $3.5 billion in plan assets.

We are highly selective in who qualifies to join BA, and prospective firms are peer nominated. Given the important role that Group Advisors play in the lives of all Canadians from coast-to-coast, to coast, only the best Group Advisors who are committed to the highest level of professionalism are invited into our membership.

BA is an industry advocate promoting professionalism and excellence in client service, and from a policy perspective, we want to ensure that all Canadians receive the best advice available.

Our mission is to represent the best interests of our clients and their employees. We are committed to continuing education and professional development to ensure our members provide the highest standards of service and excellence.

General Comments

The distinguishing feature that separates an FA and an FP is that the FP has committed to additional studies relevant to creating a comprehensive and integrated financial plan for their client. However, in most cases, those who have qualified to holdout as FPs do not create financial plans for their clients and operate more from the FA platform.

All advisors, inclusive of those who qualify for the use of the title FA or FP, in performing their KYC will be dealing with matters related to estate planning, tax planning, retirement planning, investment planning, financial management and insurance and risk management, elements identified as specific to FPs. In a holistic and comprehensive financial plan, a client can reasonably expect that each of these elements will be addressed. But this does not mean that all FPs will perform these tasks for each client. Nor does it mean that only FPs perform these tasks.

The reality is that all licensees, even those who do not qualify for the use of the title FA or FP are required to know their client and provide the services necessary to achieve the outcome the client has identified through their engagement with the licensee. Accordingly, a licensee who has not qualified to holdout as an FA or an FP will still address matters related to estate planning, tax planning, retirement planning, investment planning, financial management and insurance and risk management. Further, a licensee who has not qualified as an FA or an FP may also create a financial plan for their client.

Any discussion about raising the professional bar, higher levels of professionalism among licensees who are providing advice in the financial services sector, and enhanced consumer protection, must first appreciate the common base level entry requirements and role played by all licensees prior to developing a framework. An enhancement must move beyond the baseline established.

The *Fair Dealing Model* ("FDM") published by the Ontario Securities Commission in 2004 identified that within financial services we have moved beyond a product-based environment and into an advice-driven business model. The FDM called for regulation to be advice- centric and not product-centric. Ontario Bill 157, *The Financial Advisors Act, 2014*, was the first attempt to professionalize FAs and FPs and recognized the advice-based nature of licensees and the drive to higher professional standards. Bill 157 was followed by the *Expert Committee to Review Regulation of Financial Advisors and Planners* ("Expert Committee"), which was established by the Government of Ontario in 2015. Ultimately, *The Financial Professionals Title Protection Act, 2019*, was introduced and implemented. In the interest of harmonization, the Ontario reform formula is now being considered in Saskatchewan by the FCAA with their legislative equivalent, *The Financial Planners and Financial Advisors Act* ("FPFAA").

BA believes that both the Financial Services Regulatory Authority of Ontario ("FSRA") and the FCAA are on the correct course but have made a fundamental error in the characterization of what licensees, FAs, and FPs do. The result is that the Baseline Competency Profile ("BCP") for FAs is flawed. As the FA BCP premise is flawed, raising the professional bar, achieving higher levels of professionalism and consumer protection are not appropriately achieved. Below, we identify the areas of concern prior to responding to the questions posed by the FCAA in its consultation document.

With respect to the enhanced professionalism model proposed by the FCAA and FSRA we see an artificial professional division being created between the professional standards for an FA versus an FP. We also see the distinction between mere licensing and qualifying for the use of the FA title as being so similar, making the distinction between the two almost meaningless. Consumers correctly view the titles of FA and FP as equivalent, the exception being that those qualifying for the use of the title FP have undertaken additional and detailed studies related to the development and implementation of a comprehensive and integrated financial plan. BA believes that the current draft proposed regulations should be amended to properly represent consumer and advisor expectations and understanding of the comparable natures of FAs and FPs. Care must be taken on the part of the FCAA to avoid establishing an artificial professional division that will prove harmful to the consumer.

Current attempts to establish criteria to qualify as an FA fail to recognize the skills, training and education needed to operate as an FA as currently envisioned by consumers. This unfortunately may lead to an ex-post as opposed to an ex-ante approach being employed going forward. An ex-post approach to professionalism is counterintuitive. One would not expect a lawyer or accountant to qualify to use their professional title, and, ex-post, develop the requisite skill and expertise through continuing education. An ex-ante approach must be taken. This necessitates a re-examination of the views that have informed the FCAA and FSRA with respect to what an FA does and what should be expected of them above and beyond licensing requirements, and in comparison to FP title users.

What we are witnessing in relation to FAs is the bar being set so low that virtually anyone can qualify for the use of the title FA. The harm in doing so is two-fold:

1. It results in anyone using the title FA being equated with the lowest possibly qualifying FA. Meaning, individuals who have a high level of sophistication, and experience who hold out as FAs being equated with someone who is licensed and taken what many view as substandard courses that are not appropriately focused on core fundamentals.

2. The credentials required to qualify as an FP are far superior to those to qualify as an FA. The result, under the current formula in Ontario and potentially in Saskatchewan, is that we are witnessing an artificial professional division being established whereby the title FP becomes the "professional" standard while the FA title and designation is diminished.

Both the FCAA and FSRA need to keep foremost in their mind that consumers view the two titles, FA and FP, as essentially equivalent. The decision on the part of regulators to set the BCP so low for FAs serves no useful purpose and flies in the face of consumer understanding and protection.

BA would propose that the FCAA and The Government of Saskatchewan:

- Establish the standard sufficiently high for FAs, and set the bar much higher than licensing; and
- Establish the proper criteria (BCP for FAs) – adopting a comprehensive approach as is the case for BCP for FPs, to ensure better outcomes for consumers and meaningful consumer protection.

These are the cornerstones for any discussion for the FA BCP.

Consumer expectations related to FAs and FPs are driven by industry (product manufactures, dealers, and advisors) who promote advice as professional and assisting consumers achieve financial health and well-being. To artificially establish any meaningful gulf between the work performed by an FA and an FP represents a serious risk to consumers. Governments and regulators will and should be held accountable for inflated client expectations when engaging an FA and the negative consequences that will flow from the product-focused approach to FA BCP that sets the bar too low. Arguably, if the FCAA follows the path established by the FSRA with respect to BCP for FAs the initial identified problem relating to consumer confusion and protection, and the raising of the professional bar will remain largely unchanged. However, through the codification of the status quo by governments and regulators, the existing confusion and risks to consumers become sanctioned by government and regulators. We do not believe this is the intent of the government or regulator. The FCAA has the opportunity to correct this error.

BA strongly encourages the FCAA to move forward with FA title protection predicated on a BCP comparable or equal to that of the FP, with the exception of expertise required in the development of a financial plan. The FCAA must ensure that an FA is knowledgeable and competent to address all aspects of a client's financial situation and needs.

Accordingly, to harmonize to the current threshold established in Ontario is undesirable and harmful to consumers, the industry, and experienced FAs. If the FCAA is going to effect change in terms of delineating the difference between an FA and someone who is only licensed, then it is incumbent on them to properly recognize the similarities between FAs and FPs and to establish a meaningful threshold whereby both titles are distinguishable from licensees. An ex-ante approach is mandatory in our view.

Primary Structural Concerns – A Closer Examination

The primary areas of concern with title protection legislation can be traced to two critical premises upon which the BCP for those using the title FA rests. The first is the use of a product-based approach to the identification of the role of FAs, and the second is the limited scope attributed to work done by an FA.

The Ontario Approach

While Ontario does not set out in its legislation or rules what an FA or an FP does, the FSRA's approach is captured through its understanding of FAs and FPs as stated in the FAQ section of their website.

The FSRA states:

> "**Financial Planners** should have the breadth and depth of knowledge to develop integrated financial plans for clients. These financial plans would include a holistic analysis of a client's financial circumstances. Financial planners are expected to be proficient in all of the core personal finance areas, *which include estate planning, tax planning, retirement planning, investment planning and alternatives, finance management, and insurance/risk management* [emphasis added]."
>
> "**Financial Advisors** should have technical knowledge about at least *one common investment product* [emphasis added], as well as the necessary expertise and experience to develop suitable financial and investment recommendations for retail clients, based on their specific type of licence or designation."

The FSRA takes a very narrow and product-centric view of what an FA does. Yet in reality, FAs and FPs, as well as all licensees, are bound by the KYC, KYP, and Conduct Rules which clearly evidence an expanded scope beyond what the FSRA contemplates in its title protection legislation and rules. The FSRA's view of FAs appears out of step with current insurance and regulatory requirements and the findings of the FDM, subsequent committees, and legislation, all of which accepted the modern view of an advice driven business model.

While the FCAA and FSRA identified that some FAs, FPs and licensees may focus on a specific product or specific sector in the provision of advice, one cannot conclude that this restriction or specialization then applies to all within the group of FAs, FPs or licensees. Individuals within these broader groups may restrict the scope of their practise to focus on one class of product or sector in providing solutions. However, such specialization or restrictions should not minimize the broader educational requirements to qualify as an FA or an FP. In the case of an FA or an FP who selects to restrict their practise they must, nevertheless, have the requisite broad-based educational requirements. Such an approach makes the curative measure of disclosure effective – for example: J. Smith FA (Mutual Funds), J. Smith FA (Group Advisor) or J. Smith (Insurance Advisor). This ensures that the consumer gets advice from someone with comprehensive knowledge who may select products to achieve the client's goals but only from the area of concentration or specialization. A requirement ensuring comprehensive knowledge assures clients that even FAs or FPs who work within a specialized area of concentration has the breadth of knowledge equal to the most advanced FAs or FPs.

The Saskatchewan Approach

The relevant sections within, *The Proposed Financial Planners and Financial Advisors Regulations* ("Proposed Regulations") that replicate the errant thinking of the FSRA are found in Part 6 and 7.

Part 6 (1) relating to FPs states:

> (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:
>
> (i) the Canadian financial services marketplace and regulatory environment;
>
> (ii) *estate planning, tax planning, retirement planning, investment planning, finance management and insurance and risk management* [emphasis added];
>
> (iii) ethical practices and professional conduct;
>
> (iv) dealing with conflicts of interest;
>
> (v) collecting personal and financial information;

(vi) identifying client objectives, needs and priorities;
(vii) providing suitable financial planning and investment recommendations to a client;
(viii) *developing and presenting an integrated financial plan for a client* [emphasis added].

Part 7 (1) relating to FAs states:

(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:
(i) the Canadian financial services marketplace and regulatory environment;
(ii) *the products and services provided by the individual* [emphasis added];
(iii) ethical practices and professional conduct;
(iv) dealing with conflicts of interest;
(v) collecting personal and financial information;
(vi) identifying client objectives, needs and priorities;
(vii) providing suitable financial and investment recommendations to a client.

Dispensing first with the absence of a section (viii) in Part 7 we note that it correctly captures the difference between the expertise that distinguishes an FP from an FA. The FP has the additional training, and experience necessary to create a comprehensive and integrated financial plan for their client. On this point it should be recognized that retail investors rarely have their FP prepare a financial plan. Further, the production of a financial plan is increasingly automated with the advisor inputting information into required fields that then generate a financial plan for the advisor to present to the client. Lastly, even absent the advanced training in developing financial plans, an FA, a licensed individual, or an individual who is not licensed by either the insurance or securities regulators can create a financial plan for their client.

The evolution within the fintech sector is redefining how financial advice and planning are consumed by clients. For instance, even those who are not credentialed to use the titles FA or FP can access sophisticated software that will prompt the advisor on the inputs needed with respect to the client so that a detailed financial plan can be generated. Further, technology has advanced to the point where consumers can work in a fully automated environment absent engaging a person, licensed or otherwise. This illustrates the problem associated with artificially establishing a low threshold for FAs in comparison to FPs. While FPs have undertaken advanced financial planning training, the fact that this process is now largely automated and used by FAs, contributes to consumers of advice seeing both FAs and FPs interchangeably. It further supports the notion that the BCP for both FAs and FPs should be more aligned.

Our concerns with items (ii) in Part 7, is the narrow and product-based focus. The reality is that FAs provide more than simply product-based recommendations. The product recommendation is provided only after an FA has discussed with the client their needs, objectives and goals as is required under KYC provisions in both the insurance and securities sector. Accordingly, an FA does engage in **estate planning, tax planning, retirement planning, investment planning, finance management** and insurance and risk management just as an FP may. We are strongly of the view that Part 7(1)(b)(ii) should be redrafted and replicate Part 6 (1)(b)(ii).

If a licensee elects to qualify to use the title FA or FP there must be a requirement that they have a comprehensive knowledge of areas relevant to their license and the areas of importance to their clients. Consumers rightly assume that FAs and FPs operate at a higher professional threshold. As such, it is incumbent on governments and regulators to ensure consumer protection by establishing rules and

regulations that both reflect the reality of what FAs and FPs do, as well as establish a threshold that meaningfully elevates the expectations on knowledge and advice provided well above the licensing requirements. Only then does the product recommendation come into play.

Part 6 and 7 of the Proposed Regulations rests on the same flawed premise we see in Ontario, which arbitrarily fixes a substandard threshold for FAs. The flawed premise is used to then develop an artificial gap between the level of professionalism and services provided by FAs in comparison to FPs. This will prove harmful to consumers as well as the evolution of financial services in an advice-based market increasingly impacted by fintech and Artificial Intelligence.

Consultation Question

Question 1

Credentialing Bodies – Process when Approval Revoked or Operations Cease

The FCAA is seeking feedback on how to transition credential holder from a credentialing body that is no longer active or approved for some reason, such as their approval was revoked or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.

While being mindful of concerns of FAs and FPs should their credentialing body either be unapproved as a credentialing body or cease operations as a credentialing body for any reason, the primary focus must be on the impact to clients who rely on the credential and credentialing body for both ensuring that standards are met and that conduct is monitored.

There are two discrete issues to be addressed. The first relates to supervision and oversight, and the second relates to standards established by credentialing bodies to qualify for the use of the title FA or FP.

With respect to oversight and supervision, a "client first" or "client's best interest" approach would dictate that an FA or an FP does not go unsupervised for any length of time. From an FA or an FP perspective the cessation of a credentialing body should have minimal impact on their credential as the credentialing body was approved and in good standing when the credential was granted. As such, it can be argued that a short period of time between the cessation of the credentialing body and the absorption of FA or FP credential holders by a subsequent credentialing body seems inconsequential. However, complaints, investigations and misconduct cannot be ignored due to administrative gaps during transition periods. Credentialing bodies play an important role in the oversight of the conduct of FAs and FPs, and consumer interest dictates that oversight be seamless and continuous.

In any event where a credentialing body is no longer performing its duties, either an existing credentialing body must be assigned or selected for ongoing oversight of the FA or FP, or the FCAA must assume the role of the credentialing body until such a time when the FA or FP is absorbed by another credentialing body.

Subsequent to such selection or assignment, the continuing credentialing body can review the new FA or FP credentials to determine if they are acceptable to their membership, or if additional education or training is required. As the FCAA and FSRA have set minimum standards to qualify as a credentialing body, this does not preclude a credentialing body from setting standards for the use of the title FA or FP above those established by other approved credentialing bodies. Therefore, an FA or an FP may be required to successfully complete additional courses to qualify for the use of the title FA or FP with

the new credentialing body. While pursuing the required courses to qualify with a new credentialing body, a period of time can be granted for the continued use of the FA or FP title. A failure to successfully complete the required course(s) will result in the immediate loss of the right to the use of the title of FA or FP.

Question 2

Approval Criteria for FA Credentials

We are seeking feedback on whether the BCP for FA should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement would include knowledge and competency in all of the same core financial technical areas the FP BCP (i.e. estate planning, tax planning, retirement planning, financial management, and insurance and risk management). The key difference between the FP BCP and the FA BCP would be that the FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies. In considering this approach please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectation and better alignment with other existing financial sector regulatory frameworks. Also, please comment on whether there are any other advantages the Comprehensive Approach has over the Product-Focused Approach not identified in this paper.

We share the same serious concerns with other stakeholders speaking on behalf of consumers and advisors in noting deficiencies regarding the BCP for FAs. As Group Advisors we urge the FCAA to revisit and strengthen the BCP for FAs to align with the BCP of FPs. As noted earlier in our comments, the differentiator between an FA and an FP is the specialization with respect to developing a comprehensive and integrated financial plan for their client. We also emphasize that FAs can also create financial plans for their clients, and that fintech and IT advancements have resulted in software and engagement methods for FAs and licensees to produce financial plans for their clients. It makes little sense, given the fintech solutions at the disposal of anyone within the financial services field, consumer included, to place too great an emphasis on the specialized skills required to use the title of FP. Technology has leveled the playing field. Therefore, to artificially create a professional gap between one using the title FA over FP makes little common sense.

Title protection's primary objectives include a move to higher professionalism and enhanced consumer protection. As such, setting the threshold so low for the use of the title FA results in virtually no additional consumer protection. Further, it is an afront to FAs who currently operate to a level equal or comparable to FPs. Consider for the moment that most FPs do not create financial plans for their clients. They operate as FAs when not completing a financial plan. We call on the FCAA to establish a threshold for FAs that will make a meaningful impact on both the raising of the professional bar and consumer protection, and a recognition that FAs are and should be viewed and held to the standards of an FP absent the advanced planning requirements required to holdout as an FP.

The solution to the above noted concerns, as identified by the FCAA in its consultation document, is to focus on advice-based solutions and regulation. A product-focused approach to the BCP for FAs is counterintuitive and has resulted in the development of competencies that are out of step with the reality of what an FA does, and what a client would expect from an FA. A product-based approach results is redundancy with current licensing requirements established in both the insurance and securities sectors with respect to all licensees' know their product and know their client rules.

An FA is any qualified person/entity engaging in the business of providing financial advice to individuals or groups of individuals, including the collection and analysis of information about a person/group or business in developing strategies to achieve identified goals:

- To identify needs and risks
- To establish financial objectives
- To establish strategies to address identified needs and risks, and achieve the established financial objective

FAs must continuously monitor the needs and risks and progress towards the established financial objectives which would include all of or a combination of the following:

- The monitoring of cashflow management
- Capital needs assessment
- Education planning
- Retirement planning
- Investment planning
- Taxation and estate planning
- Insurance planning
- Business succession planning
- Employee benefits and retirement planning

The curriculum for any credential qualified for the use of the title FA must go beyond specific product knowledge and must demonstrate a mastery over a broad spectrum of requirements and knowledge.

Question 3

Decrease in Harmonization

Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and the FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different educational programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan. While taking this alternate approach may reduce harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and other existing financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold an FA credential outweighs the decreased harmonization. Also please provide comments regarding any other disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain an FA results in a need for consequential amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerning whether the transition period for an FA's compliance with the FPFAA set out in section 9 (3) of the Proposed Regulations should be lengthened to match that of the FP.

With respect to decreased harmonization with the FSRA

Harmonization should never be placed above the needs and protection of clients/consumers.

Saskatchewan has identified an unintended flaw in the FSRA title protection framework as it relates to the BCP for FAs which cannot be ignored for the purposes of harmonization.

With respect to cost to market participants should Saskatchewan set the bar higher for FAs

Suggesting that a failure to replicate the to FSRA approach to BCP for FAs will result in a lack of harmonization and additional costs as participants will need to have two different standards depending on the jurisdiction they are operating under is a false narrative.

The FCAA and FSRA in establishing FA BCP note that they are setting a minimum standard which does not preclude participating credentialing bodies from exceeding these minimum standards. The FCAA may well set standards with respect to the BCP for FAs such that they reflect the true nature of what consumers expect from an FA. There is no additional cost associated should the credentialing body operating in Ontario adopt the higher standards established in Saskatchewan. One would expect a willingness on the part of credentialing bodies to want higher standards that will enhance consumer protection and outcomes. The FCAA in adopting a comprehensive approach in setting a BCP for FAs will be setting the stage for a race to the top. Such an approach invites other jurisdictions contemplating title protection to harmonize to a higher standard.

With respect to alignment with existing financial regulatory approach

Licensing requirements in the insurance and securities sectors require the licensee to know their product and know their client.

The KYP requirements in both the insurance and securities sectors cover the product knowledge requirements for licensees. To use a product-based approach for FA BCP is inconsistent with the evolution to regulation that started with the FDM. Absent a sound explanation by regulators for their bifurcated approach with respect the BCPs for FAs and FPs, we are of the view that the same comprehensive approach used for FPs be employed.

Question 4

Mandatory Disclosure of Credentials

We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any that they are authorized to sell. Please comment on whether this additional disclosure requirement is preferred and the form that it should take. Please also comment on whether this additional disclosure is warranted if the Comprehensive Approach to the FA BCP, as described under the Approval criteria for credential heading, is adopted.

Disclosure should not focus on product, rather it should focus on advice and service. A focus on advice and service will naturally lead to product decisions.

To avoid risks associated with FAs or FPs who may limit their practise to a particular sector, product, or area of specialization, appropriate disclosure should be required. Examples would be an FA or an FP who is insurance licensed only, mutual funds licensed only, dual-licensed or selects to specialize such as a group advisor. Disclosure could be in writing on cards, letterhead, communications, corporate websites, and credentialing bodies' websites as follows:

- J. Doe FA (Insurance);
- J. Doe FP (Insurance);
- J. Doe FA (Mortgages);
- J. Doe FP (Mortgages);
- J. Doe FA (Mutual Funds);
- J. Doe FP (Mutual Funds);
- J. Doe FA (Insurance and Securities);
- J. Doe FP (Insurance and Securities);
- J. Doe FA (Group Advisor);
- J. Doe FP (Group Advisor).

An FA and an FP operating from the comprehensive approach to BCP would have considerable broad-based knowledge as a result of the credentialing process so the client can be assured that users of the protected title have the necessary broad-based competencies. However, development and implementation of advice from an advisor who has limited their services to a specific sector or limited product shelf, or a specialization that may not fit the client's needs may result in suboptimal results for the client. Ensuring appropriate disclosure is an effective curative measure that ensures consumers are able to identify an appropriate professional to assist them in achieving their financial goals.

Conclusion

The FCAA has the opportunity to address an unintended but inherent weakness which stems from a failure to properly establish the BCP for FAs. If left unaddressed this weakness will artificially establish a gulf between the professional standards between FAs and FPs, and place consumers at increased risk.

Thank you for the opportunity to provide our thoughts and BA looks forward to ongoing dialogue with the FCAA on this and future issues. Should you have any questions or require any clarification, please don't hesitate in contacting the undersigned.

[redacted]

[redacted]
The Canada Life Assurance Company
330 University Avenue
Toronto, ON M5G 1R8
Tel (416) 552-3137/Cell (647) 938-1640
[redacted]

September 20, 2022

[redacted]
Policy and Programming Officer
Insurance and Real Estate Division
Financial and Consumer Affairs Authority of Saskatchewan
601, 1919 Saskatchewan Drive
Regina, SK
S4P 4H2

Via email: finplannerconsult@gov.sk.ca

RE: Proposed regulations for The Financial Planners and Financial Advisors Act

Dear Mr. [redacted],

Thank you for providing the opportunity to comment on your proposed regulations for *The Financial Planners and Financial Advisors Act* (The Act).

Canada Life is a leading insurance, wealth management and benefits provider focused on improving the financial, physical and mental well-being of Canadians. For more than 170 years, individuals, families and business owners across Canada have trusted us to provide sound guidance and deliver on the promises we've made. In 2021, we employed more than 11,000 Canadians, paying $2.9 billion in salaries, commissions and taxes. In the same year, $8.9 billion in benefits were paid to our customers. We proudly serve more than 13 million customer relationships from coast to coast to coast.

As stated in previous submissions throughout this process, Canada Life supports the advancement of title protection for the benefit of our customers, advisors, and the industry as a whole. It is important that individuals providing financial advice obtain appropriate credentials and education in this specialized field. Also as previously stated, one of our overriding concerns is the avoidance of a patchwork of similar but slightly differing regimes across the country and the resulting consumer confusion and regulatory burden. Therefore, while generally supportive of the proposed regulations, we are concerned by the proposal to diverge from Ontario's existing regime in some fundamental aspects.

Please see below our views on the questions raised in the consultation document.

<u>Credentialling Bodies – Process where Approval Revoked or Operations Cease</u>

This is a novel question, but one which it is appropriate to consider as with the fullness of time such a scenario is likely to unfold. In considering this question, it may be instructive to make a clear distinction between situations of "approval revoked" versus "operations cease".

In circumstances where "operations cease," due to for instance the financial circumstances of the credentialling body, or for a reason that does not call into question the robustness of the educational criteria or oversight provided by the credentialling body, it would be challenging to revoke the right of applicable credential holders to hold themselves out as a Financial Planner or Financial Advisor on the day the erstwhile credentialling body is no longer in operation. This would not only be unfair to credential holders but also their clients, who may look to the revocation of the title as an indication of lack of competence or misconduct. A transition or grandfathering period would be appropriate for credential holders whose expertise, education and conduct is not in question, but find themselves in this situation through no fault of their own. The Canadian Life and Health Insurance Association (CLHIA) has suggested a 6 to 12-month period to re-credential with another credentialing body, with the regulator assuming oversight in the meantime. We agree with this position with the caveat that the requirement be evidence of enrollment in a suitable educational programme within this timeframe, not necessarily its completion.

Situations where the approval of the credentialing body has been revoked would be more difficult. If it is determined that a credentialling body is not meeting its obligations in terms of educational content or oversight, there may be a question as to the veracity of the credential and by extension its holders. This would be unfortunate, resulting in consumer confusion and a loss of confidence in the regulatory regime. It would call into question the Financial and Consumer Affairs Authority (FCAA) approval process and ongoing oversight of the credentialling body. It is therefore incumbent on the FCAA to have processes in place to make such a circumstance a remote possibility: A robust approval process and an ability to intervene to rectify problems before they result in revocation. As Financial Advisors or Financial Planners who find themselves in this situation would have relied upon a credential that was valid when obtained, it would be appropriate that a 6 to 12-month transition period be allowed in these circumstances as well.

<u>Approval Criteria for FA credentials – Decrease in Harmonization</u>

As a financial institution doing business in every province and territory, Canada Life's overriding interest is avoidance of a patchwork of similar but differing approaches. This is not only to ease regulatory burden and compliance cost, but also to minimize customer confusion and increase consumer confidence. We were therefore pleased that the previous consultation indicated the adoption of Ontario's Financial Services Regulatory Authority's (FRSA) competency profiles. We are subsequently disappointed that a different approach is now being contemplated.

We do not think it desirable to revise the Financial Advisor Base Competency Profile (BCP) to be closer to that of a Financial Planner. This view is informed not only by our preference for harmonization and avoidance of customer confusion, but also by the reality of what Financial Advisors and Financial Planners do. While sharing some characteristics and competencies, Financial Advisors and Financial Planners are engaged in different activities, with planning being a more comprehensive activity taking into account the totality of client's circumstances to formulate a plan often intended to be implemented over many decades and even beyond the life of the client. It is appropriate that those desiring to use the Financial Planner title hold more comprehensive credentials than Financial Advisors.

The legislature, by way of The Act, made a distinction between Financial Planner and Financial Advisor. Therefore, this distinction must be meaningful. The proposed greater alignment of the Financial Planner and Financial Advisor BCPs per regulation would in our view erode this distinction and potentially the expressed will of the legislature.

Mandatory Disclosure of Credentials

Canada Life has no concerns with requiring Financial Advisors to disclosure any products they are authorized to sell. Indeed, it has been best practice in the life and health sector for some time for advisors to disclose to clients the licences they hold and the insurers with which they have entered a contract.

Requiring this disclosure will ameliorate the concern that consumers could be confused by the scope of expertise of a Financial Advisor and therefore that a more comprehensive approach to the advisor BCPs is warranted. When an advisor discloses what they are licenced to sell there should be no question as to their areas of knowledge and education.

Transition Date and Implementation Period

A transition and implementation period should reflect the date The Act and the regulations come into force. It is difficult for potential credentialing bodies to prepare to meet the requirements of the regulations when the regulations are not final. Likewise, advisors and planners need to know what credentials will be recognized in order to determine their course of action.

Fees and Fee Structure

The proposed fees do not in and of themselves seem unreasonable. However, we echo the points raised by the CLHIA with regard to double payment. Life licence holders are overseen by provincial regulators with insurers also playing an oversight role. Regulators recover their oversight costs from both licencees and insurers. Credentialing bodies will now play on oversight role as well for licencees that hold a credential. Requiring life licence holders and insurers to pay for two levels of similar conduct oversight is not an efficient outcome and could decrease the number of Financial Advisors with access to advice implications and added costs for consumers.

Saskatchewan is the second province to adopt a titling regime and a third is considering moving in this direction. It is possible that additional jurisdictions will follow. It is conceivable that a credentialing body and their credentials would need to be approved in up to thirteen jurisdictions. While any particular jurisdiction's fees may seem reasonable, multiple fees would quickly become burdensome. Not all life licencees are licenced in more than one province, but many are, and the same logic holds. Ultimately, consumers pay for higher regulatory costs.

We encourage Saskatchewan to work with other provinces on reciprocal recognition of credentialling bodies and credentials. Consumer protection will not be increased by requiring almost identical approval processes across the country. This highlights once again the importance of harmonization and not creating a situation where reciprocal recognition is impossible due to small differences immaterial to consumer protection.

Thank you again for the opportunity to participate in this important effort to protect consumers and ensure residents of Saskatchewan can access suitable financial advice to meet their needs.

Best regards,

[redacted]

[redacted]

CFA Societies Canada

Canadian Advocacy Council

120 Adelaide Street West, Suite 2205
Toronto, ON M5H 1T1

+1 (416) 366 3658 tel
www.cfacanada.org

September 20, 2022

VIA EMAIL

Insurance and Real Estate Division
Financial and Consumer Affairs Authority of Saskatchewan
601, 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 4H2
Email: finplannerconsult@gov.sk.ca

Re: *Proposed Changes and Request for Further Comment - Proposed Regulations under The Financial Planners and Financial Advisors Act* (the "Consultation")

The Canadian Advocacy Council of CFA Societies Canada[1] (the "**CAC**") appreciates the opportunity to provide the following general comments on the Consultation and respond to the specific questions set out below.

General Comments

We are strongly supportive overall of a title protection framework in the Province to deal with the long-standing issues of unregulated titles and credentials used by individuals providing or purporting to provide financial services and advice. It is important that the FCAA implements strong criteria for both credentialling bodies and the financial planner and financial advisor credentials themselves in order to have strong, uniform minimum standards for title users. It is also critical that any title protection framework be harmonized with and supportive of related areas of proficiency and conduct regulation, such as securities and insurance regulation.

It is noted in the Consultation that some of the proposals contained in the Consultation will result in decreased harmonization with the Financial Services Regulatory Authority of Ontario's ("**FSRA's**") financial professionals title protection legislation. While we are generally in favour of harmonization of regulation between different Canadian jurisdictions, we strongly believe that it should be an overriding priority in this instance to create a strong investor-centric framework with stringent minimum standards for expected knowledge and competencies. We believe that the FCAA should take this opportunity to create baseline competencies for both the financial planner and the financial advisor titles that best serve the public interest as its primary objective.

[1] The CAC is an advocacy council for CFA Societies Canada, representing the 12 CFA Institute Member Societies across Canada and over 19,000 Canadian CFA Charterholders. The council includes investment professionals across Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. Visit www.cfacanada.org to access the advocacy work of the CAC.

CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion of ethical behavior in investment markets and a respected source of knowledge in the global financial community. Our aim is to create an environment where investors' interests come first, markets function at their best, and economies grow. There are more than 180,000 CFA Charterholders worldwide in 160 markets. CFA Institute has nine offices worldwide and there are 160 local societies. For more information, visit www.cfainstitute.org or follow us on LinkedIn and Twitter at @CFAInstitute.

120 Adelaide Street West, Suite 2205
Toronto, ON M5H 1T1
+1 (416) 366 3658 tel
www.cfacanada.org

To that end, we urge the FCAA and other regulators responsible for title protection frameworks to consider the intersection of credentials needed for the use of the financial planner and financial advisor titles with the requirements already set out by securities regulators and self-regulatory organizations for persons registered to provide financial advice. We believe that title protection frameworks that merely duplicate the existing proficiency and credentialing requirements of securities or insurance regulation are inherently problematic and are likely to result in increased regulatory burden that does nothing for the public interest. It is our view that if title protection frameworks are to be valuable in their own right that they must be complementary and additive to existing regulatory licensing frameworks in proficiency and/or conduct expectations.

It is very important that investors / financial consumers understand the purpose and goals of the title protection framework and that they know what to expect from planners and advisers holding any approved credential. The FCAA should lead investor education campaigns to ensure that accurate and consistent information about the framework is provided, and prohibit credentialing bodies from misleading communications about their credentialing body, their approved credentials, and the title protection framework broadly. We fear that consumers will be vulnerable to being persuaded that the best and most trustworthy credential or credentialing body will be that with the most effective and well-resourced marketing campaigns.

We look forward to future guidance from the FCAA with respect to which titles will be deemed “confusing” with those of a financial planner or financial advisor. We appreciate and agree with the suggestion that any title that references an authorization to provide specific advice that has been granted by legislation will likely not be found to be confusing (e.g. Insurance Advisor for persons licensed under *The Insurance Act*).

Specific Consultation Questions:

1. *The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be*.

   We do not believe there will be many circumstances where it would be appropriate to allow an individual to continue to use a protected title in the absence of oversight by a credentialing body. A credentialing body may cease to operate or cease to be approved for any number of reasons, including financial circumstances, or due to a breach of approval conditions. We suspect that in the event a credentialing body completely ceased operations, there would be a number of reasons why a credential issued by that credentialling body could no longer be utilized (e.g., trademark considerations, lack of conduct/complaints monitoring, etc.).

   We would support a short transition period to allow a credential holder time to obtain a different approved credential from an approved credentialing body that can

120 Adelaide Street West, Suite 2205
Toronto, ON M5H 1T1
+1 (416) 366 3658 tel
www.cfacanada.org

effectively administer a credentialing program, and that potentially creates a pathway for holders of the now un-approved credential to obtain new approved credentials. It will be particularly important to keep the transition period short in the event there is a complaint or other disciplinary matter respecting the individual title holder in progress that will require action from an approved credentialing body (or we presume, the FCAA in the absence of a credentialing body in this unique circumstance). In the event only the credential is no longer approved, but the credentialing body is still operational, we believe the same considerations apply; a short transition period should be granted to the credential holder in order to obtain a new approved credential from the same or a different credentialing body. Given the fast-paced nature of change in the financial industry, it is important that financial planners and financial advisors hold a current, active credential and are subject to continuous and robust conduct oversight. There must also be incentives for credentialling bodies to evolve the credential requirements as consumer, industry and proficiency needs evolve.

2. *We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e. estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management). The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies. In considering this approach, please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectations and better alignment with other existing financial sector regulatory frameworks. Also please comment on whether there are any other advantages the Comprehensive Approach has over the Product-Focused Approach not identified in this paper.*

Commentators have noted that FSRA's Product-Focused Approach for financial advisors only requires education relating to the products and services provided by the individual, and have suggested that the competencies for financial technical areas should take a broader approach in order to indicate that the title holder can provide more holistic advice in the areas of financial and investment strategies. We would support amending the proposed knowledge and competencies for financial advisors as suggested in this Consultation.

While we appreciate that many financial advisors do have the educational and practical expertise to provide broad-based advisory services, not every approved credential holder will (despite any public perception to the contrary). As suggested by the questions in the Consultation, we believe any such investor/financial consumer expectations regarding an approved credential holder's expertise can be mitigated by requiring financial advisor title users to disclose their particular area of expertise (e.g.

120 Adelaide Street West, Suite 2205
Toronto, ON M5H 1T1
+1 (416) 366 3658 tel
www.cfacanada.org

Financial Advisor – Insurance; Financial Advisor – Securities), which we believe should be a requirement regardless of whether the final regulations adopt a Product-Focused Approach or the Comprehensive Approach. We believe this approach makes title protection more complementary to and supportive of existing securities and insurance regulation, which is a critical consideration for the overall cost-benefit analysis of the title protection framework.

3. *Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different education programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan. While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization. Also please provide comments regarding any other potential disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain the FA credential results in a need for consequential amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerns whether the transition period for an FA's compliance with the FPFAA set out in section 9(3) of the Proposed Regulations should be lengthened to match that of an FP?*

While we are generally in favour of harmonization of regulation between Canadian jurisdictions, we believe that it is more important in this instance to create a strong investor-centric framework with stringent minimum standards for expected knowledge and competencies for financial advisors. We are hopeful that the FCAA can reverse some of the 'race-to-the-bottom' credential design and approvals that we have seen recently, and that instead act as a force that moves credential design and knowledge/proficiency standards higher (even potentially for already-approved credentials in other jurisdictions) such that the net effect is that of improving credential standards across jurisdictions to meet the most demanding regulatory standard.

Even though it may be difficult for some credentialling bodies to adapt their educational program to include the enhanced competencies, we do not believe the transition period for a financial advisor should be lengthened to match that of a financial planner title holder. Please see our reasoning under Question #5 below.

4. *We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Please comment on whether this additional disclosure requirement is preferred and the form that it should take. Also please comment on whether this additional disclosure is warranted if the*

120 Adelaide Street West, Suite 2205
Toronto, ON M5H 1T1
+1 (416) 366 3658 tel
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Comprehensive Approach to the FA BCP, as described under the Approval criteria for credentials heading, is adopted.

Mandatory disclosure of a title holder's credentials and an explanation of those credentials should be the minimum requirement, and can be similar to the requirements placed on securities registrants in their relationship disclosure documentation. As noted in our response to Question #2, we believe the proposed enhanced disclosure requirement is warranted to help alleviate the consumer confusion that currently exists with respect to the standards required to use the title of a financial advisor. All written correspondence, marketing documents and collateral materials that identify an individual by the title financial advisor should indicate for which products they are capable of dispensing advice and authorized to sell. Credential holders should also have to explain in plain language to their clients any limitation on the scope of their product knowledge or regulatory authorizations. These representations should of course be informed by the general proficiency principles outlined in section 3.4(1) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* which provides that "An individual must not perform an activity that requires registration unless the individual has the education, training and experience that a reasonable person would consider necessary to perform the activity competently."

5. *We are seeking feedback on two items. Please advise: a) whether you support an implementation period and provide a suggested length of time for said period; and b) whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force. In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects that an alternate date may have on the protections afforded by the legislation as well as the implementation process.*

We believe a short implementation period (no longer than three months) would be helpful, during which transition period we understand the FCAA would review applications and approve credentialing bodies. Given that the various title protection frameworks across Canada have been discussed for quite some time, industry participants should be expected to be generally familiar with the in-force or pending requirements to hold an approved credential even though the specific requirements are yet to be finalized. Given the proposed two year and four year transition period being afforded to title users to obtain the necessary credentials if they do not already possess one, an extended implementation period is unnecessary. As an important investor/financial consumer protection measure if properly designed and implemented, the title protection framework should be put into effect as soon as possible.

We are of the view that as a fundamental principle of fairness, the transition date should be adjusted to the date that the Act and the Regulations come into force. We believe it would be unduly prejudicial to exclude individuals from the benefit of the transition periods if they entered the industry subsequent to July 3, 2020 without a clear final understanding of all of the technical credentialing and educational requirements and provided with an opportunity to align themselves with those requirements.

6. *Please provide your feedback regarding the proposed fee structure and amounts.*

120 Adelaide Street West, Suite 2205
Toronto, ON M5H 1T1
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The proposed fee structure and amounts appear to be reasonable at this time. However, we believe the annual fees should not be based on the number of credentials issued by a given credentialing body, but instead only by the number of approved credential holders who elect to use the protected title. There may be many credential holders that do not use one of the protected titles, and thus the fees should be based only on the number of individuals with the approved credential who elect to use either the protected financial advisor or financial planner title (as applicable).

Concluding Remarks

We strongly support a regulatory framework for title usage that ensures the protection of financial consumers/investors while recognizing that unnecessary regulatory burden resulting from multiple and potentially duplicative regulatory frameworks must be addressed. We believe the proposed amendments to the baseline competencies for use of the financial advisor title are a step in the right direction and can be made to work alongside and be complementary to existing regulation and licensing rules. We remain disappointed that there has not been a greater attempt in other jurisdictions to-date to ensure that title protection frameworks are complementary and additive to existing securities and insurance regulation in raising proficiency and conduct standards, and applaud the FCAA for their consideration of these intersections in the pursuit of the public interest and efficient regulation.

We thank you for the opportunity to provide these comments and would be happy to address any questions you may have. Please feel free to contact us at cac@cfacanada.org on this or any other issue in future.

(Signed) *The Canadian Advocacy Council of CFA Societies Canada*

The Canadian Advocacy Council of CFA Societies Canada

Submission on Notice of Proposed Changes and Request for Further Comment on the Financial Planners and Financial Advisors Regulations [2022-001]

03/14/2023

Submission to the Financial and Consumer Affairs Authority of Saskatchewan

ASSOCIATION DES BANQUIERS CANADIENS
CANADIAN BANKERS ASSOCIATION

Introduction

The Canadian Bankers Association (**CBA**)[1] appreciates the opportunity to provide further input on the Financial and Consumer Affairs Authority of Saskatchewan (**FCAA**) Notice [2022-001] – *Notice of Proposed Regulations and Request for Further Comment* on *The Financial Planners and Financial Advisors Act* (the **Consultation Paper**).

The below list summarizes our suggestions and considerations in relation to the questions posed in the Consultation Paper, as well as other issues. More specifically, as the FCAA considers implementing a title protection framework through the regulations outlined in the Consultation Paper (the **Proposed Regulations**), we recommend that:

- **Exemption on Substitute Compliance Basis**: Individuals who are registered as representatives or approved persons of the New SRO and the provincial securities commissions, should be exempted from the title protection framework.
- **Credentialing Bodies – Process when Approval Revoked or Operations Cease**: The Proposed Regulations should incorporate provisions to address a transition process for credential holders if their credentialing body (**CB**) ceases to operate or has its accreditation cancelled or suspended to minimize any risk for consumers. Further, credential holders should not be penalized when transitioning, as this would be in line with the FCAA's policy intent.
- **Approval Criteria for Financial Advisor (FA) Credentials and Harmonization:** The FCAA should harmonize its title protection framework with that in Ontario to avoid inconsistent standards, which could create unnecessary confusion for consumers, contrary to the Proposed Regulations' policy goals. It would also result in unnecessary regulatory burden to title holders and their sponsoring firms.
- **Decrease in Harmonization**: The adoption of the Comprehensive Approach would drive misalignment between the Proposed Regulations and existing provincial consumer protection regimes. Saskatchewan's approach in devising its framework should be aligned with Ontario's and not create a conflicting baseline competency standard based on the Comprehensive Approach.

[1] The CBA is the voice of more than 60 domestic and foreign banks that help drive Canada's economic growth and prosperity. The CBA advocates for public policies that contribute to a sound, thriving banking system to ensure Canadians can succeed in satisfying their financial goals while obtaining banking products and services through existing and evolving channels. www.cba.ca.

- **Mandatory Disclosure of Credentials**: This requirement seems to be redundant as the title holders, by virtue of having received their credentials from an FCAA-approved CB, would have met the minimum education standards of knowledge and skills needed for professional competence. Further, this would create additional redundancy with title holders who are also securities registrants, given the robust obligations under securities law requiring disclosure to clients (relationship disclosure information (**RDI**)), which includes a description of the products and services they will offer their clients.
- **Transition Date and Implementation Period**: We support a formal and structured implementation timeline that will allow for clarity regarding expected CBs with sufficient timing for the approval of these bodies, the establishment and implementation of their credentialing procedures and for title holders to transition to approved credentials.
- **Fees and Fee Structure**: We do not support the cumulative approach to imposing fees on FAs and Financial Planners (**FPs**) each time they acquire a new title and suggest there should be a substitute compliance exemption for title holders credentialled under another regime (e.g., Ontario).
- **Principles-Based Approach**: To provide greater clarity and mitigate implementation challenges with requirements related to reasonably confusing titles, the FCAA should outline in its proposed guidance documents, the principles-based approach it will use in determining whether a specific title may be reasonably confused with the FP/FA titles.

Our foregoing comments are elaborated in the following submission.

Exemptions For SRO & Securities Registrants

We suggest the FCAA provide an exemption for SRO and securities registrants (e.g., on the basis of substitute compliance) from the Proposed Regulations, due to existing comprehensive licensing and registration regimes of the SROs as well as securities regulators. Currently, FPs and FAs are, in most cases, licensed as representatives or approved persons by New SRO (formerly IIROC or MFDA). New SRO already monitors these individuals rigorously through proficiency, credentialing, and conduct requirements. A title user registered with New SRO must meet minimum education, product-specific proficiency, training, and experience requirements before performing registerable activities. To ensure a high standard of conduct, registrants must undergo regular business conduct examinations administered by New SRO. Further, New SRO prohibits individuals from deceptively or misleadingly representing themselves.

We believe an exemption, even on a substitute compliance basis, for New SRO and securities registrants, would help to preserve this robust regime and prevent certain unintended consequences for consumers.

For example, significant consumer confusion may result if New SRO's existing standards and complaint resolution frameworks, which include a dedicated ombudsman, are undermined by an overlapping, Saskatchewan-specific titling regime. Further, an exemption would align with the FCAA's stated objective of leveraging the existing regulatory framework, minimizing overlap to enable FA and FP oversight. Finally, the SRO and securities regulators have indicated they plan to engage in financial services title regulation reform, suggesting there may be a complex web of overlapping regulations in this space. An exemption, even on the basis of substitute compliance, will help to ensure these various title protection regimes are able to operate harmoniously, preventing consumer confusion.

In Ontario, we understand from a statement provided by IIROC for a recent *Investment Executive* article, that ongoing discussions between the SRO, FSRA and the OSC are considering how the SRO's "participation in the framework could be structured to contribute to the public policy goals of the government's legislation **without duplicative regulation or cost** (emphasis added)."[2]

While these discussions in Ontario may not ultimately result in a formal exemption for SRO and securities registrants, we fully support the need to avoid duplicative regulation and unnecessary cost.

Absent a formal exemption under Saskatchewan's framework, we would encourage the FCAA to participate in similar discussions with New SRO to at least ensure alignment with the evolving Ontario approach on this point.

[2] Will the new SRO shake up title protection in Ontario? Investment Executive, December 22, 2022.

Question 1: Credentialing Bodies – Process when Approval Revoked or Operations Cease

To ensure consumer confidence and safeguard their interests when dealing with approved credential holders, it is essential that the FCAA's proposed regime is predictable, consistent, and clear. To minimize disruption for consumers and financial institutions, credential holders with credentials from a CB that is no longer approved or ceases to operate should be authorized to continue to use the FP or FA title for a reasonable transition period determined by the Proposed Regulations. Under this approach, it will be critical for the Proposed Regulations to outline an interim process that permits title holders to 'transfer' their credentials to a new CB.

Questions 2 & 3: Approval Criteria for FA Credentials and Decrease in Harmonization

We do not support the Comprehensive Approach as criteria for the baseline competencies that underlie the FA credential and suggest the FCAA's proposed regime should be harmonized with Ontario's approach on this point. The Consultation Paper states that the purpose of the Proposed Regulations, among other things, is to establish approval criteria for FP and FA credentials in order to set a consistent, minimum standard for title holders. While we believe there should be a distinction between FA and FP titles, the broader approach to proficiency being considered for FAs under a Comprehensive Approach may have unintended negative consequences for stakeholders, including CBs, title holders, and consumers.

First, the Consultation Paper states that it is "expected that most, if not all, approved CBs will be national or at least regional in scope." The harmonization and consistency of regimes across jurisdictions is important. It provides predictability and trust for consumers. It also helps to ensure the interoperability and predictability of provincial systems, allowing title holders to seamlessly move between jurisdictions, and national organizations, such as banks, to make decisions about titling in a predictable manner. The benefits and importance of harmonization in the securities space are evidenced by the existence of the Canadian Securities Administrators, who work collaboratively on regulatory programs and policy decisions to prevent consumer confusion and maintain the stability of Canada's capital markets.

The Comprehensive Approach may undermine the ability of CBs to operate nationally and the harmonization of nascent FA and FP regulation nationally. More specifically, CBs operating in

Ontario may be hesitant to design Saskatchewan-specific education materials. This may lead to fewer CBs operating in Saskatchewan, or at the very least a different subset of CBs operating in Ontario and Saskatchewan. Ultimately, either of these outcomes would likely create misalignment in FA and FP regulation in Canada, undermining the benefits of a nationally consistent network of CBs (which are outlined in the foregoing paragraph). This would negatively impact consumers, title holders, and the organizations that employ title holders. Further, these outcomes would undermine the "primary objective of the framework" as outlined in the Consultation Paper, of creating minimum standards for title usage without "creating unnecessary regulatory burden for title users."

Second, and perhaps most importantly, under the Comprehensive Approach, as noted in the Consultation Paper, there is a risk of creating "fewer options for consumers or investors to obtain financial advice." "Raising the competency bar" for FAs, as some have called it, to such an extent that fewer prospective FA's can reach it – and fewer consumers can access much needed advice – is a real risk that may ultimately do more consumer harm than good.

Third, if Saskatchewan ultimately decides to diverge from the Ontario model in such a significant way by adopting the Comprehensive Approach, the underlying assumption (i.e., that "many clients will expect FAs to provide broad-based comprehensive financial advice") should be tested.

In other words, this is a significant policy decision that needs to be based on evidence and research rather than stakeholder submissions. We note that the Consultation Paper does not cite any such evidence or research.

Finally, we do not support adopting any sort of "modified" version of the Comprehensive Approach whereby FAs would require all of the elements of technical expertise contemplated by the Comprehensive Approach (i.e., estate planning, tax planning, retirement planning, investment planning, finance management and insurance and risk management.) but only in relation to the specific products provided by the FA.

The difficulty with such a modified approach is that it would still be substantially different from the Ontario model. In Ontario, FAs only require "adequate knowledge" (not technical expertise),

regarding some, but not all of the topics listed in the Comprehensive Approach.[3] This substantive difference raises the same concerns with respect to the potential lack of harmonization discussed above.

Question 4: Mandatory Disclosure for Credentials

In our opinion, while enhanced mandatory disclosure requirements of credentials for FAs under the proposed regime are not controversial per se, they seem to be duplicative of existing requirements for securities registrants. First, a title holder must have an approved credential under the FCAA's proposed regime; therefore, it is unclear what additional information the disclosure would provide a consumer. Second, in most cases, FAs are already licensed with the SRO and, as such, are subject to a variety of disclosure obligations under securities law, where product information is currently disclosed in the relationship disclosure information. Additionally, the Canadian Securities Administrators' website provides information regarding the products registered individuals may deal with based on their employer's registration category. Consequently, this duplicative proposed requirement is likely unnecessary, as it will not provide consumers with additional information to enable their decision and runs counter to the stated objective of the framework.

Instead of this duplicative requirement, we suggest the FCAA consider establishing a public registry of title holders. This registry could be accessed conveniently and expeditiously by anyone interested in confirming who is authorized to use the title. It would also empower consumers without duplicating existing regulatory requirements, meeting one of the fundamental policy goals of the FCAA's framework.

In the alternative, if the FCAA determines that some form of enhanced disclosure should be mandated for FAs, we would urge consistency with the Ontario approach, which requires disclosing credentials to clients, but does not prescribe the manner of such disclosure.

We would urge the FCAA to ensure that there is flexibility in the way this disclosure can be made – i.e., such disclosure can occur upon a customer engaging an FA and having conversations with them, rather than something that needs to be spelled out on a business card

[3] FSRA Guidance: Financial Professionals Title Protection – Administration of Applications, March 2022, at page 20.

for example. This becomes especially cumbersome in cases where there would be multiple products listed in the FA's title. Such disclosure, as noted in the Consultation Paper, would be "one way to address [the presumed] mismatch in client expectations" created by the FA title. In our view, this enhanced disclosure would be a far more efficient solution to this potential problem of mismatched expectations than adopting the Comprehensive Approach.

Question 5: Transition Date and Implementation Period

As we noted in our previous discussions on this topic, we support a formal and structured implementation timeline that will allow for clarity regarding expected CBs, with sufficient timing for the approval of these bodies, the establishment and implementation of their credentialing procedures and for title holders to transition to approved credentials. This approach will help to avoid the lessons learned in Ontario. It will also enhance the clarity of the FCAA's proposed regime, helping to encourage title use and preventing consumer confusion as to what a title means and the credentials that support it.

We suggest this structured implementation timeline should provide, from the date that the Act and Regulations come into force ("Effective Date"), an 18-month period for the establishment of CBs. The Proposed Regulations cannot be complied with if there is no operating structure to enable compliance – they should not be brought into force until this operating structure (i.e., CBs) exists. An 18-month period will provide sufficient time for CBs to prepare and submit applications and for thoughtful FCAA review and approval.

Following the expiry of this 18-month implementation period, we also suggest FA and FP title holders and the industry will need adequate time to understand and transition to the FCAA's proposed regime. We suggest FAs and FPs who use the titles before or after the Effective Date, should receive the same four-year transition period, which should begin after the implementation period expires for the CBs. Applying FP and FA transition periods evenly and for a reasonable period supports the orderly implementation of the new regime, by allowing title holders to complete training courses as may be required, and acquire their new credentials without arbitrary constraints on providing services during this transition that would impact clients negatively. This process will also avoid consumer confusion and help to ensure stability in the marketplace, helping the regime to meet its policy goals.

Question 6: Fees and Fee Structure

The FCAA has noted that its proposed “fee structure seeks to balance the costs of administering the program with concerns regarding expense to the industry.” We believe that the final annual cost to an individual credential holder under the FCAA’s proposed approach may be significantly higher and, as a result, may ultimately serve as a barrier to individuals seeking an FP/FA credential. This is due to the fact that the FCAA's scheme of the proposed fee structure is incremental and cumulative in nature (i.e., the number of credentials issued to credential holders multiplied by $50).

We suggest the FCAA should not pursue this cumulative fee approach. The rationale is simple: if a credential is a steppingstone to upgrading qualifications to a higher title, only the higher credential should be charged. This approach will help to ensure FAs and FPs are not disincentivized from pursuing higher qualifications. It will also help to limit downstream impacts of fees on product and service offerings for consumers.

Additionally, in line with our support for harmonization between Saskatchewan and Ontario’s regimes, we suggest title holders credentialled under an existing regime (e.g., Ontario) should be approved in Saskatchewan on a substitute compliance basis. If a title holder has secured credentials in one province, there should not be a requirement to undergo additional training and incur additional costs in another province. Allowing substitute compliance avoids unnecessary regulatory duplication and unnecessary costs for title holders, firms, and the marketplace, generally.

Regulatory Guidance

The FCAA indicated in the Consultation Paper that it would publish a guidance document clarifying what titles will be deemed 'confusing' under the Act. We recommend that the guidance be the same as in Ontario for consistency as it is now in use. At the least, a draft guidance document should be issued for public consultation during its development and before it is finalized. This will help to ensure alignment across provinces to the benefit of all stakeholders, including consumers.

Conclusion

Thank you for considering our comments on the Consultation Paper. The foregoing solutions are necessary for the benefit of the proposed regime, consumers, and regulated individuals. We welcome the opportunity to discuss our comments and answer any questions you may have regarding our submission.

September 16, 2022

[redacted], Policy and Programming Officer
Insurance and Real Estate Division
Financial and Consumer Affairs Authority
601-1919 Saskatchewan Drive,
Regina, SK S4P 4H2
Email: finplannerconsult@gov.sk.ca

To Mr. [redacted]

Introduction

Thank you for the opportunity to comment on the draft regulations for The Financial Planners and Financial Advisors legislation. The Canadian Credit Union Association ("CCUA") is the national trade association for Canada's 212 credit unions and caisses populaires outside Quebec, including Saskatchewan's 35 credit unions. Saskatchewan credit unions provide financial services to nearly 490,000 members across the province with over $27 billion in total sector assets.

This response was prepared on behalf of the credit union sector in Saskatchewan. We note that some credit unions have prepared their own submissions, and the issues raised in those submissions should also receive attention, as each credit union is an independent financial institution.

Answers to the Consultation Questions
Credentialing Bodies – Process when Approval Revoked or Operations Cease

1. The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved, or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.

CCUA Comments:

Thank you for consulting on the scenario of the potential closure of a credentialling body. If a credentialing body is no longer active or loses its approval, we recommend an approach similar to what is currently used for post-secondary or trade institutions. As the regulator, Financial and Consumer Affairs Authority should evaluate all the options among other credentialling bodies, to find the best possible training completion outcome for students with the least amount of disruption. Credential holders would require 6 months to get their credentials transferred to another credentialing body.

Furthermore, FCAA should develop a framework that would allow financial planners or financial advisors that have already received their certification from an institution that is no longer a credentialling body in Saskatchewan, to transition their ongoing compliance to an alternate credentialling body.

Approval Criteria for Financial Advisor Credentials

2. FCAA is seeking input as to whether the Financial Advisor Baseline Competency Profile (BCP) should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of a Financial Planner.

The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e., estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management).

The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client, whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies.

CCUA Comments:

We would support the comprehensive approach, since many credit unions offer broad based financial advice and plans to their members. Based on the products and services they offer, credit union staff retain credentials and designations that are recognized and supported by education to provide the most accurate advice and service to members.

We also continue to recommend, the inclusion of a provision in the regulatory framework to allow individuals with practical experience in the financial services sector to challenge the required Financial Planner and Financial Advisor exams. We note that in this consultation, FCAA does not object to a challenge exam option, but that it will be left to credentialling bodies to determine availability. We hope that FCAA is encouraging credentialing bodies to include this as an option to recognize prior learning and experience.

Decrease in Harmonization

3. Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the Saskatchewan framework and the Ontario framework.

While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks.

CCUA Comments:

We appreciate the acknowledgment from FCAA that Ontario's Financial Service sector is different from Saskatchewan and therefore we need a Saskatchewan specific approach.

We would welcome the lengthened transition period for a Financial Advisors to match the transition period being considered for a Financial Planner.

Mandatory disclosure of credentials

4. Financial and Consumer Affairs Authority is seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell.

CCUA Comments:

We support the enhanced requirement for Financial Advisors to disclose if they are authorized to sell certain products to consumers. It is common practice in the credit union sector to provide a disclosure document to clients which outlines the credentials and licenses that staff have to sell certain products or services. The documents could be amended, if necessary to comply with the new disclosure requirements.

We would also welcome the availability of a provincial registry so consumers can confirm their financial planner's or financial advisor's good standing. Similar registries are currently available for other regulated professions such as chartered professional accountants, engineers, and nurses.
It will enhance transparency in the industry.

Transition Date and Implementation Period

5. FCAA is seeking feedback on following two items:

a) Is there support for an implementation period? If so, what would be a suitable length of time for said period;

CCUA Comments:

We would strongly recommend an implementation period as it would allow financial institutions, including credit unions to help their staff sort through the new requirements and to align their certifications through the various credentialing bodies.

We are aware that the following four entities intend to become credential holders in Saskatchewan: Financial Planners Canada, Advocis, Canadian Securities Institute, and the Canadian Institute of Financial Planning.

b) whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force.

CCUA Comments:

We recommend adjusting the proposed implementation date of July 3, 2020, for the new framework. As FCAA has taken time to learn from the implementation of a similar framework in Ontario and to conduct more diligence into development of Saskatchewan's regulatory framework, the proposed implementation date has become more challenging. In the past few years, with the pandemic there has been a lot of churn in the labour market and the original proposed implementation date of July 3, 2020, is no longer practical. **After further consultation with credit unions, we recommend the implementation date aligns with the coming into force of the regulations, not the legislation.**

Fees and Fee Structure

6. Please provide your feedback regarding the proposed fee structure and amounts.

CCUA Comments:

Credentialing bodies in Ontario have designations fees for financial planners and financial advisors ranging from $230 to $525. We recognize that FCAA does not control what credentialing bodies set as their fees for credential holders, so we welcome the initial framework of the costs for credentialing bodies. Credit unions want to ensure that financial advice is accessible for as many people as possible, so we encourage FCAA to continue to maintain discussions on these fees.

Finally, this consultation document references the future development of a guidance document on a list of titles that could be impacted by the new regulations.

We strongly recommend that similar to Ontario's regulator, FCAA provide a guidance document that lists the titles that would impact by the new regulatory framework.

If you have any further questions regarding this submission, please contact me at [redacted] by phone at [redacted]

Sincerely,

[redacted]

Canadian Life & Health Insurance Association
Association canadienne des compagnies d'assurances de personnes

September 20, 2022

[redacted]
Policy and Programming Officer
Insurance and Real Estate Division
Financial and Consumer Affairs Authority of Saskatchewan
601, 1919 Saskatchewan Drive
Regina, SK S4P 4H2

Sent by email to: finplannerconsult@gov.sk.ca

Re: Saskatchewan's consultation on the regulation of financial planners and financial advisors

Dear [redacted],

On behalf of the Canadian life and health insurance industry, we appreciate the opportunity to provide feedback on the Proposed Regulations [2022-001] – The Financial Planners and Financial Advisors Regulations (the Proposed Regulations) under *The Financial Planners and Financial Advisors Act* (FPFAA). The industry supports the regulation of Financial Planner (FP) and Financial Advisor (FA) titles to protect consumers and investors. We are pleased that Saskatchewan is mindful of the importance of harmonization with other jurisdictions in order to reduce or minimize regulatory burden, which is a key issue for the industry.

About the CLHIA

The CLHIA is a voluntary association whose member companies account for 99 per cent of the life and health insurance business in Canada. These insurers are significant contributors to Saskatchewan and its economy. They provide financial security to about 930,000 Saskatchewanians and make over $2.5 billion in benefit payments (of which 90 per cent goes to living policyholders as annuity, disability, supplementary health or other benefits with the remaining 10 per cent going to life insurance beneficiaries). In addition, life and health insurers have more than $27 billion invested in Saskatchewan's economy. A large majority of life and health insurance providers are licensed to operate in Saskatchewan, with three headquartered in the province.

Responses to Consultation Questions

Below, we provide responses to the questions set out in the consultation document.

1. Credentialing Bodies – Process when Approval Revoked or Operations Cease

It is important to have a plan in place to address situations in which a credentialing body could cease operation or have its approval cancelled or suspended. Where this occurs, the impact on FA/FP title holders and their clients is critical to consider in order to limit unwarranted disruption in advice and service to consumers.

In the event a credentialing body has its approval revoked or ceases operation, we believe those who received credentials before the event in question should maintain those credentials for a period of time. This would allow for the FA/FP title holder to transition to another credentialing body. In the interim, the

regulator, as the entity responsible for approving the credentialing bodies, would be well placed to assume the oversight function. Once the FA/FP title holders have transitioned to a new credentialing body, it would then assume the oversight function.

There would be a number of factors that would affect the transition time such as the assessment of the training requirements under the different credentialing bodies. We would expect that the training requirements should not be significantly different as all credentialing bodies are reviewed and approved by the same regulator. However, it is possible it could take more than 12 months to complete. We recommend that the transition begin to take place within 6 to 12 months to get another approved credential.

2. Approval Criteria for FA Credentials

The industry strongly supports harmonization across the country, including with respect to the proposed baseline competency profiles (BCPs). We therefore support the BCP for FAs that was set out in Saskatchewan's initial consultation, which was modelled on FSRA's approach.

The consultation document notes that the BCP for FPs is aimed at broad-based knowledge (Comprehensive Approach). The BCP for FAs, on the other hand, is more focused on the sale of specific financial products and services (Product-Focused Approach). The consultation document indicates that it has been suggested by some stakeholders that the BCP for FAs is too limited and could be broadened to narrow the gap between the FA and FP BCPs.

As indicated in our previous submission, a new oversight regime for FPs should not add additional regulatory burden on advisors licensed to sell life insurance. The sale of life and health insurance products is highly regulated. In addition, financial planning is distinct from advising on life and health insurance products.

A financial plan can be considered to be its own unique product that may consider a range of financial "wants" and "needs" of a client, such as retirement planning, taxation, estate planning, insurance, financial management, and other needs. A financial plan may be implemented over a long period and executing such a plan may involve the purchase of numerous products. If an FP were to sell life insurance products, they would be required to attain a licence that certified their expertise and ability to give product related advice. Similarly, if an advisor wants to develop a financial plan for consumers, they should have credentials that substantiate their expertise in that field. However, to require an FA to have the same BCP as an FP is inappropriate as they carry out different functions, which requires different expertise.

The consultation document also notes that one reason for the possible expansion of the BCP for FAs is to align with expectations of consumers. As indicated below in our submission, disclosure can be used to ensure the skills and competencies of an FA and the expectations of consumers are aligned.

3. Decrease in Harmonization

A key advantage of the Product-Focused Approach is harmonization with the approach taken by FSRA in Ontario. If the Comprehensive Approach were taken, it would be possible that an approved FA credentialing body in Ontario would not qualify to be an approved credentialing body in Saskatchewan without providing additional education.

This lack of harmonization could have several negative consequences. Notably, this would increase the regulatory burden. In addition, it could lead to fewer approved credentialing bodies in Saskatchewan. This in turn could limit the options for consumers or investors to obtain financial advice. These implications would detract from achieving the overall objectives of titling.

4. Mandatory disclosure of credentials

The industry supports a requirement for FA and FP title holders to disclose the credential they hold and the credentialing body it was obtained from. In fact, the industry issued best practices in 2016 for insurance agents to disclose information to clients, including on licensing and products offered.

The industry would therefore support disclosure related to which products they are authorized to sell. The consultation paper, for example, notes that an individual who has a life insurance license could use the title, FA- life insurance. In this case, it would be clear to a consumer or investor that the FA is specifically trained and licensed in the area of life insurance.

As indicated above, one of the reasons the consultation paper contemplates the need for the Comprehensive Approach for FAs is to ensure there is an alignment between consumer expectations and the knowledge, expertise, and training of the FA. If FAs are required to disclose what area(s) they are trained in, there would not be a need for the Comprehensive Approach. That is, if an advisor discloses "FA – life insurance", it is clear this is a financial advisor specializing in life insurance. This, coupled with the other concerns we have raised with the Comprehensive Approach (e.g., lack of harmonization with FSRA), further underscore our support for the Product Specific Approach.

5. Transition Date and Implementation Period

We would recommend that the beginning of the transition lines up with the date the legislation and the Regulations come into force. In our view, this is the most reasonable point in time to reference as that is when the legislation and Regulations are final thereby giving potential credentialing bodies and title holders the finalized information required to make their respective decisions during the transition period.

We would encourage Saskatchewan to have a similar implementation period as Ontario. In Ontario, where individuals are using the FA/FP titles without a licence or formal training, the industry has commented that it may make sense to have a shorter implementation period (2 years vs 4 years). However, for those who are life licenced and have training on the baseline subject matter, shortening the implementation period from 4 years would be unduly burdensome. These advisors are competently providing service to their customers and running small businesses. It is important that they be provided with enough time to plan and acquire the required credential. In these circumstances, a 4-year implementation period is appropriate.

6. Fees and Fee Structure

The industry supports a comparable fee structure between Saskatchewan and Ontario. This would reflect the similar approach to titling that the jurisdictions are taking. We also support the objective of seeking to balance the costs of administering the program while being mindful of the expenses to the industry.

In terms of the fees set out – an initial one-time fee application of $10,000 for a credentialing body and a one-time application fee of $5,000 for each credential per credentialing body – the overall structure seems reasonable. However, it is difficult to evaluate whether the suggested fee levels are appropriate without further detail on the costs that will be incurred by Saskatchewan in administering the program.

Given the objective of comparability between Saskatchewan and Ontario, below are the key issues the industry raised with FSRA's fee structure, which would be relevant for Saskatchewan to consider.

Risk of Double Payment:

There is a risk that there will be some overlap between credential holders and those that hold licences and already pay fees. This risk stems from the fact that for life licensees, oversight is not centralized with a credentialing body. Oversight of life insurance advisors is both a regulatory requirement for insurers and is

also provided by the regulator as the licensing body. The regulator recovers the cost for providing this oversight from both insurers and agents.

It is important that fees are not paid to both regulators, and credentialing bodies, for oversight of the same activities and conduct. To help address the potential for double payment, the regulator could consider offsetting credentialing fees against fees that insurers are already paying.

High costs may reduce access to advice for Canadians:

The costs for credentialing bodies are significant and will result in higher costs for FPs and FAs in terms of tuition or membership dues. As a result, there is a risk that there may be an exclusionary impact, which could lead to fewer advisors than would otherwise be the case. Given that the average age of advisors is increasing, it is important that we continue to encourage new and younger advisors to join the industry in order to maintain existing levels of access to advice consumers.

Diversity & Inclusion

It is important to have as diverse a community of FAs and FPs as possible to ensure that all communities have access to financial advice. We recommend that regulatory support be available for credentialing bodies to offer scholarships, financing arrangements, and other tools that would support accessibility.

Conclusion

Thank you for the opportunity to provide the industry's feedback on the Proposed Regulations. We would be pleased to discuss any questions you may have or to provide additional information if it would be helpful.

Canadian Life and Health Insurance Association
79 Wellington St. West, Suite 2300
P.O. Box 99, TD South Tower
Toronto, Ontario M5K 1G8
416-777-2221 www.clhia.ca

Association canadienne des
compagnies d'assurances de personnes
79, rue Wellington Ouest, bureau 2300
CP 99, TD South Tower
Toronto (Ontario) M5K 1G8
416-777-2221 www.accap.ca

September 20, 2022

[redacted] Policy and Programming Officer
Insurance and Real Estate Division
Financial and Consumer Affairs Authority
601-1919 Saskatchewan Drive
Regina, SK S4P 4H2
Email: finplannerconsult@gov.sk.ca

To Mr. [redacted],

Conexus Credit Union (Conexus) welcomes this opportunity to comment on the Financial and Consumer Affairs Authority's (FCAA) proposed Regulations issued in respect of *The Financial Planners and Financial Advisors Act* (the Act).

Introduction

Conexus is a provincially regulated co-operative providing financial services to just over 131,000 members. Conexus employs over 900 employees through 30 service locations in Saskatchewan and through digital and mobile channels. Conexus is committed to evolving the financial service experience for members by helping them achieve financial wellbeing. This happens through a range of product offerings, face-to-face interactions, and digital experiences.

Conexus' Response to Consultation Questions

Credentialing Bodies – Process when Approval Revoked or Operations Cease

1. The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked, or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.

Conexus Comments:

In the case of a disruption in a credentialing body's services, such as loss of approval or wind down, Conexus suggests an approach similar to what is used for post-secondary and trade institutions. All efforts should be made for students in progress to transfer their progress to another credentialing body, and existing credential holders should be allowed to transition their ongoing compliance to an alternate credentialing body.

Approval Criteria for Financial Advisor Credentials

2. FCAA is seeking input as to whether the Financial Advisor Baseline Competency Profile (BCP) should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of a Financial Planner.

The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e., estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management).

The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client, whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies.

Conexus Comments:

Conexus supports the comprehensive approach, as it aligns to consumer expectations for the delivery of financial advice. We also believe this approach meets the FCAA's goal to efficiently leverage existing regulatory frameworks and credentials. Conexus employees hold recognized designations and credentials in a variety of fields to support the delivery of broad-based financial advice to our members.

Decrease in Harmonization

3. Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the Saskatchewan framework and the Ontario framework.

While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks.

Conexus Comments:

We appreciate the acknowledgment from FCAA that Ontario's Financial Service sector is different from Saskatchewan and therefore we need a Saskatchewan specific approach. We believe the alignment to consumer needs and expectations and existing financial regulatory frameworks in Saskatchewan supersedes the advantages of harmonization between provinces.

We would welcome the lengthened transition period for Financial Advisors to match the transition period being considered for a Financial Planner.

Mandatory Disclosure of Credentials

4. Financial and Consumer Affairs Authority is seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell.

Conexus Comments:

We support the enhanced disclosure requirement, and believe that if the Comprehensive Approach is used, that disclosure of the credential itself would suffice. It is standard practice for credit union employees to disclose the credentials and licenses they hold which allow them to provide members with advice. We also support the transparency that would come with a provincial registry for credential holders, so that consumers can easily confirm a financial planner or financial advisors' status. This will align with other regulated industries and support consumer understanding of the benefits of credentialing.

Transition Date and Implementation Period

5. FCAA is seeking feedback on following two items:

a. Is there support for an implementation period? If so, what would be a suitable length of time for said period;

Conexus Comments:

We strongly support an implementation period as it would allow organizations such as Conexus to fully align processes, education, and policies to the new requirements. We believe this period would also be essential for educating consumers and clients about the new requirements.

b. whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force.

Conexus Comments:

We recommend the implementation date aligns with the coming into force of the regulations. The degree of time between July 3, 2020 and present date is significant, and would place undue burden on organizations who have experienced significant disruption in the labour market over the course of the pandemic.

Fees and Fee Structure

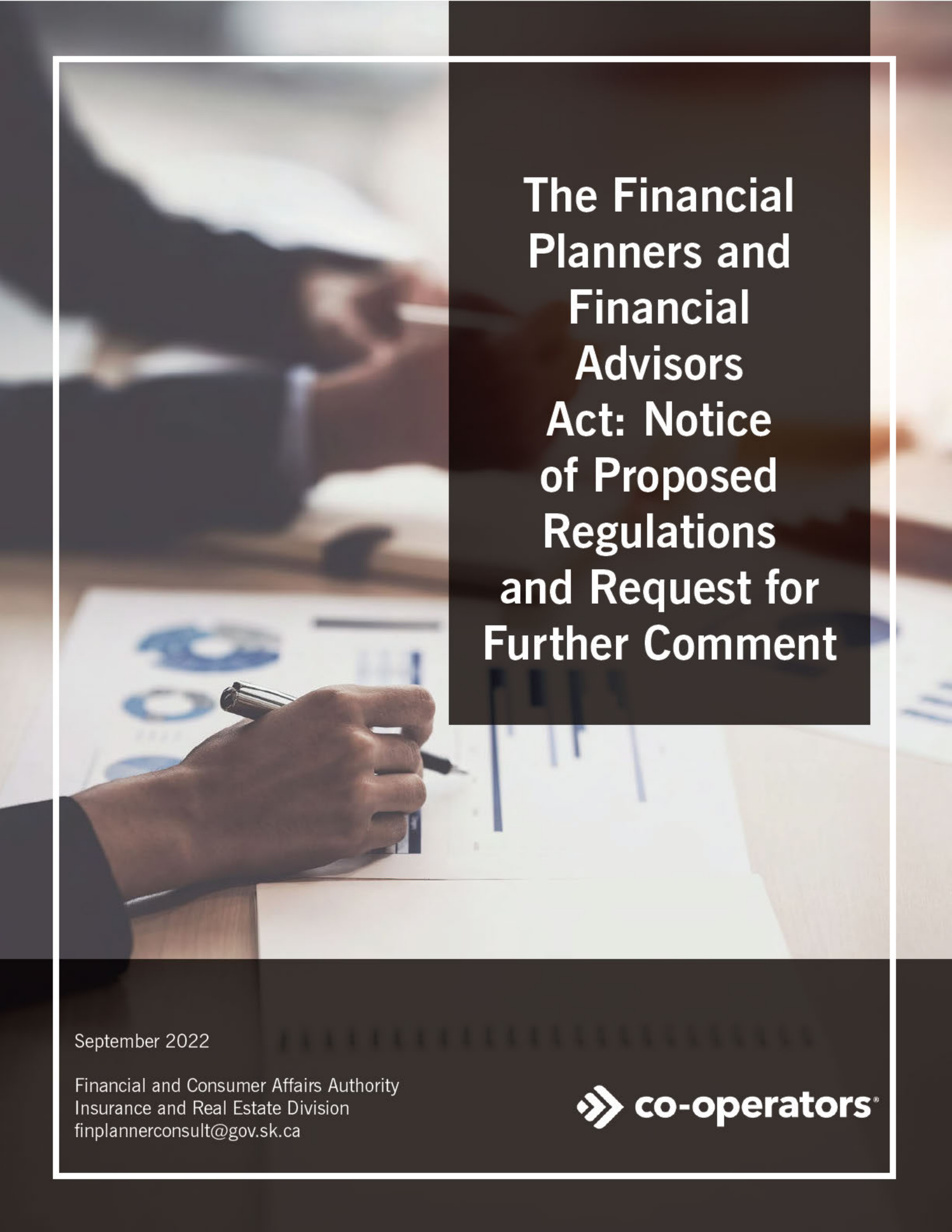
6. Please provide your feedback regarding the proposed fee structure and amounts.

Conexus Comments:
Having reviewed the fees published by credentialing bodies in Ontario, Conexus recommends that FCAA ensure the framework supports accessibility of financial advice in Saskatchewan as an outcome of the Regulations. We recognize that FCAA does not control what credentialing bodies set as their fees for credential holders, so we welcome the initial framework of the costs for credentialing bodies.

Thank you for the opportunity to participate in this consultation and for accepting our response.

Respectfully,

[redacted]



The Financial Planners and Financial Advisors Act: Notice of Proposed Regulations and Request for Further Comment

September 2022

Financial and Consumer Affairs Authority
Insurance and Real Estate Division
finplannerconsult@gov.sk.ca

co-operators®

INTRODUCTION

The Co-operators Group Limited ("Co-operators") is a leading Canadian, diversified, integrated, multi-line insurance and financial services organization. As a co-operative, our 46 members include co-operatives and credit union centrals representing a combined membership of millions of Canadians.

Our footprint in Saskatchewan is strong, with one of our subsidiaries, Co-operators Life Insurance Company, headquartered in Regina. Across the province, we insure approximately 33,000 homes, 6,000 farms, 3,200 businesses and protect over 61,700 lives. The insurance and financial products and services provided by Co-operators are delivered primarily through our independently contracted but exclusive financial advisor channel. We have independent distribution contracts with 21 financial advisors in the province, who operate 25 agencies in 32 locations. In turn, these independent financial advisors hire and employ their own office staff and employ or independently contract with over 110 associate insurance and financial advisors.

We are proud to provide insurance and financial services to more than two million Canadians. We are even prouder that we provide financial security to Canadians in their communities while staying true to our co-operative values.

We appreciate the opportunity to participate in the Financial and Consumer Affairs Authority's (FCAA) second consultation on *The Proposed Financial Planners and Financial Advisors Regulations*.

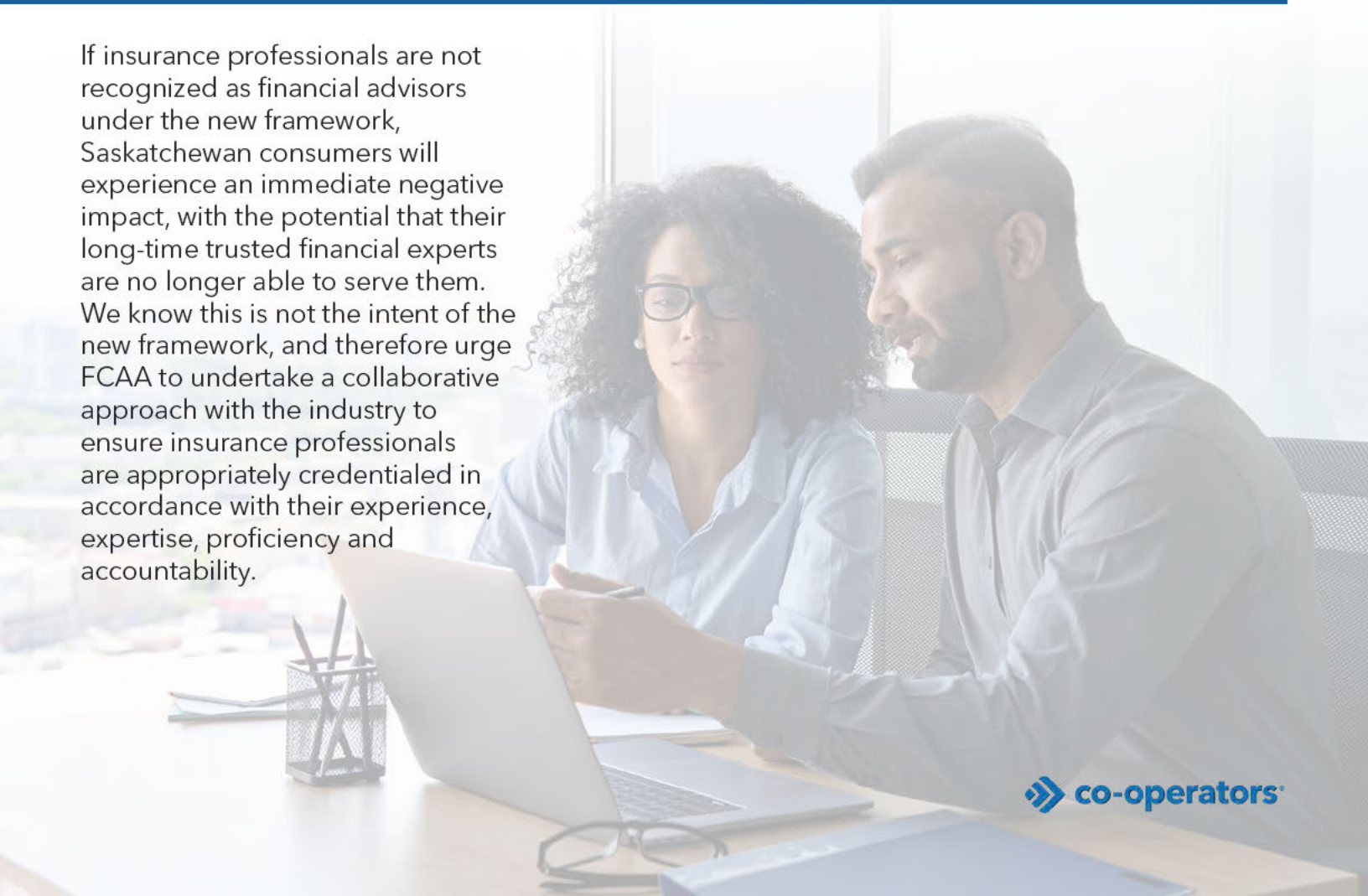
TITLE PROTECTION

We commend the work FCAA has dedicated to protecting consumers through a framework for title protection of financial professionals and have welcomed the ongoing opportunity to contribute to the development of the draft regulations. We are pleased to see some of our recommendations incorporated into the proposed title protection framework.

As an insurance and financial services co-operative, we are committed to providing financial services and security to meet the wealth, insurance and retirement needs of our clients through our independently contracted, but exclusive, financial advisor channel. We restrict the use of the financial advisor title to only those who hold both a general insurance licence and life insurance and accident and sickness insurance licence.

The sale of life insurance products is already highly regulated in Saskatchewan, and our exclusive financial advisor channel is required to be properly licensed to sell insurance products. **For this reason, we continue to strongly recommend licensed life insurance agents should be exempt from being required to obtain additional credentials in order to use the title of financial advisor**.

If insurance professionals are not recognized as financial advisors under the new framework, Saskatchewan consumers will experience an immediate negative impact, with the potential that their long-time trusted financial experts are no longer able to serve them. We know this is not the intent of the new framework, and therefore urge FCAA to undertake a collaborative approach with the industry to ensure insurance professionals are appropriately credentialed in accordance with their experience, expertise, proficiency and accountability.



HARMONIZATION

With Ontario and Saskatchewan leading efforts on title protection, there is significant opportunity for an early demonstration of harmonization between the two frameworks. Aligning Saskatchewan's draft regulations with the Financial Services Regulatory Authority of Ontario's (FSRA) rules will help to ensure seamless consumer service from dually licensed/ credentialed financial advisors and reduce regulatory burden for national financial services organizations. Moreover, harmonization will position Saskatchewan as a leader in establishing best practices that can be adopted by regulators across the country.

To the greatest extent possible, we strongly recommend FCAA harmonize its regulations with the title protection framework in place in Ontario.

CREDENTIALING BODY – PROCESS WHEN APPROVAL REVOKED OR OPERATIONS CEASE

Should a credentialing body cease operations or have its approval cancelled or suspended, it is of paramount importance title users retain their credential and the right to use their title. This would be a situation outside of a title user's control, and not something they, nor by extension their clients, should be penalized for.

We recommend FCAA have a process in place to support title users who may be impacted by this type of change, including a provision to grandfather them into a new credentialing body to support the continuation of their financial services work under appropriate conduct requirements and professional standards.

APPROVAL CRITERIA FOR FINANCIAL ADVISOR CREDENTIALS

As highlighted above, we support a harmonized approach to title protection frameworks. This includes harmonized baseline competency profiles that regulators can use to review and approve proposed licences and designations.

We strongly recommend FCAA maintain a product-focused approach for the financial advisor baseline competency profile.

The product-focused approach was reviewed comprehensively in Ontario prior to its implementation and now governs the title use of a significant number of financial advisors in the province. It recognizes the differences between the roles of financial advisors and financial planners while ensuring a high professional standard for those providing financial advice. Deviating from this approach risks fewer approved credentialing bodies in Saskatchewan, impacting the designations available to financial advisors wishing to use the title and the financial services available to consumers.

At Co-operators, our exclusive financial advisor channel has the knowledge, tools and oversight to provide personalized financial advice to our clients. For example, Our Client Review Program is a key element of our Client Engagement Strategy. The personal meeting between advisor and client ensures that the client has the right financial and insurance solutions for their current needs, as well as a plan for the future. Our exclusive financial advisor network engages with clients to review product and service offerings using extensive software tools, strong policy administration, and thorough oversight, including a first line of defence, reporting and auditing procedures. We are also a strong proponent for continuing education and support our financial advisors expanding their knowledge and skills through additional courses to further benefit their clients. Our financial advisors apply a high level of general financial services knowledge, technical knowledge, ethics and client outcomes, as captured within the product-focused approach, meeting the service and protection expectations of their clients.

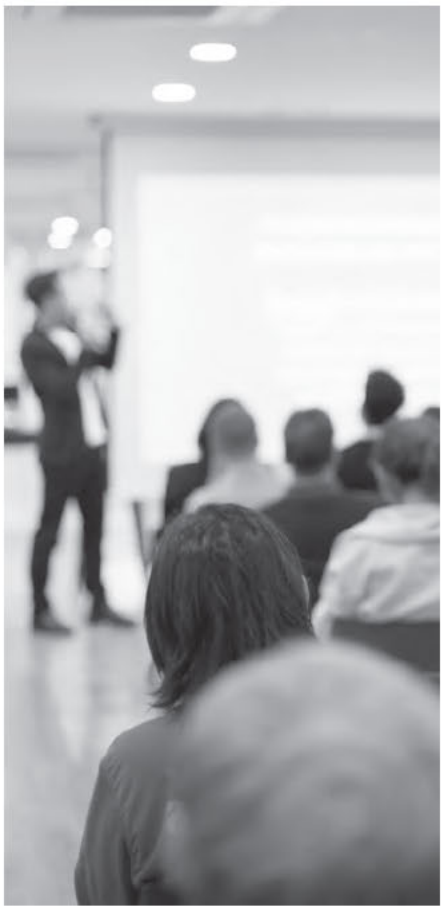
Moreover, licensed life insurance agents who have completed the Life License Qualification Program (LLQP) have demonstrated the standard of technical knowledge, professional skills and competencies developed by regulators across the country. **We strongly recommend the LLQP should be deemed an acceptable licence recognized by credentialing bodies and FCAA as fulfilling the baseline competency profile for financial advisors, particularly when held in conjunction with a mutual fund licence**. It is also important to note that most of our financial advisors take the LLQP and go on to pursue a dual licence in addition to completing annual continuing education credits. This accomplished background provides them with extensive product knowledge and a strong understanding of the regulatory framework/statutory act requirements to best protect clients.

Applying a product-focused approach for financial advisors accomplishes the stated framework goals of establishing minimum standards for title use so that consumers and investors can have confidence that the persons using these titles hold appropriate credentials and are overseen by a credentialing body, while at the same time, not creating unnecessary regulatory burden for title users.

With regard to the client expectations outlined in the consultation paper, once the framework is implemented, we strongly support **consumer education campaigns** and are committed to partnering on campaign initiatives.

We believe any implemented consumer education must be rooted in enhancing financial literacy by informing consumers about the financial products and services available to them and helping them determine whether they would be best suited to work with a financial planner or a financial advisor. From there, more information can be provided on what each financial professional can provide and their qualifications.

The implementation of consumer education campaigns will require a collaborative approach between regulators and the industry. We would support FCAA's development of common-language key messages that can be shared with all stakeholders and published on your website, and latitude for stakeholders to share unique marketing approaches to reinforce their competitive brand positions.



DISCLOSURE

Given the caliber of the financial advisor and financial planner titles and the consumer protection focus of the title protection framework, we believe clients have a right to know how an agent qualified for a title and support regulated credential disclosure.

We caution that the proposal in the consultation paper for financial advisors to present themselves using their title and the products they are authorized to sell (e.g. Financial Advisor – life insurance) would quickly become incredibly complex. Many financial advisors are authorized to sell multiple products, creating incredibly long titles that are unsuitable for business cards, email signatures, branding, etc., and the administrative burden to maintain and amend this list as the lines of business they are authorized to sell change could make it prone to errors.

It is important to note that our financial advisors already disclose all lines of business they are licensed to sell as well as their compensation for selling them as part of the Disclosure of Financial Advisor Compensation in the information package they provide to clients when issuing new business.

Rather than introducing new requirements for financial advisors to disclose the products they are authorized to sell, **we firmly believe existing methods–which provide clients with even more robust and detailed information–are more appropriate and better aligned with the fair treatment of customers**.

As FCAA finalizes its disclosure requirements, we strongly recommend collaboration with the Canadian Council of Insurance Regulators (CCIR) and all individual provincial regulators to ensure consistency and harmonization across all jurisdictions.

IMPLEMENTING THE FRAMEWORK AND TRANSITION DATE

We are very pleased to see FCAA's consideration of our previous recommendation that the transition date should coincide with the date *The Financial Planners and Financial Advisors Act* and its regulations come into force rather than the previously considered date of July 3, 2020. This will limit administrative burden in determining who can continue to use their current title when the framework comes into effect, and consistently apply the new requirements effective the date of proclamation/coming into force.

In our last submission, we recommended financial advisors and financial planners should both be granted four years to achieve full compliance, allowing fairness and consistency in the time allocated for them to earn any necessary licence or designation to maintain use of their title. Within the proposed regulations, we are very pleased to see the amendment allowing this longer transition period for financial advisors, and strongly recommend it be approved under a product-based approach. This would allow consumers added protection, knowing that all titled financial professionals must be in full compliance by a set date.

EXEMPTIONS AND CHALLENGING EXAMINATIONS

We continue to support FCAA's assessment that allowing exemptions could serve to undermine the objective of the Act and harm consumer confidence and protection.

We also support FCAA's position that individuals should have the opportunity to challenge any required exams where this is permitted by the credentialing body.

FEES AND FEE STRUCTURE

Financial professionals dedicate time, effort and personal funds to obtain and maintain their qualifications. **We do not support the burden of an additional fee in order to use the financial advisor or financial planner title**. We caution that fees pose a serious risk as the additional cost burden on financial professionals could cause advisors, companies, brokers and others in the industry to choose not to participate in the credentialing process, which would undermine the stated goal of consumer protection.

CONCLUDING REMARKS

We appreciate the opportunity to provide our feedback on FCAA's request for further comment on *The Proposed Financial Planner and Financial Advisor Regulations*. We strongly urge FCAA to:

- **exempt licensed life insurance agents from being required to obtain additional credentials in order to use the title of financial advisor;**
- **harmonize its framework and regulations with those in place in Ontario to the greatest extent possible;**
- **maintain a product-focused approach for the financial advisor baseline competency profile; and**
- **approve the LLQP as an acceptable licence recognized by credentialing bodies.**

We are not a member of the Insurance Bureau of Canada (IBC) and prefer to contribute to the policy development process directly. As a co-operative insurance and financial services organization, we believe we bring a unique perspective to public policy consultations.

If you have any questions or require clarification, please do not hesitate to contact our Associate

[redacted]

The Institute of Chartered Professional Accountants of Saskatchewan
101 4581 Parliament Avenue REGINA SK S4W 0G3
T: 306.359.0272 F: 306.347.8580
www.cpask.ca

September 20, 2022

PRIVATE AND CONFIDENTIAL *sent via email*

Financial and Consumer Affairs Authority of Saskatchewan
Attention: [redacted] Policy and Programming Officer
Insurance and Real Estate Division
601-1919 Saskatchewan Drive
Regina, SK S4P 4H2
Email: finplannerconsult@gov.sk.ca

Re: Response to *The Financial Planners and Financial Advisors Act* (Saskatchewan) Draft Regulation

CPA Saskatchewan was invited to participate in a request for comment on the proposed regulations to support *The Financial Planners and Financial Advisors Act*.

CPA Saskatchewan formed a group of members to participate in this consultation, referred to in this letter as "Consultation Group". The names of the participants are:

[redacted]

About CPA Saskatchewan
CPA Saskatchewan ensures the protection of the public and the visibility of the profession. It represents all areas of expertise of the accounting profession, including assurance, financial accounting, management and management accounting, finance and taxation.

The CPA designation is Canada's pre-eminent accounting and business designation. With more than 5,400 members in Saskatchewan, and over 220,000 members across Canada, CPAs provide crucial financial expertise to businesses in every sector of the economy.

Response to Specific Questions by the FRSA of Ontario
The Consultation Group provided the following responses to the specific questions posed:

Credentialing Bodies – Process when Approval Revoked or Operations Cease

1. The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked or it is winding down operations. For title users that obtained a

credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.

Response:
As noted in the previous consultation, the inclusion of credentials in the marketplace that do not align with the protected titles will cause confusion.

The Consultation Group noted that a transition period may not be appropriate for organizations that are not approved as credentialing bodies. If the credentialing body does not meet or sustain the requirements to issue the titles, there should be an immediate cessation to the use of the title.

The Consultation Group noted that providing bridging programs from one credentialing body to another could reduce or eliminate the risk of an individual title holder from losing the credential.

Approval Criteria for FA Credentials

2. We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e. estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management). The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies. In considering this approach, please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectations and better alignment with other existing financial sector regulatory frameworks. Also please comment on whether there are any other advantages the Comprehensive Approach has over the Product-Focused Approach not identified in this paper.

Response:
The Consultation Group noted that customer expectations are paramount. Mandatory disclosure of the training and product availability by the individual title holder is critical (see below).

The Consultation Group identified that by bringing the competencies closer for the credentials, it would cause more confusion as the differences between FA and FP competencies would be slight and difficult to explain to customers. It was acknowledged that several FA title holders are limited to specific products by virtue of their employment. There will be limitations with certain title holders to meet the ongoing competency criteria if they are broadened to align with the FP competencies and take a Comprehensive Approach.

Further, product knowledge can be gained in steps – base knowledge and then improvements with ongoing education and exams. There can still be achievement of broader competencies within the Product- Focussed Approach. Therefore, disclosure of the scope of advice is critical to customer understanding and is good business practice. The members of the Consultation Group noted that establishing minimum requirements such as a contract or an engagement letter with the customer, is a key protocol in aiding in understanding of the type of service, or products, the customer is able to receive from the title holder.

The Consultation Group did appreciate the example related to MFDA dealers with the FA credential. Specifically, that the Product-Focussed Approach for FA title holders would result in more narrow competency development than the Comprehensive Approach. However, with Ontario taking the Product-Focussed Approach, the concern becomes whether Saskatchewan can reasonably enforce additional requirements on Ontario title holders providing services in Saskatchewan. The virtual delivery of services cross-border is difficult to regulate as title holders may not be aware of different requirements. The provincial differences would present a risk to the Saskatchewan public that is greater than the risk of receiving services that are not 'on par' with what the Saskatchewan title holders can provide.

Decrease in Harmonization

3. Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different education programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan. While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization. Also please provide comments regarding any other potential disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain the FA credential results in a need for consequential

amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerns whether the transition period for an FA's compliance with the FPFAA set out in section 9(3) of the Proposed Regulations should be lengthened to match that of an FP?

Response:
The Consultation Group did not see the benefit of increasing the proficiency required to hold the FA credential as outweighing the decreased harmonization. With virtual service delivery increasing, consistency in regulation of the title holder across jurisdictions is fundamental.

Mandatory disclosure of credentials

4. We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Please comment on whether this additional disclosure. requirement is preferred and the form that it should take. Also please comment on whether this additional disclosure is warranted if the Comprehensive Approach to the FA BCP, as described under the Approval criteria for credentials heading, is adopted.

Response:
Mandatory disclosure of the credential, including the products they are authorized to sell, helps with public awareness and enforcement. The mandatory disclosure requirement may occur in many different ways, including via customer consumers or engagement letters, website information, online platforms and the FCAA website. Disclosure of credentials and products may be challenging to consistently implement across firms, banks, and other employers. A prescriptive guide should be considered.

Transition Date and Implementation Period

5. We are seeking feedback on two items. Please advise:
   a) whether you support an implementation period and provide a suggested length of time for said period; and
   b) whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force.

   In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects that an alternate date may have on the protections afforded by the legislation as well as the implementation process.

Response:
The Consultation Group supports an implementation period of no more than twelve (12) months. It was agreed that the transition date should be adjusted to the date the regulations come into force.

The Consultation Group recognizes the need for credentialing bodies to submit information for assessment to the FCAA, as well as the time to educate the title holders. However, with the legislation having already been in force for over 2 years, additional transition to meet the requirements in the regulation should be limited for customer protection.

Fees and Fee Structure

6. Please provide your feedback regarding the proposed fee structure and amounts

Response:
The Consultation Group supports the balance of ensuring the operational cost of enforcing the regulations does not create a burden for credentialing bodies. It was not clear what the consequences would be if title holders do not pay the fee to the credentialing body, which should be outlined. It was not clear how the fees would be adjusted or changed once the regulations are in force. The Consultation Group noted that fees would need to be adjusted over time, and flexibility in setting the fee should be considered.

If you require any clarification regarding this matter or our processes, please contact at [redacted]

Yours truly,

[redacted]

Cc: Consultation Group

Edward Jones
Sussex Centre, Suite 902
90 Burnhamthorpe Road West
Mississauga, Ontario, L5B 3C3
905-306-8600
www.edwardjones.com

Edward Jones®

direct line: (905)306-8507
fax: 844-857-4156
[redacted]

Via email:finplannersconsult@gov.sk.ca

September 20, 2022

Financial and Consumer Affairs
Authority of Saskatchewan
1919 Saskatchewan Dr.
Regina, SK S4P4H2

Dear Sirs / Mesdames:

Re: **The Financial Planners and Financial Advisors Regulations – Request for Comment**

Edward Jones welcomes the opportunity to provide comments to the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) with respect to the above proposed regulations (Proposed Regulations) and is pleased to present our submissions in response to the Notice of Proposed Changes and Request for Further Comment (Notice). We applaud the FCAA for its leadership on this important investor protection issue and would welcome the opportunity to work with the FCAA and other regulators in the development of a harmonized set of national requirements regarding the use of the FP and FA titles.

Background

Edward Jones is a limited partnership in Canada and is a wholly owned subsidiary of Edward D. Jones & Co., L.P., a Missouri limited partnership. Edward D. Jones & Co., L.P. is a wholly owned subsidiary of The Jones Financial Companies, L.L.L.P., a Missouri limited liability limited partnership. We are registered with the Investment Industry Regulatory Organization of Canada (IIROC) as an investment dealer and have more than 800 financial advisors located across Canada managing over $30 billion of assets under care.

As a full-service investment dealer, we help individuals achieve their serious, long-term financial goals by understanding their needs and implementing tailored solutions. At Edward Jones, we build close, ongoing relationships with our clients, beginning with a meeting between client and financial advisor to identify the client's specific long-term goals. We then develop a thoughtful investment strategy, and a diversified portfolio of quality investments. Edward Jones is not a financial planning firm and therefore does not employ financial planners nor do its advisors develop financial plans for a fee. Our advisors are IIROC registrants, and they develop and present suitable investment recommendations in the best interest of our clients.

Overview

We appreciate the opportunity to comment on the Proposed Regulations that introduce minimum standards for use of the Financial Planner (FP) and Financial Advisor (FA) titles in Saskatchewan.

We agree with, and fully support, the substance and purpose of establishing a framework to govern the usage of the FP and FA titles in the financial services industry. We believe this will further strengthen consumer confidence in the quality of investment advice they receive from individuals using the FA and FP titles. The absence of a coherent approach to the use of titles across the financial services industry can and does cause confusion. Importantly, the use of such titles by individuals who may not have the necessary experience and expertise undermines consumer and investor confidence in the industry.

We are an IIROC member firm, and as such our registered advisors, with the exception of our advisors domiciled in Quebec, currently use the financial advisor title. Our advisors in Quebec use the investment advisor title. IIROC members are subject to proficiency standards, ongoing training requirements, and a high standard of conduct. These standards and requirements continue to evolve over time. Edward Jones, our advisors and associates are subject to continuing regulatory oversight by IIROC and the provincial and territorial regulators. We support the provision in the Proposed Regulations that permits individuals who have been approved by a credentialing body to use the financial advisor title without creating unnecessary regulatory burden for title users. With that said and acknowledging that the Financial Services Regulatory Authority in Ontario (FSRA) implemented their rule effective March 28, 2022, we believe it is prudent to align the Proposed Regulations with that existing framework. Harmonizing requirements across the various jurisdictions will reduce regulatory burden while creating the needed standards and regulations of title protection. Otherwise, the Proposed Regulations may only serve to undermine their stated goals: they may complicate the regulatory environment, subject financial advisors to inconsistent and unclear regulatory obligations, and significantly raise the associated costs of supervision and compliance.

We also see the consultation process as an opportunity to enhance consistency not only among financial services providers in Saskatchewan but across jurisdictions in Canada. We point out that Ontario and Quebec already have rules in place and New Brunswick is currently reviewing a similar initiative. Regardless of the treatment of market participants registered with a self-regulatory body, we strongly suggest a coordinated effort in respect of title usage, and with approved credentialing bodies, among the different jurisdictions. Such an approach will reduce client confusion while easing the regulatory burden on firms and individuals who are registered or licensed in multiple jurisdictions.

Comments on Specific Aspects of the Proposed Rule

Our comments on each of the questions for consideration and comment in the Notice are set out below. For ease of reference, we have reproduced a summary of each question.

1. **Credentialing Bodies – Process When Approval Revoked or Operations Cease**

   Please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.

We are supportive of the continued use of the FP or FA title in the absence of oversight by a credentialling body for a six-month period of time from the date when the current credentialing body ceases oversight activities. The six-month period of time would allow for the oversight to be transferred to another credentialing body. Individuals who are registered with a self regulatory organization (SRO) would continue to be covered under those regulations. If an individual were to immediately lose the ability to continue using the title, it could impact

the client negatively as it would most likely cause confusion in the minds of clients and possibly cause irreparable harm to the advisor-client relationship. It may also undermine public and investor confidence in the regulatory framework itself if it creates the perception that individuals previously considered to be competent and proficient are suddenly, and perhaps arbitrarily, deemed otherwise.

2. **Approval Criteria for FA Credentials**

We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP.

We do not agree that the Baseline Competency Profile (BCP) should be broader, bringing it closer to that of a FP. Rather, we would recommend a distinction be made to help clients understand the difference between the service of a financial advisor versus that of a financial planner. In recognition of that, there should be two distinct BCPs for the respective titles.

3. **Decrease in Harmonization**

We ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization.

As outlined in the above answer, we do support maintaining harmonization with the framework already in place in Ontario. The industry at large is trying to simplify things for clients. Decreased harmonization would be counter to this initiative. Revising the FA BCP would mean that FCAA's framework is not harmonized with FSRA's and potentially with other jurisdictions, should they choose to mirror FSRA's.

This approach would mean credentialing bodies and credentials in Ontario would not meet the requirements of FCAA. Having different credentialing bodies and credentials across jurisdictions would foster client confusion and lead to increased costs of supervision, administration, etc. This confusion would be exacerbated when clients relocate from one province/territory to another while maintaining their relationship with their financial advisor. While the client would continue to receive the same service from their financial advisor, in Saskatchewan their title may no longer be recognized.

We note that other industries or SROs do not treat residency differently, in general. There is recognition of the other jurisdictions' approval where the jurisdictions have coalesced around common standards. For example, life insurance required courses and licenses.

4. **Mandatory Disclosure of Credentials**

We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Also comment on if the additional disclosure requirement is preferred and the form it should take.

While we believe sufficient disclosure already exists and too much disclosure can negatively impact the investor experience, we do believe that any disclosure requirements related to titling needs to be consistent across the country.

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5. **Transition Date and Implementation Period**

Please advise:

(a) Whether you support an implementation period and provide a suggested length of time for said period; and

(b) Whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force. In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects that an alternate date may have on the protections afforded by the legislation as well as the implementation process.

Yes, we strongly recommend an implementation period, and the transition date should begin on the same date the Act and Regulations come into force. Complying with new regulations requires considerable planning on the part of dealers and advisors, including allowing time for communication of the new regulations, understanding their scope and impact, and making the necessary adjustments. These challenges are amplified when harmonization is not present.

6. **Fees and Fee Structure**

Please provide your feedback regarding the proposed fee structure and amounts.

Our comment is limited to the cost of the credential to the affected parties. Similar to our comments above on reducing regulatory burden, the proposed fee structure will impose an additional cost on members of a SRO, such as IIROC. This will be an additional fee for an individual that has already been assessed fees by IIROC or other jurisdiction with a title protection act in place.

In general, we thank FCAA for their direction in heightening the education and awareness of consumers, especially when they relate to a matter of consumer protection.

We welcome the opportunity to provide these comments to you. We would be pleased to continue the dialogue and participate in further consultation if appropriate and desirable.

Yours truly,

[redacted]

FAIR Canada Canada's Investor Rights Advocate | Promoteur des droits des investisseurs

September 20, 2022

Financial and Consumer Affairs Authority of Saskatchewan (FCAA)
Insurance and Real Estate Division
Submitted via email to: finplannerconsult@gov.sk.ca

Re: Proposed Regulations [2021-001] and Request for Comment: The Financial Planners and Financial Advisors Regulations – Notice of Proposed Changes and Request for Further Comment (Consultation)

FAIR Canada is pleased to provide comments in response to the above-referenced Consultation.

FAIR Canada is a national, independent charitable organization dedicated to being a catalyst for the advancement of the rights of investors and financial consumers in Canada. We advance our mission through outreach and education, public policy submissions to governments and regulators, and proactive identification of emerging issues. FAIR Canada has a reputation for independence, thoughtful public policy commentary, and repeatedly advancing the interests of retail investors and financial consumers.[1]

A. GENERAL COMMENTS

FAIR Canada supports the desire to increase the professionalism among financial planners (FPs) and financial advisors (FAs). We believe this objective is shared by all stakeholders. We also support a title protection framework that addresses not only the risks associated with the unregulated use of these titles, but also promotes alignment between the expectations of consumers and the professionalization of the industry.

The FCAA is faced with two fundamental choices in designing and implementing Saskatchewan's title protection framework for FAs:

1) Whether to focus on minimizing regulatory burden by harmonizing and adopting the Product Focused Approach taken in Ontario, including approving the organizations and programs that Ontario takes the lead in approving for credentialing purposes, or

2) Adopt a Comprehensive Approach that aligns with what consumers would reasonably expect from someone calling themselves an FA.

[1] Visit www.faircanada.ca for more information.

The second choice is the better one for protecting consumers and the financial well-being of Saskatchewanians.

The choice made by the FCAA will also impact others outside of Saskatchewan. This is because other provinces adopting their own frameworks and approaches (such as New Brunswick) will look to the FCAA for leadership on this important consumer protection issue. It may also have consequences for the work by the Canadian Securities Administrators and the self-regulatory organizations on minimising title confusion, and enhancing proficiency requirements for those engaged in trading or advising in regard to securities and derivatives.

FAIR Canada, together with some in the industry, have publicly spoken out against the direction taken to date in Ontario. It falls far short of the original policy intentions. Rather than create a framework that meaningfully clarified titles and raised proficiency standards for FAs, a number of the credentials now protected in Ontario fail to address consumer expectations, or support greater professionalization and higher standards in the industry.

Paradoxically, consumer expectations are mostly driven by those who promote and market themselves as being in the business of giving financial advice, not selling a particular product. Indeed, we suspect some in the industry do not highlight the limits of their proficiencies or the advice they can provide to their clients.

We believe the choice is clear. Title protection was never meant to protect existing credentialing organizations or their members; it was intended to create a robust framework to protect consumers from unqualified FPs and FAs. This means they should be knowledgeable and competent to address all aspects of a client's financial situation and needs, not just, for example, their insurance needs. Accordingly, the baseline competency profile (BCP) for FAs needs to be raised to a level similar to the BCP for FPs.

Unless and until existing credentialing bodies (CBs) and regulators are prepared at the outset to commit to meaningful standards for FAs, we would recommend against approving use of the FA title in Saskatchewan and other jurisdictions.

B. CONSULTATION QUESTIONS

Q1: Credentialing Bodies – Process When Approval Revoked or Operations Cease

> **The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.**

FAIR Canada agrees that this is a fundamentally important question to consider before implementing a title protection framework. There should be clear plans and guidance on how the FCAA intends to address these scenarios before any CB is approved. This includes situations involving a CB ceasing to operate, or

when a credential is no longer approved.

To be able to effectively address this issue, it will be important to ensure that approved CBs provide relatively the same standards and have similarly robust educational and training requirements.

Cessation of a CB

While being mindful that FAs and FPs will have their own concerns should their CB cease operations for any reason, the primary focus must be on the impact to clients who rely on the CB and title user. A client first-approach would mean that an FA or FP should not be unsupervised for an extended period. This is particularly true where there is a client complaint against the title user—who would the client turn to in this situation?

In Ontario, the design approach was to make each approved CB solely responsible for monitoring and enforcing the conduct of its title users. The regulator itself has no role to play in addressing the misconduct of any FP or FA operating under the aegis of a CB. Instead, the regulator's role is limited, in effect, to policing title usage on behalf of the CBs, and taking action against individuals who do not acquire the title from an approved CB. In contrast, in Saskatchewan, the executive director retains some jurisdiction under the *Financial Planners and Financial Advisors Act* (FPFAA) to address FP/FA misconduct.[2]

In our view, unless the FCAA is willing to assert direct responsibility for supervising title users, and monitoring and enforcing any misconduct, no person should be permitted to continue using those titles in the absence of oversight by a CB for any extended period.

We would, therefore, recommend that any FP or FA that is a member of an inactive or unlicensed CB, should be required to transition to another approved CB as quickly as possible. In addition to protecting consumers, a short transition period will encourage title users to get their credentials from CBs that have demonstrably superior governance and programs, as these CBs presumably would likely be at a lower risk of having their approval or credentialling program revoked.

To determine an appropriate period of time for any such transition, we assume there will be a process whereby the "new" CB could recognize the credentialing received at the former CB and credit the title user's work experience. Depending on the situation, a transition period of no more than three months should be permitted.

[2] See subsections 36(1) and (2) of The Financial Planners and Financial Advisors Act, SS 2020, c 22

If there was sufficient warning that a CB was being wound down, or had its approval revoked because of grave "fit for purpose" concerns, it may not be appropriate to grant any transition period. In other words, those holding a title from such a CB would have to refrain from using it, until they were credentialed with another CB.

Lastly, if transitioning the affected FPs or FAs to an alternative CB is not possible, we believe the FCAA should assume oversight responsibility until another CB is able to step in. This would include managing complaints and any ongoing investigations into a title user associated with the former CB.

Revocation of a Credential

Where the approval of the credential has been revoked, we would recommend that the title user be given a short period of time to apply for another approved credential. After that, they should be obliged to complete the requirements within a maximum of 12 months. Again, this assumes that the experience previously gained, as well as the educational requirements would be recognized as relatively similar from one CB to another.

Q2: Approval criteria for credentials

> **We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e., estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management).**
>
> **The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies.**
>
> **In considering this approach, please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectations and better alignment with other existing financial sector regulatory frameworks. Also please comment on whether there are any other advantages the Comprehensive Approach has over the Product Focused Approach not identified in this paper.**

The Consultation correctly summed up the key problem with the Product Focused Approach: many people understand that financial advice goes "well beyond" providing recommendations about one or two specific products. Equally important, a Product Focused Approach may lead to more than just unmet expectations—it may result in poor financial decisions for consumers.[3]

In addressing these questions, we applaud the FCAA for focusing on the need to consider consumer expectations, even if it reduces harmonization with the Ontario model. While harmonization is important, it should not take precedence over consumer expectations or protection.

[3] Consultation, page 7.

Accordingly, we support the alternative wording proposed to clauses 7(1)(b)(ii) and (vii) of *The Proposed Financial Planners and Financial Advisors Regulations* (Proposed Regulations).[4]

We note that neither of the enabling statutes in Ontario or Saskatchewan define what an FP or FA is or does. It is left to the regulator, through its CB and credentialling approval powers, to determine the meaning of these titles on a case-by-case basis.

In order to establish appropriate competencies, however, one must understand the role of an FP and FA. This is especially difficult in the case of FAs because there is no universally accepted definition of what an FA is. Indeed, we are not aware of any common industry standard that exists today. What we see in practice, instead, are individuals who provide some type of "advice" in connection with different financial products (e.g., purchasing securities or insurance) that hold themselves out as being a FA. Simply calling yourself an FA, however, does not make you one.

In our view, an FA is person engaged in the business of providing comprehensive financial advice to others based on specialized training and proficiencies. The required qualifications would be similar to the Comprehensive Approach, including being able to provide advice regarding "broad-based financial and investment strategies."[5] Among other things, an FA should be able to:

- Have the necessary knowledge and expertise to construct personalized strategies that aim to achieve the financial goals of clients (these would include not only investments, but also savings, budgeting, insurance, and tax strategies).
- Regularly monitor changes affecting the client's situation.
- Check in with the client on a regular basis to re-evaluate their situation and future goals.
- Revise their strategies accordingly.

While adopting the Comprehensive Approach does not necessarily mean the FP and FA BCPs would be identical, it does mean both titles should require high standards of education and knowledge competencies beyond just specific products.

Similar to the FP BCP, the FA BCP must also include requirements aimed at promoting some form of professionalization within the industry, including robust ethical training, disclosing and managing conflicts in the client's best interest, handling private and confidential client information, and knowing their client's financial situation, financial goals and tolerance for financial risk-taking.

In adopting the Comprehensive Approach, we urge the FCAA to prescribe the key elements of the BCP in as much detail as possible. This should include published guidance on what is expected. At a minimum, programs should require:

- A substantial time commitment to learning and training.
- Mandatory completion of assignments.
- Proctored exams designed to effectively assess competency, not short multiple-choice tests that can be taken several times with low passing grades.
- A specified number of years of qualifying work experience.

[4] The Proposed Regulations dated July 2022.
[5] Alternate wording of clause 7(1)(b)(vii) of the Proposed Regulations.

- Continuing education requirements.

The Comprehensive Approach would be consistent with what consumers reasonably expect when working with an FA. It would also anchor the high degree of trust and reliance consumers place on those in the industry when navigating the increasingly complex world of personal finances and financial wellbeing.

As noted, many in the industry market themselves as being professional advisors, not product specialists. However, we also know that many have been calling for changes in the regulatory structure to support an advice-driven financial services industry.

Advocis made this clear in its submission to the FCAA's previous title protection consultation:

> Our members have resoundingly told us that neither insurance nor mutual fund licensing is sufficient to demonstrate the professionalism and client-centric thinking that modern consumers require. If the FCAA generally accepts that consumer needs have evolved into an advice-first mindset over a product-first mindset, we believe it would be impossible to justify a product-first credential as qualifying for a Framework that is designed to be about consumer protection.[6]

In short, the Comprehensive Approach not only better protects consumers, but it also aligns with the long-term interests of the industry.

Q3: Decrease in Harmonization

> **Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different education programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan.**
>
> **While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization.**
>
> **Also, please provide comments regarding any other potential disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain the FA credential results in a need for consequential amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerns whether the transition period for an FA's compliance with the FPFAA set out in section 9(3) of the Proposed Regulations should be lengthened to match that of an FP?**

Decreased Harmonization

While harmonization is generally a preferred outcome where possible, it should never come at the

[6] Advocis submission letter to the FCAA, 2021.

expense of protecting consumers. We also note that if harmonization were truly the core objective, we would be establishing one credentialing program for all FPs across Canada, and one for all FAs outside of Quebec.

In our view, concerns over decreased harmonization creates a false and exaggerated narrative for several reasons.

First, the argument that some CBs may incur additional costs if they seek approval in Saskatchewan overlooks potential financial losses incurred by consumers, due to receiving poor financial advice, as well as the potential costs of harming the reputation of Saskatchewan's financial marketplace.

Second, the FA BCP is intended to establish minimum standards. Nothing prevents a CB from developing educational programs that exceed these standards. We would expect that the more professional segment of the industry would welcome such a development.

Third, suggesting that higher standards in Saskatchewan would force CBs to develop different education programs misses the point. One would expect that any CB wishing to establish itself across several jurisdictions would design a single education program to meet the highest standard. In fact, one would hope to see a willingness on the part of CBs and title users to commit to the standard that best promotes consumer protection and fair outcomes. Saskatchewan has an opportunity to promote a race to the top in line with the industry's longer-term interests, including the aspirations of many individuals using these titles.

Fourth, we believe that the risk of decreased harmonization between title protection frameworks needs to be put into a broader context:

- **There is already a lack of harmonization.** Saskatchewan has appropriately incorporated elements of the client-focused reforms into its regulations, whereas Ontario has not.[7] And unlike Ontario, Saskatchewan's framework provides the FCAA with jurisdiction to address FP/FA misconduct. Furthermore, the FCAA has powers to impose penalties, while the FSRA in Ontario does not.[8] We also note that Ontario chose not to harmonize with the stronger and long-established title protection framework adopted in Quebec.

- **The practical impact on CBs won't be significant.** While some approved CBs may operate nationally, we expect there will be relatively few of them, which lessens the practical concerns about harmonization. In our view, harmonization in the context of CBs should be less of a concern than it is in the context of securities regulations, where there are several hundred securities dealers and thousands of dealing representatives operating across the country.[9]

Given the above, the impact of decreased harmonization would be nominal, and, in our view, manageable.

Benefits of Increased FA Proficiency

[7] See, for example, section 7 of the Proposed Regulations.
[8] See Division 2 and 3 of The Financial Planners and Financial Advisors Act, SS 2020, c 22.
[9] The Investment Industry Regulatory Organization of Canada (IIROC) oversees approximately 174 dealer firms and their 31,000 registered representatives.

As outlined in our answer to Question 2 above, there are numerous benefits to the Comprehensive Approach. To us, the most critical benefits include:

- The higher proficiencies align with the very natural assumptions and expectations consumers would draw from the FA title.
- It would improve the quality of financial advice provided to Saskatchewanians, who increasingly rely on advice to help them achieve their financial goals.

One potential drawback raised in the Consultation is that increasing the proficiency requirements "might lead to fewer approved FA credentialling bodies in Saskatchewan and fewer options for consumers or investors to obtain financial advice."[10] In other words, the FCAA risks creating an advice gap in Saskatchewan if it does not harmonize with Ontario.

The industry has raised the spectre of an advice gap in other contexts where regulators sought changes to better protect consumers. We see no evidence, however, that a gap will be created in this case. As noted by Advocis in its 2021 submission, adopting higher standards for FAs will not "remove product-first salespeople from the industry."[11] These individuals will continue to work—just without being able to use the FA title.

We also note that Quebec's title protection framework does not permit the use of the FA title. Yet, we are not aware of any concerns related to consumers in that province having insufficient access to financial advice.

Finally, to quote a 2019 study, the advice gap argument "assumes investors currently receive, and therefore potentially stand to lose, a meaningful measure of advice that meets their needs." The study found, however, that only a small minority of investors who consulted an advisor reported ever having received such financial advice.[12]

Potential Consequential Amendments

Assuming the Comprehensive Approach is adopted, we did not identify a need for consequential amendments to the Proposed Regulations other than the one identified in the Consultation.

To the extent that the FA credential requires a similar level of qualifications to an FP credential, it would make sense to harmonize the transition periods. However, as discussed in our response to Question 5 below, we believe the transition periods are too generous to begin with.

Q4: Mandatory Disclosure of Credentials

We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Please comment on whether this additional disclosure requirement is preferred and the form that it should take.

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[10] Consultation, page 8.

[11] Advocis submission letter to the FCAA, 2021, at page 2, footnote 2.

[12] IAP Report – A measure of advice: How much of it do investors with small and medium-sized portfolios receive, 2019, at pages 3 and 5.

Also, please comment on whether this additional disclosure is warranted if the Comprehensive Approach to the FA BCP, as described under the Approval criteria for credentials heading, is adopted.

In our view, enhanced disclosure cannot cure the fundamental issue with the Product Focused Approach.

We know through behavioural research that providing disclosure in a way that actually leads to informed decisions is more complex than we might assume.[13] It entails ensuring the disclosure is "decision useful" – i.e., if the consumer does not wish to deal with an FA providing a limited scope of advice, alternative sources of advice should be made available.

We also know that someone would need to monitor that consumers are receiving the disclosure, and it is presented in a way that they can understand the implications for them, i.e., CBs and the FCAA would need to test whether FAs are making these disclosures consistently and effectively.

We do not think it is appropriate to put the responsibility on the consumer to make heads or tails of the multitude of different titles they could encounter when seeking financial advice. For example, "financial advisor, mutual funds" or "financial advisor, insurance", etc. In our view, most consumers would continue to assume they are dealing with a financial advisor, not a representative trained to sell a particular product.

This is why we believe the Comprehensive Approach is so critical. We also believe it is important that regulators meet consumers where they are. This means implementing a system that aligns as closely as possible with reasonable consumer expectations. Assuming the Comprehensive Approach is adopted, the need for disclosing any products an FA may be authorized to sell becomes less of a concern.

Q5: Transition Date and Implementation Period

We are seeking feedback on two items. Please advise:

a) **whether you support an implementation period and provide a suggested length of time for said period; and**
b) **whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force.**

In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects that an alternate date may have on the protections afforded by the legislation as well as the implementation process.

An Implementation Period?

We are not clear on how the implementation period would work in practice, or how it would operate in conjunction with the four- and two-year transition periods set out in the Proposed Regulations. As

[13] See, for example, Recommendation on Disclosure Effectiveness, 2020, Securities and Exchange Committee, Investor Advisory Committee.

described in the Consultation, the purpose of an implementation period would be twofold:

- Give the FCAA time to review CB applications.
- Give "current title users …time to assess their options without being in contravention of the legislation."[14]

We assume that the implementation period would only apply to individuals who began using the FP/FA title on or after the July 3, 2020, transition date. The implementation period would, in effect, permit such individuals to continue using the FP or FA title for a specified period after the FPFAA comes into force.

To us, both the implementation period and the transition period raise the same fundamental problem for consumer protection. In short, they would allow individuals to continue to use the FP or FA title *regardless of the person's real qualifications.* (This outcome illustrates how the FPFAA, much like the Ontario statute it was modelled on, is too focused on protecting the title, not the consumer.)

We are not opposed to providing those in the industry time to transition and acquire approved credentials. Without some accommodation, existing businesses and clients could be adversely affected or prejudiced. However, we need to keep the implementation period as short as possible to ensure only qualified individuals are providing advice to consumers.

In this regard, we note that no implementation period was provided under Ontario's title protection framework. Instead, for the balance of 2022, the FSRA will exercise discretion by focusing on consumer complaints and requesting non-compliant title users to voluntarily cease title use within 30 days.[15]

A more important concern is how do we protect consumers during an implementation or transition period. We believe the FCAA should require FPs or FAs to clearly disclose that their use of the title is pending completion of training requirements with an approved CB. This will help mitigate any false perception that the consumer is working with a fully qualified FP or FA during the implementation or transition period.

This disclosure could take the form of a brief document explaining that a new law came into effect, that the FP/FA has not yet met all the requirements, and that clients can go to the FCAA's website for more information. The FCAA should also consider whether clients of FPs or FAs in Saskatchewan should be informed that a new framework has come into force and their FP or FA may, or may not, yet be in full compliance.

While some in the industry will object to having to make such disclosure, the transparency would be helpful, particularly since most may not be aware a new framework is being implemented to protect them.

Adjusting the Transition Date

We recognize that a substantial period of time has passed since the FPFAA was enacted and, therefore, it makes sense to consider moving the July 3, 2020 transition date forward.

However, it should not coincide with the in-force date of the FPFAA and Proposed Regulations. In short, we

[14] Consultation, at page 11.
[15] See FSRA's Transition web page.

do not support the alternative wording for subsection 9(1) of the Proposed Regulations.

There are two reasons for this:

- First, since there will be some prior notice of the in-force date, those who wish to "game" the system could simply start "using" the title shortly before this date to take advantage of the transition period. In our view, to prevent this, the transition date should be fixed at the outset and set for before the framework comes into force.

- Second, setting the in-force date as the transition date would be inconsistent with how the FCAA interprets what it means to "use" a title. As noted in the Consultation, to qualify for the transition period, an individual needs to be actively engaged in the FP/FA business from at least the day before the transition date and continue to conduct this business until the in-force date.[16] This is a reasonable approach that would help minimize the potential disruption of genuine business activity.

To accommodate an active and continuous business to be established and operated, we would recommend fixing the transition date at least six to 12 months before the in-force date.

The Transition Period – A Final Comment

From a consumer perspective, the same considerations that arise in contemplating an implementation period apply to transition periods: they should be as short as possible, and as described above, consumers should be told that their FP/FA has not yet met all of the credentialling requirements.

If the Comprehensive Approach is adopted for FAs, it would make sense to harmonize the FP/FA transition periods. We believe, however, that the proposed four-year transition period is simply too long and unnecessarily exposes consumers to potential harm.[17]

Among the approved credentials in Ontario, the Certified Financial Planner (CFP) designation provides a good yardstick for establishing a reasonable transition period that would allow an individual enough time to gain any required designation. According to FP Canada, for individuals working in the financial planning industry that have already completed the three-year work experience requirement, the shortest possible timeframe to obtain the CFP designation is about two years.[18]

In light of the above, we see no reason for a transition period longer than three years for FPs and FAs.

C. THE CB APPROVAL PROCESS AND ENFORCEMENT PROGRAM

Although not directly raised in the Consultation, we would like to flag potential concerns with the CB approval process and enforcement programs, two issues that have come into sharper focus since the launch of Ontario's framework.

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[16] Consultation, at page 10.
[17] Proposed Regulations, alternate wording for subsection 9(3).
[18] See "How long does it take to get the CFP designation?" on the FP Canada CFP website.

What a Good Enforcement Program Looks Like

We appreciate the assurance by the FCAA that it will be mindful of the potential conflicts of interest created by for-profit CBs or those involved in advocacy efforts. We recommend, however, that future published FCAA guidance address this concern more definitively by explicitly excluding these types of entities from eligibility as CBs.

Such guidance should also emphasise that a prospective CB must demonstrate either a track record of robust enforcement activity, or the capacity to deliver vigorous enforcement before it is approved as a CB.

The latest annual report from FP Canada's Standards Council provides an example of the type of enforcement program one would expect from all CBs.[19] The report provides a detailed overview of the enforcement process, which includes the following key stages:

- The intake of public complaints or initiation of complaints by the Council itself.
- Investigations overseen by the Executive Director.
- Review by a conduct panel.
- Adjudication by a discipline hearing panel.
- Findings of misconduct resulting in discipline sanctions ranging from a letter of reprimand to suspension or revocation/bar to future certification.[20]

Retaining FCAA Jurisdiction Over Conduct

Finally, we would like to comment further on a key aspect of the Saskatchewan framework missing from the Ontario model. Under paragraph 36(1)(c) of the FPFAA, the FCAA will retain jurisdiction to pursue FPs/FAs whose conduct may be harming consumers.[21]

This important difference in Saskatchewan's framework helps address a key shortcoming of the Ontario approach.

We urge the FCAA to draw sufficient attention to this aspect of its authority and call on the government of Saskatchewan to provide the FCAA with sufficient resources to be able to effectively use the full scope of its powers. This includes ensuring the FCAA has the resources needed to monitor and supervise CBs to ensure they remain in compliance with the terms and conditions of their approval, and maintain effective oversight of their credentialing program to ensure that only qualified individuals are granted an FP or FA credential.

D. CONCLUSION

The FCAA's questions raised in this Consultation keeps the focus where it should be—protecting consumers. This is far more important than ensuring Saskatchewan's framework aligns with the weaker standards

[19] FP Canada Standards Council, 2021 Annual Report.
[20] Ibid., see page 12 for an overview of the four components of the process.
[21] The Financial Planners and Financial Advisors Act, SS 2020, c 22.

in Ontario. As recent events in Ontario have shown, now is the time to develop a better model.

We thank you for the opportunity to provide our comments and views in this submission. If you have questions or require further explanation of our views on these matters, please contact us at [redacted]

Sincerely,

[redacted]

Federation of Mutual Fund Dealers
Fédération des courtiers en fonds mutuels

September 20, 2022

VIA EMAIL ONLY

Financial and Consumer Affairs Authority
Suite 601, 1919 Saskatchewan Drive
Regina, Saskatchewan S4P 4H2
Fax: 306-787-5899
finplannerconsult@gov.sk.ca

RE: The Financial Planners and Financial Advisors Act

The Federation of Mutual Fund Dealers ("Federation") has been, since 1996, Canada's only dedicated voice of mutual fund dealers. We currently represent dealer firms with over $124 billion of assets under administration and greater than 24 thousand licensed advisors that provide financial services to over 3.8 million Canadians and their families. As such we have a keen interest in all that impacts the dealer community, its advisors, and their clients.

Summary of questions for consideration and comment

Credentialing Bodies – Process when Approval Revoked or Operations Cease

1. The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.

Individuals should be able to continue using the FP or FA title in the instance of a wound-down credentialing body (CB). To minimize disruption, the title holder should be granted a time allowance equal to the balance of the current CE cycle to transition to a substitute program of their preference. Educational course completions should be recognized for full credit at ongoing CBs, with credential holders participating on a go-forward basis in the new CB's CE credit system to maintain title access.

The FCAA could facilitate the recognition of titles among program providers. This would reduce the burden on representatives of redoing a title usage program with equivalent content and criteria where the individual has already successfully demonstrated competency, in addition to streamlining transitions in the case of a wind-down.

Client complaints must always be directed to the securities regulator or OBSI for a consistent client experience and established, externally reviewed complaint handling and enforcement procedures.

We find that challenges with proposed titling regulations are found within the effort to separate the credential from SRO oversight. We disagree with that separation. Financial professionals should be licensed and overseen by regulators and dealership compliance departments, with registrants and all

market participants retaining the option to engage with product analysis, recommendation and transactions as business decisions.

Approval Criteria for FA Credentials

2. We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e. estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management). The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies. In considering this approach, please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectations and better alignment with other existing financial sector regulatory frameworks. Also please comment on whether there are any other advantages the Comprehensive Approach has over the Product-Focused Approach not identified in this paper.

The potential advantages of the Comprehensive Approach are several; the overall education of credentialed Financial Advisors will be increased to the level of Financial Planner. The most dedicated students will be able to obtain the Advisor title, if they don't choose the Planner title for a similar effort. We expect the title of Financial Advisor to see reduced usage.

The Advice-first approach advantage over the Product-Focused Approach is that it can broaden the perspective of the Advice provider. We agree with an advice-first approach to financial services delivery. Unfortunately, we believe there are downsides with the Comprehensive Approach. It anticipates all learners will both successfully understand and integrate the many disciplines of advice proposed to be incorporated into the BCP. Specializations naturally form to allow for excellence in the service of specific client needs, fill marketplace niches, and match the personal and career interests of the advisor. The goal to raise the baseline educational standard is worthy, but we don't want a highly protected title and a cadre of licensed financial specialists who don't utilize it.

The licensing and CE programs required by the SRO are sufficient to provide assessments, recommendations and distribution of financial products. These requirements are incrementally raised and are an ongoing requirement with robust oversight and enforcement. If the educational standard of these requirements needs to increase, that can be done in an orderly, nationally harmonized, and streamlined way via the CSA. A change at the CSA level would trigger adjustments to the full CE universe, oversight and enforcement processes. We would prefer advice and product distribution licensing be linked, to ensure robust oversight of advice providers.

We disagree with raising the Financial Advisor educational requirements to parity with Financial Planner, without granting that title. As many financial planning software packages provide support in generating integrated financial plans, this key difference may be a distinction without significant difference, if the other knowledge competencies overlap. We would like a definition for an integrated financial plan, and how it differs from a plan generated by a Financial Advisor. We don't want FA's or securities licensees restricted from providing as robust or 'integrated' a financial plan as they can produce to benefit investors. Individuals who qualify through these broad and comprehensive knowledge areas can use the Financial

Planner title. This creates a bright line distinction between the two titles. It also foregoes the burden of an additional tier of education, fees, and licensing for those who can't or don't want to commit to the additional pursuit. Many ongoing advice practices provide suitable and meaningful client interactions without necessarily venturing into esoteric areas of taxation and risk planning. Areas which are well serviced by specialists and referral arrangements. These specializations should be available for advisors who want to bring additional service areas to the table for clients that require them. We submit that without the additional realms of knowledge these are still financial advisors providing a core service, and should be able to use this suitable title with their licensing education or via an accessible hurdle to prove core competencies.

Decrease in Harmonization

3. Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different education programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan. While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization. Also please provide comments regarding any other potential disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain the FA credential results in a need for consequential amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerns whether the transition period for an FA's compliance with the FPFAA set out in section 9(3) of the Proposed Regulations should be lengthened to match that of an FP?

We inquire which 'other existing financial regulatory frameworks' are increasingly harmonized by utilization of the Comprehensive Approach. As proposed, the standard doesn't bar non-licensees from participating in the distribution of financial advice. This is a proposed variance in the educational requirement, so there would not be a harmonized national common standard for consumers.

Our initial thoughts on the Title Protection regime were that the CSA would create a minimum standard that would align with the licensing regime and the newly created harmonized national SRO (or a new body) would oversee that education provider content meets the standard. In provinces where additional criteria would be required, it could oversee the additional requirement fluidly. It would therefore be a national financial education standard, created at minimal additional cost, and utilize existing enforcement and oversight infrastructure to service all provinces.

An incremental stretch of education in key areas of importance could be sufficient. If the bar to becoming licensed isn't high enough, this higher standard for the advisor title only partially resolves it.

Mandatory disclosure of credentials

4. We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Please comment on whether

this additional disclosure requirement is preferred and the form that it should take. Also please comment on whether this additional disclosure is warranted if the Comprehensive Approach to the FA BCP, as described under the Approval criteria for credentials heading, is adopted.

This disclosure would list products that would require their own definitions and explanations to clients ('Labour Sponsored Funds'). We ask if the disclosure is envisioned for websites, business cards, or social media, and whether individual dealers would design these disclosures or be additionally required to display them. This disclosure item on its own may benefit from consultation; but the most effective and straightforward implementation may be consolidated and standardized product listing material made available on regulatory websites, such as with the FCAA, NRD or SRO. We see the potential for client confusion in why two advisors disclose or describe mutual funds differently, and we would inquire why existing disclosures are insufficient.

Transition Date and Implementation Period

5. We are seeking feedback on two items. Please advise:

a) whether you support an implementation period and provide a suggested length

of time for said period; and

b) whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force. In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects that an alternate date may have on the protections afforded by the legislation as well as the implementation process

We disagree with a retroactive date for the transition period. A transition period should begin once regulation comes into force. We do not believe that persons should be able to hold out with titles for which they do not meet the qualifications. If a transition period is contemplated, we suggest minimal length, such as 60 days or at most, the minimum time required to complete the necessary course to retain the currently active title.

Fees and Fee Structure

6. Please provide your feedback regarding the proposed fee structure and amounts.

The Federation opposes all fee increases, as they are ultimately paid by investors. We believe it's still possible to harmonize these desired educational standards across the CSA, so that existing infrastructure can be leveraged and new costs avoided. Additional title registration fees will generally reduce the availability of advice and the take-up of the titles, particularly from inter-provincially licensed advisors.

Respectfully,

[redacted]

Federation of Mutual Fund Dealers
Fédération des courtiers en fonds mutuels

[redacted]

www.fmfd.ca

November 10th, 2022

Attn: Financial and Consumer Affairs Authority of Saskatchewan

Re: Proposed Rule [2022-001] Financial Planners and Financial Advisors Act

Dear Members of the Financial and Consumer Affairs Authority of Saskatchewan

We wish to resubmit our commentary paper put forth by the Financial Planning Association of Canada in regards to the Financial Planners and Financial Advisors Act. This new commentary amends section 2 to propose a rewording of the proposed regulation.

If anyone should have any additional questions regarding our submission, we would be happy to discuss the matter further and would welcome any other future opportunities to be of assistance.

Regards,

[redacted]

The Financial Planning Association of Canada

Official Commentary Submitted to

Financial and Consumer Affairs Authority of Saskatchewan

Regarding

Proposed Rule [2022-001]

Financial Planners and Financial Advisors Act

November 2022

About this Submission

This commentary is submitted to the Financial and Consumer Affairs Authority of Saskatchewan in response to their request for commentary on proposed regulations [2022-001] regarding the Financial Planners and Financial Advisors Regulations and the proposed framework for implementation and enforcement of the Financial Planners and Financial Advisors Act (2020).

We at the Financial Planning Association of Canada welcome the opportunity to participate in this process and lend our perspective on this important change within the Canadian financial industry regulatory landscape.

About the Financial Planning Association of Canada

The Financial Planning Association of Canada (FPAC) is a new industry association founded in 2019, dedicated to the professionalization of the Financial Planning industry. Our goal is to make financial planning a profession with the highest standards of fiduciary responsibility, competency, and practice standards possible. It is our core belief that Financial Planners are uniquely positioned to help improve the lives of Canadians through comprehensive financial planning.

FPAC is expressly prohibited, in its founding charter, from issuing any credentials, and as such we are participating in this commentary, not for the direct monetary benefit that would come from revenue generated by issuing approved credentials, but solely from the perspective of consumer protection and industry professionalization. We believe that only by being held to the highest standards, which would, in turn, lead to greater consumer confidence and trust, will FPAC be able to fully achieve its mission to professionalize the financial planning industry.

Areas of Requested Feedback & Commentary

The following feedback summarizes FPAC's views on the various areas that FCAA has requested feedback on.

1 – Credentialing Bodies – Process when Approval Revoked or Operations Cease

> *The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.*

We are uncertain as to why this should be a concern at all to the FCAA. Credentials should first and foremost be valuable because of the education they provide, not the title they qualify for. Advisors and planners primary motivation for obtaining any credential should be bettering their professional knowledge and skill set. Even if the credential were to cease operations, the credential holder is bettered for having obtained it regardless of its lack of continuity.

An essential element of any title offered by an approved credentialing body is that the titleholders are adequately monitored for compliance with the standards required to maintain the credential in question. A credentialing body that winds down its operations can no longer provide that monitoring function. We believe that in such cases, to retain use of the title, the FP or FA must immediately seek an acceptable credential from a recognized credentialing body and cease using the title until the appropriate credential has been attained. An active but unapproved credentialing body is by definition not a credentialing body and, therefore, cannot provide its members with the right to use the FP or FA title.

Furthermore, there is no shortage of credible designations in Canada that both provide educational value and have sufficient scale to be economically viable. Should an advisor choose to obtain a credential from a smaller, less viable entity, then that is their decision and there is no need for policy to protect these individuals.

As such, we recommend that the FCAA create no such policy.

2 – Approval Criteria for FA Credentials

> *We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e. estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management). The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies. In considering this approach, please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectations and better alignment with other existing financial sector regulatory frameworks. Also please comment on whether there are any other advantages the Comprehensive Approach has over the Product-Focused Approach not identified in this paper.*

Unlike the Financial Planner title, the Financial Advisor title does not have the benefit of a well-established global standard or even a standard definition. There is no ISO code nor a globally recognized designation. Furthermore, it lacks a topic-specific definition or use, as “financial advice” could cover one or more of any of the topic areas encompassed by comprehensive financial planning. FPAC believes that the title Financial Advisor is too generic

to fully explain to the consumer what the holder of the title actually does.

We would ask that, if there is any room for the Saskatchewan government to reconsider this part of the act, that it be expanded to either encompass other titles that are domain-specific such as: Investment Advisor, Insurance Advisor, Estate Planner, and others, as this would provide consumers with greater clarity or abandon the decision to protect the Financial Advisor title and protect only the Financial Planner title.

Failing such a decision be made to revisit this legislation, we do not believe that consumers would be best served by a requirement for FAs to have essentially the same requirements as FPs in every subject area, save for the training on “developing and presenting an integrated financial plan.” Instead, setting the Financial Advisor proficiency level equal to or above the corresponding subject area for the Financial Planner designation would assure Saskatchewanians that anyone providing advice in a subset area is able to do so at a standard consistent with, or greater than that of the Financial Planner title holder. To increase clarity on the basis for the FA title, we suggest you consider including the mandatory disclosure of the basis for credentials as we note in our response to #4. This would assist consumers in understanding the FA’s true area of expertise.

The suggested revision to the framework also creates several issues. First and foremost it creates criteria for a financial professional that does not exist anywhere else in the world.

Secondly, no existing designation simultaneously covers all areas to the same level of proficiency as set by the Financial Planning Standards Board yet excludes the ability to create a financial plan.

There is sound logic in this expansion of competency in that no one area of finance is an independent silo. Therefore we believe that it is valuable for credential holders in one topic to have an understanding of how decisions made in said topic area affect other topic areas. For example, how do investment decisions impact the financial, tax, and estate planning areas of a client's life. As such, if this line of reasoning is to be pursued, the framework should be amended to set a standard where the credential would provide the financial advisor a deep knowledge of one topic area, and a more general knowledge of areas impacted by decisions in the primary topic area. We would also like to propose the following rewording to Section 7 - Credentialling Criteria - Financial Advising in order to accomplish this.

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:

(i) the Canadian financial services marketplace and regulatory environment;

(ii) the products and services provided by the individual;

(iii) ethical practices and professional conduct;

(iv) dealing with conflicts of interest;

(v) collecting personal and financial information;

(vi) defining and disclosing to the client at the time of engagement the scope of engagement and areass of expertise

(vi) identifying client objectives, needs and priorities; and

(viii) providing suitable financial and investment recommendations to a client within the FAs area of expertise while considering the alternatives and implications of said while considering the alternatives and implications recommendations as integrated with the clients circumstances and the client's best interests.

In addition, as is the case with the Financial Planner designation, our greater concern is that of where the level of proficiency gets set. We recommend that the proficiency level required for each single topic area that would qualify one for the Financial Advisor title be set at the same level as the Financial Planner title or the identification of an existing credential for each topic area that could serve as a proficiency benchmark. For insurance, the CIM could serve as a benchmark for those in the investment industry, and the CLU for those in the insurance industry.

Lastly, we wish to note in particular that the only way to ensure said level of proficiency is to monitor the rigorousness of evaluation as part of this framework. Otherwise, courses could be developed that suitably cover all topic areas but set a very low bar to pass the course. As has been noted in Ontario, designations without the requirement for any exam that can be accomplished via a weekend seminar have been approved for use of the FA title. This has the effect of diluting the FA title to the level of being practically meaningless.

3 – Decrease in Harmonization

> *Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different education programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan. While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization. Also please provide comments regarding any other potential disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain the FA credential results in a need for consequential amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerns whether the transition period for an FA's compliance with the FPFAA set out in section 9(3) of the Proposed*

Regulations should be lengthened to match that of an FP?

The protection of the Financial Planner and Financial Advisor title should be first and foremost a consumer protection initiative.The validation of professionals who meet a rigorous standard, to distinguish them from those who do not, should be of secondary concern. The concept of being fair to all in industry should not be a concern.

Any desire to harmonize across provinces should be based first and foremost on evidence that the province that is being harmonized with has effectively implemented a meaningful and impactful standard.

Unfortunately, we are of the opinion that the implementation of similar legislation has fallen far short; we have identified several areas of concern with approved credentialing bodies and credentials.

First, in regard to credentialing bodies, Ontario has approved more than one body with no history or demonstrated capacity for enforcement. Given the legislation in Ontario delegates enforcement to the credentialing body, this should be reason for serious concern.

Secondly, several credentials have been approved for the Financial Planner title that do not meet the body of knowledge spelled out in ISO code 22222:2005 and, in our opinion, test their members at a level of proficiency that is insufficient as to prove any level of mastery of the covered topic matters.

In regard to the implementation of the Financial Advisor title, we have even greater concerns over implementation. The most alarming decision made in regard to this title was the recent approval of the Canadian Securities Institute's Designated Financial Services Advisor (DFSA) designation. This is a brand new designation that can be obtained by taking one of two licensing courses, the IFC or CSC. The only additional requirement is that the credential holder complete one of three additional education paths within two years. It just so happens that the initial criteria for approval for this credential is one of two licensing courses held by every advisor registered under the MFDA or IIROC, thereby qualifying over 100,000 advisors in this country for this designation with no additional upfront work other than completing a form and inputting credit card information. The approval of this credential constitutes nothing short of a rubber stamp on the entire industry and accomplishes nothing in the way of protecting consumers or professionals.

The experience in Ontario should be cause for alarm in Saskatchewan and we strongly encourage the FCAA to not prioritize harmonization with Ontario but instead set a higher bar for this act that results in meaningful consumer protection.

Furthermore, if harmonization is to be considered at all in regard to the Financial Planner title, the focus should be on harmonization with Quebec and not Ontario. Quebec implementation of title protection effectively set a bar of proficiency in line with international standards and has also set what is likely the highest standard in the western hemisphere.

As stated in our previous submission, we feel that the benchmark for the Financial Planner title

should be the standard currently set by FP Canada – not only because the CFP® is the industry-standard designation for financial planning, but also because FP Canada has aligned itself with the L'Institut québécois de planification financière (IQPF), the body which sets the Quebec standard for their equivalent Pl.Fin. designation. Such a proficiency standard would not only set a high standard that consumers could trust, but it would also align Saskatchewan with Quebec and be the first step towards what could be a national standard for the FP title.

4 – Mandatory disclosure of credentials

> *We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Please comment on whether this additional disclosure requirement is preferred and the form that it should take. Also please comment on whether this additional disclosure is warranted if the Comprehensive Approach to the FA BCP, as described under the Approval criteria for credentials heading, is adopted.*

One of FPAC's founding principles is the belief in full and transparent disclosure. As such, it is our position that clear, simple, and plain language disclosure should be provided to the client in four ways:

1. A one-page disclosure that confirms to the client that the title used by the professional is a protected title, that the designation or designations grant them access to use of the title, and the scope of areas of expertise associated with the designations. This document should be signed by the client and kept in the advisor's files.
2. A pamphlet that is to be provided, either digitally or in print form, to the client explaining the standards and framework set by FCAA in order to ensure consumer protection through title protection.
3. A public directory of all titled Planners and Advisors, the designations granting them the use of said title, and other relevant information, should be maintained by FCAA so that the public can at any time confirm a professional's right to use said title and disciplinary history in all jurisdictions.
4. A blockchain-supported credential verification system should be put into place. Currently, both FP Canada and the CFA Institute have implemented these solutions utilizing credential.net and banso.com respectively. These systems create a link that is to be used on the title-holder's LinkedIn profile and website, that when clicked, takes the consumer to a page that verifies their credentials.

We believe that the combination of the above disclosures, along with a public awareness campaign, would work to sufficiently educate consumers on both the title protection initiative and the reason their Financial Planner or Financial Advisor has earned the right to use said title.

At a minimum, we believe that the designation allowing the individual to use the title should be required in such a way as to provide information about the exact nature of the individual's training & experience. This is particularly important for FA title holders since the FA title lacks

an internationally recognized standard definition.

5 – Transition Date and Implementation Period

> *We are seeking feedback on two items. Please advise:*
>
> a) *whether you support an implementation period and provide a suggested length of time for said period; and*
>
> b) *whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force. In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects that an alternate date may have on the protections afforded by the legislation as well as the implementation*

We at FPAC believe there should be no additional implementation periods. Once sufficient time has passed that would be required to validate the credentialing bodies and credentials in question, we believe that industry participants should be given no more than six months to come into compliance. In addition, we believe that the transition date should remain as July 3, 2020. If individuals were not using the title in question before that date, they should not be able to use the title until they obtain an approved credential.

The FPFAA is a consumer protection, not industry protection, law. An implementation period as stated in the initial draft regulations would not provide consumers with protections for four years for the FP title and two years for the FA title. At a minimum, we do not support the expansion of the FA implementation period to four years since these credentials are less rigorous than FP ones.

While we appreciate the need for industry participants to be given adequate time to meet these standards, we believe the period in question does not consider the fact that this act was first announced in July 2020. The announcement of the Act and subsequent period of developing supporting regulation has provided industry participants with ample opportunity to obtain a credential that would likely be covered by this framework. We believe that this has actually been the case as FP Canada has seen an increase in the number of people registered to write exams that would qualify them for the CFP nearly double from 945 in July of 2017[1] to 1,832 in its more recent sitting[2]. While this cannot be fully attributed to the FPFAA and legislation proposed or enacted in other jurisdictions, the correlation cannot be ignored.

While no participant has foreknowledge of which credentials will qualify for which title, it is safe to assume that more prominent designations like the CFP for the Financial Planner title and the

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[1] https://www.advisor.ca/news/industry-news/74-pass-june-cfp-exam-on-first-try/

[2] https://www.fpcanada.ca/news?Id=record-number-of-candidates-wrote-november-cfp-exam

CIM for the Financial Advisor title would likely qualify.

The industry has gotten the message and, therefore, we believe that no further extension should be given beyond the time required to certify the credentialing bodies and credentials. Any further delay comes at a cost to the consumer and benefit to the industry, which is against the primary reason for this legislation.

6 – Fees and Fee Structure

Please provide your feedback regarding the proposed fee structure and amounts.

One of our concerns regarding title protection initiatives across the country is that these initiatives are being made on a province- by- province basis and has us concerned with both the potential duplication of costs, which could in turn make involvement even less economically feasible.

We are pleased to see that the fees proposed by the FCAA are, in our opinion, not burdensome and we have no concerns about the level of funding so long as the FCAA believes that this initiative can be financed at the stated level of funding.

Closing Summary

In closing, we at the Financial Planning Association of Canada thank you for the opportunity to provide commentary regarding this important issue. We hope that you have found our submission to be in keeping with the intended spirit of consumer protection and in keeping with our goal of the professionalization of the financial planning industry. It is our hope that you will see fit to implement our recommendations as outlined. We will also continue to make ourselves available for further input and support of this initiative and look forward to reviewing the final framework for implementation.

FSRA
Financial Services Regulatory Authority of Ontario

Ontario

ARSF
Autorité ontarienne de réglementation des services financiers

www.fsrao.ca

25 Sheppard Avenue West,
Suite 100
Toronto, ON
M2N 6S6

Telephone: 416 250 7250
Toll free: 1 800 668 0128

25, avenue Sheppard Ouest
Bureau 100
Toronto (Ontario)
M2N 6S6

Téléphone : 416 250 7250
Sans frais : 1 800 668 0128

September 9, 2022

[redacted]
Insurance and Real Estate Division
Financial and Consumer Affairs Authority of Saskatchewan
601 - 1919 Saskatchewan Drive
Regina, Saskatchewan
S4P 4H2

Dear Mr. [redacted]

The Financial Services Regulatory Authority of Ontario (FSRA) thanks the Financial and Consumer Affairs Authority of Saskatchewan (FCAA) for the opportunity to provide our comments on the revised Proposed Regulations [2022-01] – The Financial Planners and Financial Advisors Regulations (the Proposed Regulations) under *The Financial Planners and Financial Advisors Act* (FPFAA).

FSRA commends FCAA for its efforts to create minimum standards regarding the use of Financial Planner (FP) and Financial Advisor (FA) titles in Saskatchewan, with a focus on enhancing consumer / investor protection as well as confidence in the quality of services they receive from individuals using these titles.

FSRA has reviewed the *Notice of Proposed Regulations and Request for Further Comment* (the Notice), and our comments will primarily focus on:

1. Approval criteria for FA credentials; and
2. Harmonization.

In 2019, the Government of Ontario introduced the *Financial Professionals Title Protection Act, 2019* (FPTPA) to limit the use of FP and FA titles in Ontario to individuals who have obtained a credential from a credentialing body approved by FSRA. On March 28, 2022, the FPTPA was proclaimed into force and FSRA implemented the FP/FA Title Protection Framework.

The primary objective of the title protection framework in Ontario is to create minimum standards for title usage for the protection of consumers and investors, without creating unnecessary regulatory burden for market participants.

FSRA has established a framework that provides confidence to consumers that the individual they are dealing with:

- Has a minimum standard of education;
- Is being actively supervised; and
- Is subject to a complaints and discipline process.

Approval of FA Credential

The Notice proposes to amend the FA Baseline Competency Profile (BCP) to bring it more in line with the minimum standard for FP title use. FCAA proposes utilizing a "comprehensive approach" to determine the knowledge and competencies for FA title use. It is FSRA's view that this approach does not align with current consumer expectations and may increase burden and costs for market participants.

In establishing its minimum education standard for FA title use in Ontario, FSRA conducted an extensive review of licences and designations in the marketplace. This helped to establish a benchmark of the technical knowledge, professional skills and competencies that would reasonably be expected of FA title users.

Based on stakeholder feedback and consumer research, FSRA finalized its minimum standard for the approval of an FA credential to include a focus on common investment products, and how those products should be considered with respect to other areas of financial advice. Findings from FSRA's consumer survey conducted in Fall 2020 supported FSRA's approach, as consumers expect an individual who uses the FA title to be well placed to provide investment advice (76%).

Increasing the FA standard to almost mirror the FP standard does not align with the needs of the average retail consumer/client and could lead to decreased access to financial advice for consumers who may not be able to afford the type of advice provided by such an individual.

For financial planners, the title protection framework further legitimized a profession that was already well established and respected in the financial services marketplace. Closing the gap between the two titles could potentially devalue the FP title and the services that can be provided by those who hold an existing financial planning designation.

Establishing a higher bar for FA title use could lead to increased burden and costs for organizations already approved as credentialing bodies in Ontario as well as individual title users. In order to obtain approval in Saskatchewan, a credentialing body may have to make significant amendments to their existing credentialing programs in order to

meet the proposed standard. In addition, individuals may be required to obtain a new credential in order to use or continue to use the FA title.

Overall, FSRA is supportive of increased standards for FPs and FAs. However, the creation of a new standard of advisor could present undue burden for many title users. This would not align with the goals and objectives of Ontario's title protection framework.

Harmonization

FSRA acknowledges the benefits of a harmonized approach between jurisdictions that are currently in the process of, or considering, implementing similar title protection frameworks. FSRA designed its framework in a way that could be adopted by other Canadian jurisdictions.

Throughout the consultation process for Ontario's title protection framework, the majority of stakeholders agreed on the need for a harmonized approach to FP/FA title protection across Canada, to the extent possible.

- Consumers across the country would benefit from a harmonized approach, as concerns relating to title confusion and the lack of minimum standards for title users are not specific to Ontario.
- All of Ontario's approved credentialing bodies operate nationally. A harmonized regulatory approach for title use would likely support efficiencies in the application process as well as compliance standards.

FSRA welcomes collaboration and harmonization with FCAA and other jurisdictions to ensure that FP/FA title users and credentialing bodies are subject to consistent standards across the country.

Thank you again for the opportunity to respond to your consultation. FSRA would be pleased to continue discussions with FCAA about this important initiative.

Sincerely,

FP Canada

Advancing Professional Financial Planning

FP CANADA™ RESPONSE TO FINANCIAL AND CONSUMER AFFAIRS AUTHORITY OF SASKATCHEWAN (FCAA) CONSULTATION ON PROPOSED FINANCIAL PLANNER AND FINANCIAL ADVISOR REGULATIONS

September 20, 2022

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FP Canada®
Advancing Professional Financial Planning

INTRODUCTION

FP Canada is pleased to respond to Financial and Consumer Affairs Authority of Saskatchewan (FCAA) Proposed Regulations [2021-001], *The Financial Planners and Financial Advisors Regulations* (the Proposed Regulations) under *The Financial Planners and Financial Advisors Act* (FPFAA).

A national professional body working in the public interest, FP Canada is dedicated to championing better financial wellness for all Canadians by leading the advancement of professional financial planning in Canada. FP Canada is the leading certification and enforcement body for professional Financial Planners in Canada. There are about 17,000 CERTIFIED FINANCIAL PLANNER® professionals and about 1,900 QUALIFIED ASSOCIATE FINANCIAL PLANNER™ professionals who meet FP Canada's rigorous professional and ethical standards, over 700 of whom are in Saskatchewan.

We commend the FCAA and the Government of Saskatchewan for undertaking this consultation, and for the significant work that has been done to date on developing the FPFAA.

We are supportive of the FPFAA and its consumer protection intent. We believe that this legislation, supported by rigorous regulations and proper implementation, will serve the best interests of consumers in Saskatchewan. Now more than ever, we believe this level of consumer protection is essential to ensuring that when families in Saskatchewan seek financial advice, they can be confident in the professionals they work with.

Serving the public interest is central to the work FP Canada does. In preparation for this submission, FP Canada commissioned consumer research in Saskatchewan so that we could firmly ground our consultation question responses in the consumer perspective. Working with a third-party research firm, we conducted an online survey between September 1, 2022, and September 6, 2022, with a sample size of 600 responses from Saskatchewanians, with a margin of error of +/- 4.0% 19 times out of 20.

The results of this research are incorporated throughout our submission. Before going in depth on findings around implementation of the legislation, we would note that support for the legislation remains high. In total, 79% of respondents in Saskatchewan indicated that they approve of "*the Saskatchewan Provincial Government passing title protection legislation in order to provide clarity and help protect consumers*." Interestingly, 54% strongly approve and only 2% either strongly or somewhat disapprove.

Question 1: Credentialing Bodies (CBs) – Process When Approval Revoked or Operations Cease

Credentialing Body and Credential Approval Process

To avoid a situation where a CB's approval is revoked, or a CB's operations cease while under the FPFAA, **we recommend that as part of the FCAA's application review process, the FCAA not approve CBs or credentials that require extensive terms or conditions to be attached in order to meet the requirements for approval.**

For consumers to benefit from the protections provided by the FCAA's implementation of the FPFAA, their confidence in a CB's stability and competence, and the competency of their credential holders,

must begin at the moment of approval. Any gap in meeting the minimum standards established by the FCAA for a CB or a credential only serves to erode consumer confidence in the efficacy of the title protection framework.

An extensive list of terms or conditions that a CB or a credential must meet to maintain its approval under the FPFAA is an indicator that, at the moment of approval, the CB or credential has not yet met the minimum standard set by FCAA and, accordingly, should not be approved.

Paths to Certification

In the circumstance where a CB's approval is revoked, it will be in the public interest for its credential holders to be provided with the opportunity to efficiently earn a credential from another approved CB.

Most CBs, including FP Canada, already have specific, expedited paths to certification for professionals holding credentials, licenses, or qualifications from other credentialing or professional bodies. These pathways provide recognition of the education individuals have already earned and the standards they have met.

We recommend that these paths to certification be relied upon as much as possible so that, if necessary, a credential holder is brought under another existing CB's oversight in a way that leverages that CB's existing processes.

Role for the FCAA

In the circumstance where a CB ceases operation immediately and without warning, **we recommend the FCAA have a role in overseeing its credential holders until they can leverage an alternate certification pathway, or another solution can be sought.**

The credential holders in this situation will likely have no warning or control over the operations of a CB and should not be unduly penalized.

Question #2: Approval Criteria for Financial Advisor (FA) Credentials

Raising the Baseline Competency Profile (BCP) to Match Consumer Expectations

The FCAA references stakeholder input in support of raising the BCP for FAs to match to consumers' expectations and the fact that the existing Product-Focused Approach precedent set by FSRA in Ontario does not reflect the nature of consumers' expectations or their specific needs when engaging with an FA.

Based on the discussion in the consultation paper, the assumption would seem to be that most Canadian consumers have financial situations so complex they would require their advisors to have "comprehensive" technical expertise (including expertise in estate planning, tax planning, retirement planning, investment planning, financial management and insurance and risk management), in addition to competency pertaining to products and services. However, our consumer research does not indicate this is the case.

As part of our consumer research in Saskatchewan we asked consumers to indicate what type of advice they would expect from an FA. The result was 60% of respondents indicated that they expected investment advice – the number one expectation. Only 7% indicated that they expected advice from an FA in all the technical areas that the FCAA is consulting on requiring for FA title use.

Through this consumer research we were able to further explore the consumer value proposition associated with implementation of the FPFAA. The research indicated that consumers had strong opinions about the importance of the distinction between FPs and FAs and how the FCAA defines the qualifications for these credentials.

When asked, 85% of consumers agreed that "*the qualifications for Financial Planners and Financial Advisors* ***should be distinct and different so that consumers can determine which advice professional best suits their needs***."

Similarly, 87% agreed that "*the qualifications for Financial Planners and Financial Advisors should be designed to ensure that* ***the consumer clearly understands what advice Financial Planners are qualified to provide and what advice Financial Advisors are qualified to provide*****."**

Digging deeper into the specific issue regarding qualifications, we presented consumers with the proposed set of qualifications for FPs and FAs where the only differentiator is that an FP can provide a financial plan – with knowledge and competency in the technical areas being the same.

Consumers in Saskatchewan were asked to agree or disagree with a number of statements about the proposed new direction for FA credential competency. Overall, 65% of respondents agreed that *"[b]ecause these* ***qualifications for Financial Planner and Financial Advisor are too similar, it will make it too difficult to understand the difference between them*** *so the consumer can select which type of advice/service provided best meets their needs." Likewise,* 67% of respondents agreed that "***these qualifications for Financial Planner and Financial Advisor are too similar,*** *if the only difference is that a financial planner can provide a financial plan and a financial advisor cannot."*

Our consumer research in Saskatchewan, therefore, does not support the proposed requirements that the BCP for FA include the same knowledge and competency areas as FP.

(Amended October 28, 2022)

Following closure of the formal consultation period, FP Canada has continued to engage in discussions with consumer advocacy groups and other sector stakeholders on this consultation question.

In light of these discussions, we would propose an alternative approach to enhancing the FA BCP; one that raises the competency bar for FA credential holders to better serve consumers, without eroding the critical distinction between FP and FA credentials or decreasing harmonization with Ontario to the point that it would be detrimental to consumers or other framework stakeholders. As well, while our proposal would enable FA credential holders to better serve the consumer, it would not raise the bar so high as to risk reducing the availability of those services for consumers.

Specifically, we recommend that the FCAA expand the current BCP approval criteria under the Product-Focused approach to include a new requirement that FA credentials not only require education related to the products and services by an individual but must also require **an understanding of the implications of the products an individual recommends on other areas of the client's financial picture**.

For discussion purposes we have had conversations with stakeholders in the sector and while some of the wording may be slightly different, we believe there is general agreement around the sentiment to raise the BCP FA criteria bar slightly as proposed below, but not so high as to mirror the BCP for FP.

(Note: new language is proposed in red below)

> *S.7(1)(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:

(i) the Canadian financial services marketplace and regulatory environment;

(ii) the products and services provided by the individual;

(iii) ethical practices and professional conduct;

(iv) dealing with conflicts of interest;

(v) collecting personal and financial information;

(vi) defining and disclosing to the client at the time of engagement the scope of the engagement and area of product expertise;

(vi) identifying client objectives, needs and priorities; and

(viii) providing suitable financial and investment recommendations to a client within the FA's area of product expertise while considering the alternatives and implications of those recommendations as integrated with the client's circumstances and the client's best interests.

We would emphasize that this expanded Product-Focused approach, based on a new requirement to understand the implications of the products an individual provides on other areas of the client's financial picture, is intended as a higher minimum standard for FA credential approval, not as a cap on an individual FA's capabilities or possible areas of expertise. In this regard, to drive clarity to the consumer, we further recommend that language be added to the FA criteria to include a disclosure to the client in the initial terms of engagement around the scope of their area(s) of expertise so that the client has a clear understanding of the FA's competencies.

By taking this expanded Product-Focused approach, the proposed BCP enhances the expectations of the competencies an FA must possess but does not raise the bar to such a level so as to preclude the opportunity for harmonization with Ontario.

Professionals Specializing in a Single Area

There are many professionals in the financial services sector today who are experts in specific areas under discussion (e.g., insurance planning, tax planning, retirement planning, estate planning, wills, etc.), and they focus on one of these single areas in their professional practice.

With the proposed requirement for knowledge and competency in all of "*estate planning, tax planning, retirement planning, investment planning, finance management and insurance and risk management*"[1] for FA title use, the FCAA is potentially inhibiting the kinds of specialized individuals mentioned above from participating in the FPFAA title protection framework by requiring them to obtain additional education and training outside their area of practice or specialization, thus eroding the overall efficacy of the legislation.

[1] https://fcaa.gov.sk.ca/public/CKeditorUpload/Notice_of_Proposed_Reg_and_Request_for_Comment_for_FPFA_Regulations_APPENDIX.v3.pdf

In addition, if they were to upskill to meet the FCAA's standards for FA title use under the title protection framework, their cost of service to the consumer may also increase to a level that places them out of reach for many.

However, by enhancing the BCP for FAs as we have articulated above, it would allow individuals working in specialized areas to continue to provide these services while ensuring that consumers are also aware of how that advice impacts other elements of their financial picture.

Summary

We recommend that, in the public interest, the FCAA keep the BCPs for FPs and FAs clear and distinct from one another. We recommend that, based on consumer research in Saskatchewan, the FCAA not increase the FA BCP as proposed. The framework creates two separate and distinct types of credentials to ensure consumers have choice as to the type of professional needed to provide them with financial advice that meets their diverse needs.

Question #3: Decrease in Harmonization

As stated by the Government of Saskatchewan on December 2, 2019, upon the introduction of the FPFAA*, "[i]mplementing legislation similar to The Financial Professionals Title Protection Act, 2019 in Ontario will allow for consistency between jurisdictions and reduce the risk of duplicate or differing credentialing requirements for industry members."*[2]

We fully agree with the concerns and potential consequences – especially for consumers – that the FCAA has outlined in the consultation paper, including "*fewer approved FA credentialling bodies in Saskatchewan and fewer options for consumers or investors to obtain financial advice. It will also mean that FA credentialling bodies may need to incur additional regulatory burden to be approved in Saskatchewan."*[3]

We agree with the importance the Government of Saskatchewan places on the need for consistency between jurisdictions to reduce the risk of duplicate or differing credentialing requirements.

While there will undoubtedly be minor areas where a provincial jurisdiction may implement its respective title protection framework in a way that does not completely harmonize with other jurisdictions (in ways that do not impact consumer expectations or protections), for the consumer to have clarity and confidence in an individual providing professional financial advice, there must be consistency across the fundamental elements that drive the consumer protection embodied in the title protection framework.

The criteria for FP or FA title use are the most important elements that should be harmonized across jurisdictions. It is the foundation upon which consumer clarity and confidence are built, and from the research we have seen, it is fundamental to helping consumers navigate a complex financial services sector to discern which advice best suits their needs.

When we asked consumers in Saskatchewan about this aspect of FPFAA implementation, 83% of respondents indicated that "*the qualifications for Financial Planners and Financial Advisors should be*

[2] https://www.saskatchewan.ca/government/news-and-media/2019/december/02/financial-planners-act
[3] https://fcaa.gov.sk.ca/public/CKeditorUpload/Notice_of_Proposed_Reg_and_Request_for_Comment_for_FPFA_Regulations_FINAL.v2.pdf

consistent with other provinces *so consumers in Saskatchewan and across Canada* ***can benefit from the clarity and consistency from Financial Planners and Financial Advisors regardless of where they are located."***

When presented with the competency profiles for FPs and FAs under the Comprehensive Approach, 71% agreed that "*if the qualifications for* ***Financial Advisors*** *are not in line with other provinces,* ***consumers will be confused***," and 68% indicated "*if these qualifications are not in line with other provinces,* ***consumers in Saskatchewan will not receive clear and consistent advice and services from Financial Planners and Financial Advisors as in other provinces****."*

Based on the importance that the Government of Saskatchewan has placed on consistency across jurisdictions in the implementation of the FPFAA, and the corresponding importance that the Saskatchewan consumer places on it, **we recommend that FCAA not decrease the harmonization with other jurisdictions, particularly pertaining to the BCP for FAs**. The consumer in Saskatchewan does not appear to support the direction the FCAA is consulting on.

Question #4: Mandatory Disclosure of Credentials

Disclosure of Product Authorized to Sell

(Amended October 28, 2022)

As discussed above in our amended response to Question 2 above, to drive clarity to the consumer, we recommend that language be added to the FA criteria to include a disclosure to the client in the initial terms of engagement regarding the scope of their area(s) of expertise so that the client has a clear understanding of the FA's competencies.

Credential Disclosure

We support requiring FP and FA title users to disclose the approved credentials they hold to consumers.

While we are supportive of a credential disclosure requirement, note that the ability to enforce such a requirement by CBs is limited. We therefore **recommend FCAA set out the disclosure requirement in regulation so there is clarity for credentials holders and for CBs who are responsible for enforcement if a credential is not disclosed to a client.**

We further recommend that FCAA accept an attestation-based approach to a disclosure requirement, whereby, as part of their annual certification renewal with their CB, credential holders would be required to annually attest to disclosure of their credential to clients in the manner set out in regulation.

Question #5: Transition Date and Implementation Period

Implementation Period

While we do not believe an implementation period is ultimately necessary to facilitate a smooth transition, if the FCAA believes it would be beneficial, we would support a short implementation period (e.g., 3 months as proposed in the consultation document).

From a consumer standpoint, the implementation period should be as short as possible so as to not delay the opportunity for the consumer to receive the clarity, confidence, and consumer protection enhancements contained within the FPFAA and the Regulations.

To reduce the need for a lengthy implementation period, or to help avoid the need for one altogether, we recommend that a significant amount of review and consideration of CB applications and credential approvals be done in advance of the coming into force by the FCAA, with final approvals to be provided immediately once the transition period starts (if one is adopted), or otherwise immediately after coming into force. This limits the amount of communication points and provides for clear, consistent messaging across jurisdictions – to both Saskatchewan consumers and industry.

Transition Date

We support an adjustment for the transition period to begin when the FPFAA and the Regulations come into force.

We understand the rationale behind the July 3, 2020, date, which follows the passage of the FPFAA. While this moment did indicate government policy direction to the sector, it is a nuanced moment that is likely to be lost on many industry participants. In Ontario, where the same approach to a transition date was employed, it did appear to cause confusion among some framework stakeholders.

As such, for sector clarity, **we recommend amending the transition date to begin when the FPFAA and accompanying Regulations come into force.**

Industry will benefit from a clear understanding of where the FCAA lands on this issue, and this will need to be well communicated to industry so they can prepare accordingly.

Question #6: Fees and Fee Structure

We appreciate that there is government investment in this public policy initiative, and the fact that it is not operating on a pure cost-recovery basis which would result in a financial burden that is too heavy for those CBs and credential holders operating within the framework.

We support the need for application fees associated with the framework and a regulatory fee per credential holder that an approved CB oversees. We are confident that there is significant value to credential holders associated with the title protection framework for them to help support the estimated costs proposed by the FCAA to maintain the framework.

We believe this value will be further amplified through a consumer education campaign to ensure that consumers understand that credential holders overseen by this framework have the necessary training, skills, and ethics to provide financial planning or advisory services to them.

However, while consumer protection is at the heart of the framework, fees must be kept to a reasonable level and the costs of operating the framework must be carefully monitored, controlled, and fully transparent.

What we see as missing from the consultation paper is a forum for fee discussion; the mechanisms to provide certainty around future fees; and associated transparency to understand the fee, budgets, and overall costs of the program. For instance, it is difficult to provide input on the appropriateness of a potential $50 fee without understanding if it includes allocation for things like a consumer education campaign, support for IT infrastructure and/or enforcement oversight.

Ultimately, it will be credential holders who must bear most of the costs associated with the framework, many of whom are small business owners. Therefore, it is essential to ensure the cost of establishing and maintaining the framework balances the need for strong and effective consumer protection while also being judicious as to associated costs for credential holders.

We recommend that the FCAA take the appropriate steps to ensure there is transparency and stability around fees, budgets, and the overall cost of the framework. We further recommend that the FCAA convene a stakeholder group to support and discuss the implementation of the FPFAA and provide a venue for input pertaining to the fees associated with the ongoing operation of the framework.

Taking these steps, CBs and credential holders will be able to derive certainty around fees and plan accordingly.

Contact Details

FP CANADA™

902-375 University Avenue, Toronto, Ontario M5G 2J5

416.593.8587 | 1.800.305.9886 | fpcanada.ca

Financial and Consumer Affairs Authority of Saskatchewan

601, 1919 Saskatchewan Drive

Regina, SK S4P 4H2

Attention: [redacted], Policy and Programming Officer Insurance and Real Estate Division

finplannerconsult@gov.sk.ca

Financial and Consumer Affairs Authority of Saskatchewan

Notice of Proposed Changes and Request for Further Comment

Proposed Regulations [2022-001] The Financial Planners and Financial Advisors Regulations

I welcome the opportunity to respond to the Financial and Consumer Affairs Authority of Saskatchewan (FCAA or the Authority) request for additional feedback on the Proposed Regulations [2022-001] – The Financial Planners and Financial Advisors Regulations (the Proposed Regulations) under The Financial Planners and Financial Advisors Act (FPFAA). I note that this is a second consultation and I commend the FCAA, after considering comments received during the initial consultation, for recognizing that the Proposed Regulations are problematic and merit a rethink. While the six specific questions posed in this second consultation reflect key problems with the Proposed Regulations, they do not address the fundamental flaw of the FPFAA in effectively validating the 'financial advisor' title.

In framing the FPFAA the FCAA chose to follow the approach adopted by Ontario rather than the more established approach now in place in Quebec. Most significantly, the Saskatchewan legislation, like Ontario's, proposes to regulate both the financial planner and financial advisor titles, whereas Quebec limits its regulation to the financial planner title. I submit that the Quebec approach appropriately filled a longstanding regulatory gap with respect to the financial planning title; while the Ontario approach overreached by choosing to regulate both the financial planner and financial advisor titles under the same legislative framework. The potential confusion and complication arising from the conflation of these two titles under a single regulatory framework is reflected in most of the specific questions posed by the Authority in this second consultation.

I appreciate and share the FCAA's desire to achieve harmonization with its Proposed Regulations, but harmonization cannot be used as a justification for introducing confusing or unnecessary legislation. With the benefit of now seeing how the Ontario legislation is being implemented, I am more convinced

that the Proposed Regulations should not be pursued in their current form. Specifically, I support the regulation of the financial planner title as currently proposed in the FPFAA. For one thing, currently the financial planner title is not regulated in Saskatchewan, so in addition to introducing some discipline around this title the Proposed Regulations will not duplicate existing rules nor conflict with the. Second, financial planning is a recognized and well-defined profession that imposes specific proficiency and ethical expectations on individuals who hold the title of financial planner. The ISO (the International Organization for Standardization), a worldwide federation of national standards bodies (ISO member bodies), has developed *ISO/TC 222, Personal financial planning* with the objective of achieving and promoting a globally accepted benchmark for individuals who provide the professional service of personal financial planning. Consequently, regulating the title financial planner in Saskatchewan at this time is appropriate, will not be duplicative and will not create any unnecessary confusion.

The same factors that argue in favour of regulating the financial planner title, argue against regulating the financial advisor title in Saskatchewan currently. While it is true that the specific title of financial advisor is not regulated in Saskatchewan, similar titles are. Under securities law 'adviser' is a legal term that describes a range of people that can give advice about securities. Over time, however the industry has adopted a variety of unregulated titles, such as investment advisor, financial advisor, investment consultant or investment specialist to describe these individuals. As a result, including the financial advisor title in the FPFAA is destined to create confusion and duplication given the widespread and unregulated use of the title financial advisor at this time. Second, unlike financial planner, financial advisor is not a well-defined profession. Consequently, it will prove incredibly difficult if not impossible to achieve a consistent level of proficiency and professionalism across the multiple bodies that will be accredited to confer the title in Saskatchewan. Third, and potentially most concerning, using the same legislative framework to regulate both the financial planner and financial advisor title in Saskatchewan runs the very real risk of conflating both titles in the minds of the typical retail investor. The subtilty in the distinction between planner and advisor that is readily apparent to regulators and industry insiders is unlikely to be as obvious to individuals looking to receive unconflicted professional advice about their finances.

In lieu of regulating the financial advisor title in the same fashion as the financial planner title, I recommend that the FCAA consider aligning its regulation of the financial advisor title with the approach adopted in the client focused reforms (CFRs) and specifically National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and its related Companion Policy. The

approach in the CFRs was the product of concerns held by securities regulators and investor advocates over the years that some registered firms and individuals were using confusing or misleading titles of themselves and their services. New section 13.18 of NI 31-103 that came into effect on December 31, 2021, prohibits registrants from holding out their services in any manner that could be expected to deceive or mislead any person about:

> their proficiency, experience or qualifications;
>
> the nature of the person's relationship or potential relationship with the registrant; or
>
> the products or services provided or that might be provided.

The policy also recommends that firms consider whether a particular designation has a rigorous curriculum, examination process and experience requirements issued by a reputable or accredited organization when deciding whether to approve the designation's use.

I recommend that the Proposed Regulations be harmonized with this CFR policy by banning rather than validating the use of the confusing and potentially misleading title 'financial advisor.' In its place, the Proposed Regulations should establish that any individual registered to sell financial products and wanting to use 'advisor' in her title be required to qualify the term with a domain specific descriptor that reflects the registration credentials that she has earned, e.g., Investment Advisor or Insurance Advisor. This approach would have two immediate benefits. One, it would eliminate the potential conflation of the financial planner and financial advisor titles. Second, it would align with current securities regulation in Saskatchewan and across the country and, as a result, create less potential duplication or confusion than the Proposed Regulations.

I trust that the Authority consider this alternative approach. In addition to the benefits noted above, this alternative approach would render mute a number of the questions posed by the Authority in this consultation. Nevertheless, I will try to answer them as best I can:

Credentialing Bodies – Process when Approval Revoked or Operations Cease

1. The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked, or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should

be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.

I submit that credential holders from a credentialing body that is no longer active or approved for some reason immediately lose their ability to use the FP or FA title. This consequence will discourage individuals from gravitating to credentialing bodies with the lowest proficiency standards and lightest enforcement touch. A single credentialing body would alleviate this issue.

Approval Criteria for FA Credentials

2. We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e., Estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management). The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client, whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies. In considering this approach, please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectations and better alignment with other existing financial sector regulatory frameworks. Also please comment on whether there are any other advantages the Comprehensive Approach has over the Product-Focused Approach not identified in this paper.

This question goes to the heart of the fundamental issue that I have with the Proposed Regulations. The subtle difference that the Authority identifies between a financial planner and a financial advisor is invisible to most lay persons and consequently will be ineffectual in informing consumer expectations and improving consumer protections.

Decrease in Harmonization

3. Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different education programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan. While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing

financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization. Also please provide comments regarding any other potential disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain the FA credential results in a need for consequential amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerns whether the transition period for an FA's compliance with the FPFAA set out in section 9(3) of the Proposed Regulations should be lengthened to match that of an FP?

I urge the Authority to not harmonize with the FSRA framework. Unlike the Authority, which is a comprehensive provincial financial regulator, FSRA does not regulate securities in Ontario. Consequently, when identified by the government as the body that would oversee the financial planner and financial advisor title in Ontario, the accompanying legislation incorporated an awkwardness that reflected Ontario's regulatory structure that is different from that in Saskatchewan

Mandatory disclosure of credentials

4. We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Please comment on whether this additional disclosure requirement is preferred and the form that it should take. Also please comment on whether this additional disclosure is warranted if the Comprehensive Approach to the FA BCP, as described under the Approval criteria for credentials heading, is adopted.

While this question becomes mute under the approach that I am proposing, to the extent that the Proposed Regulations go forward, I support as much additional disclosure as possible. The lay public are both trusting and vulnerable. As a result, I support mandating as much plain language non-jargon in title vocabulary as possible and making as much information as possible available on a searchable database.

Transition Date and Implementation Period

5. We are seeking feedback on two items. Please advise:

a) whether you support an implementation period and provide a suggested length of time for said period; and

b) whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force. In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects

that an alternate date may have on the protections afforded by the legislation as well as the implementation process

While I reflexively support as early a transition date and as short an implementation period as possible, I lack the knowledge and information necessary to provide an informed response to this question

Fees and Fee Structure

6. Please provide your feedback regarding the proposed fee structure and amounts.

Again, I defer from answering because of inadequate information but remind the Authority that regardless of the designated payee of the fee it will be borne by the individuals seeking financial plans and financial advice.

Independent Financial Brokers of Canada
740-30 Eglinton Avenue West, Mississauga, ON L5R 3E7
www.ifbc.ca

September 20, 2022

Financial and Consumer Affairs Authority of Saskatchewan (FCAA)
Insurance and Real Estate Division
Suite 601, 1919 Saskatchewan Drive
Regina, SK S4P 4H2

Attention: [redacted] Policy and Programming Officer
Insurance and Real Estate Division

Submitted by email: finplannerconsult@gov.sk.ca

Dear Sirs/Mesdames:

Subject: **The Financial Planners and Financial Advisors Act – Notice of Proposed Regulations and Request for Further Comment**

Independent Financial Brokers of Canada (IFB) appreciates the opportunity to provide further comment on the proposed Regulations under *The Financial Planners and Financial Advisors Act* (FPFAA). IFB has been active in commenting on the proposed title protection framework in Ontario, Saskatchewan, and New Brunswick, and responded to the FCAA's previous consultation in October 2021.

About IFB
IFB is a national, not-for-profit professional association representing 3,000+ licensed financial advisors and planners. IFB members voluntarily choose to belong to IFB to access IFB's compliance tools and business support, advocacy and representation to industry, government, and regulators specific to those who operate independently owned financial practices, and to be kept up-to-date with evolving issues impacting the financial services industry. IFB members must agree to adhere to IFB's Code of Ethics and Standards of Professional Conduct as a condition of membership.

Independent financial advisors and planners provide consumers with personalized advice and have the ability to recommend products from various providers. They are an important alternative to the financial advisory services offered by proprietary or integrated financial firms, such as retail banks, whose employees or career agents are often restricted to advising only on their own products. IFB members often choose to become independent after beginning their career with a proprietary firm or a larger financial institution. They are typically owners of a small to medium-sized financial practice in their home community, where they often serve generations of clients during their years of practice.

The majority of IFB members are both life insurance licensees and mutual fund registrants. Many have other financial licenses or accreditations to allow them to address the broader needs of the individuals, families, and businesses they advise. These other financial services may include general (P&C) insurance, mortgages, securities/investment products, estate/tax planning, financial planning, and access to deposit instruments.

General comments

To provide context to our remarks, IFB does not administer a credential, nor does it intend to apply to become an accredited credentialing body. This distinction is important as it allows us to represent the interests of our members, who are financial advisors and planners today, as well as provide our observations on this legislation in an impartial way, unhampered by the need to protect a particular credential.

IFB's principal interest in the FP/FA title protection framework is to ensure that the additional burden for licensees that will arise from restricting the titles of Financial Planner (FP) and Financial Advisor (FA) achieves the public policy goals intended by the Act and Proposed Regulations.

IFB commends the FCAA for reissuing this consultation based on the comments it received to its October 2021 consultation, as well as its observations related to the experience of FSRA in implementing similar legislation in Ontario. This second consultation raises important questions about creating a framework that is more meaningful for consumers and for those who seek to become an accredited FA. The FCAA has rightly identified that the proposed FA skills and competencies are not equivalent to the standard expected of accredited FPs, whose competencies are based on existing and often internationally recognized standards. This gap is particularly troubling given that oversight of the conduct of those earning the newly created FA credential has been delegated to credentialing bodies, none of which has a demonstrated history of FA education or providing such oversight.

IFB continues to raise the concern that the legislation requires that FPs and FAs need only attain the credential to hold out to the public. <u>They do not need to be otherwise licensed or overseen by a financial regulator, nor</u> do they need to maintain professional liability insurance (E&O). E&O is generally mandated for licensed planners and advisors, but the legislation does not require it for unlicensed accredited FPs and FAs. Since E&O provides consumers with affordable recourse and compensation, IFB sees this as a major consumer protection omission. It also provides unlicensed FPs and FAs with the opportunity to establish a fee-for-service practice, while not incurring the cost of E&O, and potentially putting their clients at a risk that most would be unaware of.

Consultation Questions

<u>Credentialing Bodies - Process when Approval Revoked or Operations Cease</u>

As IFB is not a CB, we expect those who are will be in a better position to identify details on how this process might proceed. However, we offer the following comments.

Certainly, the possibility that a CB could have its accreditation or credential revoked speaks to the need for the FCAA to set a high bar when approving credentialing bodies. There must be a rigorous standard expected, and delivered, by any CB, and it will be incumbent on the FCAA to deliver robust oversight. Where this standard is not met, the FCAA will need to have a mechanism in place in the event it needs to revoke the accreditation of a CB, or its accredited credential.

These circumstances could be either that the CB fails to deliver the expected FP/FA program, or the CB has notified the FCAA that it will no longer support its accredited FP or FA credential, perhaps because it has not proven financially viable for the organization. In either case, the FCAA will need to have policies

and procedures to address such circumstances, and its effect on the individuals who have earned an accredited credential, or are in the process of earning the credential, from the previously accredited CB.

In our view, it would be unfair for individuals who have earned the FP or FA title in good faith to have it discredited or withdrawn. However, the solution may be different depending on the circumstances which have led to the revoking of the credential or CB. For example, if it was due to the CB's poor-quality education, testing, and/or oversight, it may be appropriate for affected individuals to be required to "top up" their credential with another CB. In the event a CB in good standing voluntarily withdraws its credential and serves notice that it no longer intends to support it, its accredited FPs and FAs could have oversight transferred to another CB. In either case, the FCAA and CB should have an agreement in place to determine how credential holders will be treated during any such transition or winding down period and set out its expectations in its associated guidance.

IFB recommends that the FCAA's approach to revoke a CB or credential be harmonized with FSRA's, as many CBs will offer the same or similar credentials to individuals wanting to earn the FP or FA title in both jurisdictions, and the treatment for affected credential holders should be consistent.

Approval Criteria for FA Credentials

In our opinion, the proposed "Comprehensive Approach" for FAs improves upon the previous proposal which aligned the base competencies for FAs with FSRA's Product-Focused Approach. We agree that it would bring the FP and FA titles more closely aligned in their knowledge and professional expectations, while maintaining an appropriate separation in competencies. We further agree that changes need only address the FA competencies, as the FP competencies are appropriate.

A major concern IFB has had since the introduction of this legislation in both Ontario and Saskatchewan has been whether the accreditation process to earn the FA title would, in fact, lead to any meaningful difference in education from that already required to operate as a licensed financial professional. While there are existing, well-recognized standards in Canada, and internationally, for some FSRA-accredited FP titles and competencies, no equivalent for an accredited FA title and set of competencies exists. The FCAA's Comprehensive Approach appears to better balance the role of the FA with that of the FP, as well as better aligning with the consumer's expectations that the advice they will receive will not be product-based but set a strategic financial direction.

We do, however, wonder about the practical implications for a licensed FA to offer advice and services outside of the constraints of their financial licence. Using the FCAA example, how would this apply in practice to FAs who hold a specific financial licence, like mutual funds, or are authorized to only recommend and sell the products of a particular provider? As the FCAA notes, this could perhaps be dealt with by the FA providing the client with disclosure of licenses held but does not address the possible mismatch in the client's expectations that they will receive broader, non-product related advice.

As we have commented in previous consultations, restricting the FA title raises potential conflicts for advisors operating in the existing regulatory system and may place individual FAs in situations where the FA title becomes window dressing.

Decrease in Harmonization

IFB generally advocates for harmonized regulatory approaches as an advantage for consumers, who can expect to be treated consistently regardless of where they reside. Harmonization is also important for advisors and planners, like our members, who conduct business in multiple jurisdictions. Different rules can lead to confusion and potential errors.

In previous FP/FA submissions to Ontario and Saskatchewan, we suggested that any approach to titles would be best developed in conjunction with both the CCIR/CISRO and the CSA. This would have led to a national approach, where oversight of all titles that could be confusing or misleading to consumers would have remained with the regulatory and self-regulatory bodies.

Instead, we have the CSA's CFRs addressing the broader use of titles, the CCIR/CISRO Fair Treatment of Customers guidance, and some individual provinces enacting legislation specific only to the FP and FA titles which are dependent on a mix of privately-operated credentialing bodies. Harmonization does not seem evident even among provinces enacting or considering FP/FA title protection frameworks. Saskatchewan and New Brunswick are consulting on frameworks that deviate from Ontario's, introducing more potential for inconsistencies in what can be expected from credential holders for consumers and advisors.

Having said this, we appreciate the thoughtful consideration the FCAA has put into developing the comprehensive approach. Subject to our comments above regarding the practical implications for a licensed FA, the improved competencies appear to better align with client expectations and the services they can expect from a FA. This should outweigh any inconvenience related to the changes accredited credentialing bodies in Ontario will need to make to align with the Saskatchewan proposal. Indeed, it would be our hope that the Saskatchewan approach will be adopted by FSRA, and all CBs would enhance their programs.

We observe that there is precedence in Saskatchewan's title protection framework to deviate from the Ontario model. Examples included the requirement to address material conflicts of interest in the best interest of the client, and to place the client's interests first when making a suitability determination. Also, under its legislation, the FCAA has the ability to pursue fines, unlike FSRA which is restricted to issuing compliance orders. IFB does not think the consumer-focused rationale that the comprehensive approach would introduce should be measured against the potential costs for CBs to upgrade their courses. We note that these costs will only affect courses in Ontario approved for the FA title. We do not anticipate any changes will be required for the FP credentialing courses.

It is true that if Saskatchewan pursues the comprehensive approach for FAs, and Ontario course providers do not adjust their course material, that existing Ontario-accredited FAs may not wish to upgrade to use the title in Saskatchewan. However, it is our view that reputable course providers will make the adjustments given the potential for significant improvement in the FA standard and consumer outcomes. It would also be our hope that FSRA will recognize the benefits of the comprehensive approach and make meaningful changes to its current curriculum. Saskatchewan's model could well be introduced by New Brunswick if it introduces title restriction legislation. However, we note that New Brunswick is considering aligning its legislation to be closer to the Quebec model.

We urge the FCAA not to be dissuaded by those who seek the easiest and cheapest solution to market their FA title – what some would characterize as a race to the bottom. It has been our stated concern from the beginning that Ontario's legislation is flawed and as such risks making the title restrictions a burden for advisors and planners, without any real consumer benefit.

Mandatory Disclosure of Credentials

As IFB recommended in its October 2021 response to the FCAA, we believe consumers should be able to easily search the title their advisor holds, any disciplinary history and the credentialing body responsible for their oversight – similar to that in place for licensed advisors and planners. The FCAA has asked for comments on whether it would be useful for advisors to indicate if they are, for example, FA life insurance, FA mutual funds, in reference to their licensing category.

While this would be helpful for consumers engaging with a licensed FA/FP, IFB again raises our concern that to become an accredited FA or FP, the individual does not need to hold any financial licence. Consumers should know if their FA or FP is licensed and by which regulator(s). Equally, they should know if their FP/FA is not licensed, and conduct oversight is only through the credentialing body. In this latter case, clients will have more limited access to complaint mechanisms and monetary restitution. The legislation does not require accredited FPs and FAs to carry professional liability insurance (E&O). We find this puzzling as it is generally a mandatory requirement for financial professionals because of the benefit it provides to clients, and we wonder why clients of accredited, but unlicensed, FPs and FAs should not have equal access to this protection.

Below is our simple chart of how the disclosure of an individual's title and licensing could be shown:

NAME	ACCREDITATION	CREDENTIALING BODY	LICENSE(S)/REGULATOR(S)
John AAA	FA	XYZ CB	Life insurance (FSRA), Insurance Council
Tracy BBB	FP	FP Canada	Not applicable
Paul CCC	FA	ABC CB	Securities registrant (MFDA)*
Susan DDD	FP	FP Canada	Securities registrant (IIROC)*
Joe EEE	FA	DEF CB	Not applicable

*(this will be replaced when the MFDA and IIROC transition to the single SRO in 2023)

Transition Date and Implementation Period

IFB has no particular objection to using July 3, 2020 as the transition date, although the longer the time that elapses between that date and the date the Act comes into force, the more likely it is to raise confusion for FPs, FAs, firms and regulators as to who qualifies to use these titles.

Fees and Fee Structure

These are questions best addressed by CBs or prospective CBs. However, it is likely that if the cost to acquire and maintain a credential is high, advisors and planners will pass these costs on to clients, making engaging the services of such FPs and FAs unaffordable for the average consumer.

In closing, IFB would be pleased to discuss any of our comments and this submission at the request of the FCAA. This is important legislation which has the potential to impact many existing financial professionals and consumers.

IFB commends the FCAA in proposing such thoughtful changes that would make the FA title more meaningful and better align it with the expectations of a consumer seeking advice. We do, however, wish to reiterate our position that clients of existing, licensed planners and advisors, who choose not to pursue the FP or FA title, should not be concerned about receiving a lower level of care. The robust oversight provided by regulators in the life/health insurance industry and securities industry, along with the significant emphasis on transparency, disclosure, and existing client complaint mechanisms, serve clients well in communities of all sizes across Canada.

When the FCAA intends to operationalize its framework, it will be important to structure any public outreach and communications to the public on the new framework, in a balanced and fair manner. While using the services of an accredited FP or FA can represent a choice for consumers, the introduction of these standards should not undermine consumer confidence in the advice and services provided by those who choose not to obtain the FP or FA credentials. It's important to communicate that these individuals are duly licensed, and their market conduct is overseen by provincial insurance and securities regulators. Licensed advisors and planners provide a much-needed resource for clients in communities across Canada and preserving access to the personalized advice they provide should remain a regulatory priority.

Should you have questions or wish to discuss our comments, please contact the undersigned, [redacted]

Yours truly,

[redacted]

[redacted]

IIAC ACCVM

Investment Industry Association of Canada Association canadienne du commerce des valeurs mobilières

September 20, 2022

Submitted via email
finplannerconsult@gov.sk.ca

Financial and Consumer Affairs Authority of Saskatchewan

Re: Proposed Rule Adds Regulatory Burden to Securities Registrants

Dear Sirs and Mesdames:

The Investment Industry Association of Canada (the "IIAC") welcomes the opportunity to provide comments to the Financial and Consumer Affairs Authority ("FCAA") on the *The Financial Planners and Financial Advisors Act*, Notice of Proposed Regulations and Request for Further Comment (the "Proposed Regulations").

The IIAC is the leading national industry association who represents approximately 110 investment firms that provide products and services to Canadian retail and institutional investors and therefore represents the vast majority of individuals and firms providing financial advice to Canadians. Our members manufacture and distribute a variety of securities such as mutual funds, exchange-traded funds, segregated fund contracts and other managed equity and fixed income funds, and provide a diverse array of portfolio management, advisory and non-advisory services. [1]

KEY RECOMMENDATIONS

Summary: The IIAC and our member firms fully support the need to regulate *unlicensed* individuals who provide financial advice to investors.

Recommendations:

1. The Proposed Regulations should include an exemption for individuals subject to Canadian Securities Administrators and self-regulatory organization oversight.
2. Harmonization of titling regulations and competency profiles across jurisdictions is critical.
3. The transition period should commence on the date the regulations come into force and be extended to four years for Financial Advisors.

[1] See www.iiac.ca for more information.

REPETITION AND RED TAPE

The IIAC and our member firms fully support the need to regulate *unlicensed* individuals who hold themselves out as a Financial Planner ("FP") or Financial Advisor ("FA") in Saskatchewan. Individuals who use these titles should be registered to provide financial advice.

The Canadian Securities Administrators ("CSA), and, through their oversight, the Investment Industry Regulatory Organization of Canada ("IIROC") and the Mutual Fund Dealers Association of Canada ("MFDA"), have long ensured that individuals must qualify to and be registered to provide financial advice and that these individuals are subject to their continual oversight. This has been achieved through an array of provincial securities legislation, National Instrument, rules, guidance and policy.

FPs and FAs licensed by the CSA, IIROC and/or MFDA do not need to be subject to additional oversight by a Credentialing Body ("CB").

CSA Staff Notice and Request for Comment 25-304 *Application for Recognition of New Self-Regulatory Organization,* published on May 12, 2022, proposes the amalgamation of IIROC and the MFDA to create a new self-regulatory organization ("New SRO"), subject to continued CSA oversight. A key benefit of the New SRO is a single, enhanced national regulator with harmonized rules and policies. New SRO will also provide a proficiency-based registration framework that maintains the high proficiency standards required of registrants.

In the Proposed Regulations, the FCAA rejects proposals from the first consultation to provide an exemption from the regulations for individuals with "certain qualifications". The FCAA bases this decision on the fact that a majority of responses do not support the idea of exemptions as it would undermine the intent of the legislation. We assume "certain qualifications" refers to FPs and FAs currently subject to CSA and SRO proficiency standards and oversight.

The IIAC has concerns with the FCAA's decision.

First, there can be no explanation to reasonably support an assertion that an exemption for securities regulated individuals would undermine the intent of the legislation. Given the CSA and SRO mandates to protect investors and their seasoned and rigorous oversight of registrants, their proficiency requirements for securities licensed individuals are appropriate. There is no systemic issue that requires additional regulation.

Second, policy decisions should be based on data, sound principle, and proportionality (a cost/benefit analysis), not public opinion. The FCAA has stated that the majority of comments were not supportive of an exemption without providing a merit-based analysis of the comments received including whether commentators had a conflict of interest or included incorrect and/or incomplete facts.

In this case, comment letters from a potential CB that does not support an exemption is conflicted as an exemption would reduce the number of FPs and FAs that would need a new designation or who have to pay membership fees to a CB. Thus, an exemption represents lost revenues to the CB. Specifically, The Financial Advisors Association of Canada ("Advocis") is clearly conflicted as they are actively advocating for establishing additional proficiency obligations in Saskatchewan and across the country while at the same time, they are a CB that offers approved designation courses. The Proposed Regulations and designation courses represent potential revenue for Advocis.

If the number of comment letters is the determining factor, please consider that IIAC comment letters represent the views of all our member firms. As such, when regulators assess the number of comments received in support of or in opposition to a proposed rule, they should not "count" IIAC comment as one but rather that of all 110 of our members, representing the vast majority of individuals and firms providing financial advice to Canadians.

Third, the Proposed Regulations result in increased costs and confusion for Saskatchewan investors that obtain advice from FPs and FAs that are regulated by the CSA and SROs. As discussed above, for securities licensed individuals, there is no systemic harm resulting from the proficiency standards required of FPs and FAs that the Proposed Regulations would resolve. While there is no investor benefit, there will be additional administrative costs for obtaining and administering the new designations. These costs are ultimately borne by the public.

CLASHING AND CONTRADICTORY

Baseline Competency Profile

The IIAC does not agree with the proposal to change the FAs Baseline Competency Profile ("BCP") as there is no evidence that the current competency requirements result in investor harm.

National Instrument 31-103, s. 13.3, requires securities registrants to make a suitability determination that puts the client's interest first. Before making a recommendation, a registrant must, among other obligations, take into consideration KYC, KYP, the impact of costs, and a reasonable range of alternatives. These obligations require an FA to consider more than "product" when determining what is in the client's best interest. Therefore, the current "product focused" BCP for FAs is appropriate for the financial advice provided by FAs and is aligned to the BCP implemented by FSRA in Ontario.

Harmonization of regulations across jurisdictions is a critical component of efficient and cost-effective capital markets. Maintaining harmonization should be the first objective when proposing new regulations unless there are compelling reasons to do otherwise. No compelling reason has been provided.

Disclosure

Disclosure obligations of the Proposed Regulations should be aligned to the obligations of securities registrants in National Instrument 31-103. Specifically, section 13.18 *Misleading Communications* and section 14.2 *Relationship disclosure information* set out the obligations required of individuals and firms, including obligations to not provide misleading information with respect to proficiency, experience, qualifications, and category of registration. We believe these are the disclosure obligations that should apply to anyone proving financial advice who uses the FP and FA titles. Such disclosure would also align the Proposed Regulations with those of the FSRA.

Further disclosure would serve only to increase investor confusion (with regard also to the likelihood of multiple CBs and approved designations) and administrative costs without corresponding benefit.

TRANSITION AND IMPLEMENTATION

To prevent unnecessary confusion for investors and disruption to the capital markets, it is important to allow individuals using the FA and FP titles an adequate amount of time to obtain the required designations. The transition period for FAs should be the same four-year period as provided for FPs who use the titles before or after the regulation comes into force (the "Effective Date") and the transition period should commence after expiry of the implementation period noted below. Using an earlier date only causes confusion for investors if their FP or FA is obligated to change a title while they complete a designation course.

An implementation period of at least 18 months after the Effective Date is required to provide CB with time to prepare and submit applications and for the FCAA review and approve the CB and their designations.

Thank you for your consideration of the concerns raised in this response.

Sincerely,

[redacted]

[redacted]

H&A Financial Advisors

PORTFOLIO STRATEGIES

1836 Angus St. Regina, SK S4T 1Z4 Phone (306) 584-2523 Fax (306) 584-8225 http://www.h-a-financial.ca

CERTIFIED FINANCIAL PLANNER - CHARTERED LIFE UNDERWRITER - CHARTERED FINANCIAL CONSULTANT

September 19, 2022

Financial & Consumer Affairs Authority of Saskatchewan
1919 Saskatchewan Dr.
Regina, SK S4P 4H2

Submission Re: FCAA Proposed Changes and Proposed Regulations

To Whom It May Concern,

The following is an Overview of My Recommendations and Thoughts related to the FCAA Proposed Changes and Proposed Regulations.

My Recommendations and Thoughts on Appendix A are included at the bottom of this document.

Please find my Bio at the bottom of this document.

Overview of My Recommendations and Thoughts

It's time for a Professional Independent Financial Planner to be recognized as a professional just like Accountants, Engineers, Architects, and Lawyers. Make the minimum standard be the title of Financial Advisor (FA).

For the Financial Planners that run their practices as genuinely independent financial planners, there should be steps taken to inform those individuals about what would be required for the provinces to enact legislation to recognize Professional Independent Financial Planners as professionals.

Professional Independent Financial Planners recognized as professionals would make life better for regulators and the individual Professional Independent Financial Planner.

Please see Appendix A - 2. Financial Advisors Baseline Competency for my thoughts on the following definitions:

1. Professional Independent Financial Planner
2. Financial Planners
3. Financial Advisor

Unfortunately, regulators and possibly the FCAA may negatively view people in our industry.

Suppose the only contact with the industry is with the 1% that causes all the problems for consumers. Then, it's easy to have a jaded view that Financial Advisors/Financial Planners are all either crooks or mercenaries.

Crooks and mercenaries will always be in any industry where financial transactions occur.

The problem with the regulators putting in more rules to eliminate the 1%ers is the added burden being placed on the 99%ers that follow the rules. Overregulation takes service away from clients.

Instead, Financial Advisors/Financial Planners professional life gets more challenging, and the 1%ers will continue to be there, finding ways to circumvent regulations.

Changes to regulations in the financial planning industry over the last 10 years have been tremendous. Unfortunately, there appears to be no plateau in sight.

As a result, regulation changes are frustrating because my clients haven't benefited from all the extra work I must do to meet the ever-expanding requirements of the regulators. Why have my clients not benefited? - Because I'm one of the 99% that follow the rules.

My clients have been fairly treated and well served and know their financial interests are paramount.

What regulators don't seem to understand or forget is:

1. My clients come to me for advice and don't want to be a do-it-yourselfer.
2. Trust is the primary basis for our relationship.
3. Our business is customer service driven versus product sales driven.
4. There are no "walk-in" clients. I can only handle 2-3 new clients per year in a mature practice. Rarely do we lose a client unless they die or move away. I have clients that have been with me for 30-plus years.

The job I do for my clients has never changed over the years. It's about helping clients detect their financial problems and provide recommendations and solutions.

I'm dual-licensed so I can offer insurance, mutual funds, ETFs, and GICs.

I have had discussions with colleagues that are getting rid of one license to reduce their compliance burden.

Multiple licenses and regulators are becoming too much for many of my colleagues.

Financial planners are getting stretched in all directions because no one regulator has complete autonomy over financial planning.

One of the most frustrating areas of running a financial planning practice is that multiple regulators think they should have a turn regulating the area of financial planning.

This is compounded by the time requirement consuming overlapping requirements for CE Credits from the following associations/organizations:

- Advocis
- CFP
- MFDA
- Insurance Council

Getting rid of one license to reduce the compliance burden is not in the client's best interest. It is a sign of regulatory overburden.

Unless the government addresses this issue, more financial planners will reduce their scope of practice. Any choice taken away from consumers is the wrong choice for regulators.

A viable option would be for the FCAA to acknowledge this problem and start working with the industry to have one regulator for financial planning or allow financial planning to become a bonafide profession by supporting a recommendation for legislation to the government.

Setting the rules for a professional regulators body would give powers to discipline members for market conduct and professional standards.

The simplest would be FCAA requesting that FP Canada and ADVOCIS devise a solution for creating a singular organization to act as an SRO (Self Regulating Organization) for the Financial Planning Profession.

A letter to both professional bodies outlining what the FCAA would need done to consider legislation to grant Financial Planning as a bonafide profession.

I believe this could be a stimulus for creating a national program allowing each province to adopt the standard.

My Recommendations and Thoughts on Appendix A

1. Credentialing Body

1. In the situation of the credentialing body which was previously approved and has become inactive or no longer approved.

The credential holder is a victim of circumstances beyond his control.

There should be leniency to allow the credential holder to have time to seek out a new credentialing body to be associated with, make an application, and time for the new credentialing body to review the application and the applicant's education to meet the credentialing body's education standard.

The credentialing body needs time for the directors to determine if the applicant can be grandfathered to their title or must write a challenge exam. Therefore, a time period of 2 years would be fair. This time period also gives enough time for the individual who must upgrade their education to meet the selected new Credentialing body's standards.

2. Financial Advisors Baseline Competency

I recommend keeping the Financial Advisors Baseline Competency level profile (FA BCP) the same as other provinces. However, make this the minimum threshold for offering financial service advice.

The (FA BCP) would cover bank tellers, mutual fund sales, registered education savings plan sales, and life health & accident salespeople.

Product-oriented advice.

If you want people to be employed in the province and hold licenses or security registrations and sell, you must satisfy the BCP for F.A., the exception being for licensed administrative personnel.

For financial planners, the BCP for F.P.'s is acceptable. This would cover planners that have upgraded their education and developed a financial planning practice. Such title holders would include CFP, CLU, RFP's etc.

I think Saskatchewan should recognize a level above financial planning rather than trying to make changes to the Financial Advisor BCP. This level would be for the Financial Planner who:

- Has become entirely independent
- Has no ties to any product supplier
- Does not provide proprietary products to solve clients' problems
- Has an independent office and support staff

In other words, it runs a genuinely independent professional financial planning practice.

It's time the industry recognized these people, and Saskatchewan should be the first province to do so.

This requires legislation to make financial planning a bonafide profession for independent financial planners. Financial Planners are people whose professional standards far exceed the minimum accepted level of knowledge and education.

3. Decrease in Harmonization

As previously mentioned, if the FA BCP is made the minimum acceptable standard for provincial advice in the financial services industry, it raises our minimum education standard in this province and maintains harmony with other provinces (BCP does not change).

Adding the 3rd tier for Independent Financial Planners and enacting legislation will raise the bar for financial advisors and create a desire to attain the professional level, benefiting the consumer.

With Saskatchewan taking the initiative, being the 1st province to make Independent Financial Planning a true profession, this will raise the bar for the entire country.

4. Disclosure- F.A.'s

I think we are good when it comes to disclosure. Anyone licensed to sell life insurance or mutual funds must provide disclosure to their client; providing more disclosure is overkill.

A copy of our disclosure document is available upon request.

Disclosure – F.P.'s

I do not think adding another level of disclosure is necessary for F.P.'s. Each credential body requires mandatory disclosure requirements. It would be unnecessary to duplicate what the industry has as standard disclosure.

6. Fees & Fee Structure

I am very concerned with the level of fees that are proposed. The proposed fee structure looks more like an additional revenue opportunity than a recapture of expenses.

FP Canada and ADVOCIS will probably cover 80% of the F.P. & F.A. title designations holders.

On FP Canada and ADVOCIS websites, one can review the code of ethics, code of conduct, education curriculum, and past disciplinary hearing cases. I believe it would be easy to make a comparison of the provinces FA & FP BCP's to what ADVOCIS and FP Canada's education requirements are for title holders.

I can't imagine extra staff and overtime being paid to "rubber stamp" the approval of Saskatchewan's two largest credentialing bodies.

I want to remind you that any fee you charge credentialing bodies is eventually levied on the advisors / planners.

I appreciate your consideration,

[redacted]

- 1989 entered the financial services industry
  Joined Canada Life Assurance Company as a Licensed Representative.
- 1994 earned the designation of Chartered Life Underwriter (CLU)
- 1997 earned the designation of Chartered Financial Consultant (Ch. F.C.)
- 1997 earned the designation of Certified Financial Planner® (CFP®)
- 2015 earned the designation of Certified Executor Advisor (CEA) from the Canadian Institute of Certified Executor Advisors
- 1997 left the Canada Life agency system and opened H & A Financial Advisors (registered trade name) with partner, [redacted] wanted to be independent of any one product provider and wanted to offer independent financial planning to their clients. [redacted] has continued to expand the practice. [redacted] joined the practice 7 years ago and will eventually be [redacted] successor.
- [redacted] has been a member of Advocis for 33 years and has devoted his time and knowledge to the industry
- He was a board member of the Saskatchewan Life Insurance for 2 terms and served as the discipline hearing chairman.

Over the 25 years H & A Financial Advisors (H&A) has evolved into an independent financial planning practice with no financial involvement with any insurance agency or Investment Dealer (referring to ownership or financial ties). H & A employs 3 advisors and 4 support staff. We provide comprehensive as well as modular financial planning.

Our clients have choices as to how they want to pay for our services:

- Hourly rate
- Ongoing monthly service package
- Commission paid by the insurance company on the purchase of an insurance contract

Kenmar Associates
Investor Education and Protection

September 14 2022

Sent via email

Attention: **The Financial and Consumer Affairs Authority of Saskatchewan (FCAA)**
finplannerconsult@gov.sk.ca

Subject: The Financial Planners and Financial Advisors Act (FPFAA) Notice of Proposed Regulations and Request for Further Comment
https://fcaa.gov.sk.ca/public/CKeditorUpload/Notice_of_Proposed_Reg_and_Request_for_Comment_for_FPFA_Regulations_FINAL.v2.pdf

Kenmar Associates is an Ontario-based privately-funded organization focused on investor advocacy and education via a blog hosted at www.canadianfundwatch.com . Kenmar is an active participant in regulator activity and consultations. Kenmar also publishes ***the Fund OBSERVER*** on a monthly basis discussing investor protection issues primarily for retail investors. An affiliate, Kenmar Portfolio Analytics, assists, on a no-charge basis, abused investors and/or their counsel in resolving investor complaints.

Kenmar Associates welcomes the opportunity to comment on selected issues related to FPFPA potential regulation changes. This request for comment introduces a number of changes in response to comments received on the initial consultation which would de-harmonize the regulations from those that have already been finalized in Ontario. This consultation suggests that the FCAA is carefully listening to commenters.

High level comments

- The FPFAA/regulations will protect FP and FA title usage but will not prevent individuals from practicing or offering financial planning or advising services to Saskatchewan (SK) residents
- Other than title use revocation, the tools for enforcing the rule are inadequate to deter wrongdoers [Established securities regulators have many more tools and protections than existing or proposed CB's. They can compel witnesses, obtain disgorgement, issue fines, end careers, etc. A CB can only take away usage of the FA title.
- A number of permitted alternate titles and designations could continue to confuse financial consumers
- The FP designation (title) will come under a form of regulatory oversight which is not the case today except for Quebec and Ontario
- Canadians who work with a FP credentialed individual should have the confidence of knowing their financial planner has demonstrated the knowledge, skills, experience and ethics to provide the holistic financial planning advice they seek.
- The CB's are self-regulating "private actors" (essentially an SRO) whose financing, governance, resources , infrastructure and regulatory oversight must be robust to

fulfill their Public interest and consumer protection mandate

- Multiple CB's can add complexity, regulatory burden and confusion; demanding high standards from a credible national CB overseen by regulators should be the ultimate baseline for Canada.
- The FA title needs defined boundaries and FA title holders should provide a good financial advisory service offering for Main Street Canadians.
- Regulatory proceedings should disclose the CB title, if known, of respondents if applicable. This will assist CB enforcement activity.
- There is a concern that fees to consumers will increase without a corresponding consumer benefit.

Most Canadians expect and need a "Financial Advisor" capable of doing more than just advise on different types of securities/investment products; he or she should be able to provide unbiased, broad-based advice relevant to a client's financial situation. The Financial Advisor (FA) title, unlike the FP title, is not supported by an established global standard or even a standard definition. The FA title lacks a expertise -specific definition, as "financial advice" could cover one or more of any number of several areas of specialized financial advisory services. Creating a workable FA standard will not be a trivial task.

In our view, a "Financial Advisor" would identify financial issues beyond investing (for retirement, a new home or a child's education) that need attention and recommend consultation with an appropriate expert as appropriate. An example would be a meeting with a licensed insurance agent to satisfy life and property insurance needs. If the client has no will, the FA would explain why a will is important and suggest a lawyer draft up a will. If a client has a complex tax issue beyond the basics of investment related taxation matters, an FA would suggest an accountant be engaged to handle the issue. We see an FA as proficient in investment and related matters but can also identify gaps and interactions between investments and other aspects of personal finance. In many respects, an FA is a financial coach that understands the interconnections between investing and overall financial well-being. An FA would operate in a manner similar to a GP (family doctor): referring clients requiring specialized expertise to specialists, such as accountants, insurance agents or financial planners, when required.

We commend Saskatchewan for striving for a Financial Advisor professional with a more encompassing standard than the Ontario FSRA FA standard. Basically, certain consumers want an *advisor* that recommends personalized investments/strategies to understand the impact, if any, of the recommendation on taxes, insurance, the estate, govt. social benefit programs and overall consumer financial well-being and can provide explanations in plain language. That being said, the proficiency standard expected is not as high as an FP.

We do not disagree with the FCAA that titles that reference an authorization to provide specific financial advice granted by another Act will likely not be found to be confusing if they are specific to that authorization. An Insurance Agent duly licensed by the Insurance

Councils of Saskatchewan under The Insurance Act using the title "Insurance Advisor" should not be confusing to the average financial consumer since the restrictions on the advice to be provided is self-evident and not deceptive. The advice provided may however be conflicted "**advice"** and not in the client's best interests. We would much prefer using *Insurance Sales Representative,* especially if the individual represents only one insurance Company. Similarly, individuals registered with the FCAA securities arm, another provincial Securities regulator or IIROC should be able to legitimately use the title "Investment advisor "without recognition by a CB.

Personalized *financial* advice regarding, tax planning , financial planning and estate planning per se are not dealt with in provincial Securities Acts- the focus is on investment advice. However, some regulated investment Firms do market and provide these extended financial advice services to select customers via internal staff support team experts.

The problem is in Canada we are still regulated along products/transactions and not advice in the securities arena .Some entities want "advisors" to be recognised as professional advice givers (without the accountabilities and with conflicts-of-interest). With securities regulators wishing to keep securities regulation transaction focused there is a gap – this could be a unique opportunity for the FCAA to break new ground with a new registration category or set a higher standard for the FA title which would include basic components of broad-based **financial** advice, such as budgeting, income tax optimization, debt management, retirement planning and basic estate planning, which surround investment advice .Such advice will provide Canadians the financial confidence and well-being they need and deserve.

Kenmar believe that current regulatory standards for those registered to provide financial advice are not sufficiently high and also that the list of acceptable education providers and courses should be expanded. However, we acknowledge that some Registered Representatives do provide broader "incidental" financial advice, not limited to just transactions.

Introduction

Meaningful credentialing of professional financial planners and advisors could potentially reduce the negative impact of misleading titling practices on financial consumer outcomes. In this Comment letter we explain why we do not believe the FPFAA or its regulations will be adequate to eliminate title deception, especially in non-securities financial sectors.

From our perspective, the CSA Client Focused Reforms (CFR) should, in principle, be adequate to reasonably protect retail investors from "dealing representatives" and "approved persons" using misleading titles but CFR does not move the advice profession materially forward. We note that provincial Securities Acts and related regulations are focussed on the distribution of securities (investment transactions), not the provision of

broader financial advice. In our opinion, a distribution model runs counter to the modern, vision of professional trustworthy financial advice and planning that puts the overall client needs at its core and makes transactions incidental to the advice.

The CSA Client Focused Reforms do deal with the misleading communications issue reasonably effectively. See AUM Law - **Client-Focused Reforms: A Closer Look at misleading communications** https://aumlaw.com/article-nibh-nullam-mattis-ona/ Registered Firms must not hold themselves or their registered individuals out in a manner that could reasonably be expected to deceive or mislead a client or prospective client as to:

- The proficiency, experience, qualifications or category of registration of the Firm or its individuals;
- The nature of the client's relationship, or potential relationship, with the Firm or its individuals; or
- The products or services provided, or to be provided, by the Firm or its individuals.

Under CFR, all titles must be approved in advance by the Firm, which means investment Firms have to not only set criteria for the use of titles and designations within the organization, but also monitor their use going forward. This makes it clear that CSA regulated Firms are accountable for any titles or designations or service offerings provided by their representatives. It should be noted that CFR is not a fiduciary standard, does not prohibit conflicts-of-interest or the payment of sales commissions or ban dealer representatives with restricted product shelves. CFR does not require an annual update of KYC, restrict an advisory Firm from offering only proprietary investment products and relies on "professional judgement" in a number of key client touch points. The term "Best interests" is not defined; time will tell how CFR works out in achieving better outcomes for retail investors.

Background, history and context

The origin of the misleading title issue can be traced to two main investor protection concerns. Financial planners were not regulated (except for Quebec) which constituted a real regulatory gap and mutual fund salespersons were allowed to use the *advisor* title despite the evidence that they were basically distributors of mutual funds with some elementary components of advice as an incidental role. Some titles, like *Vice President*, were being given out by Dealers based on sales production. Other titles like *Seniors Specialist*, were used to deceive clients as to the specialized competency of the advice providers.

A 2019 OSC IAP survey report raised questions over the quality of advice given to small and mass-market investors and whether it is comprehensive and timely enough to effectively meet their needs. More than half of survey respondents said that communication with their advisor was infrequent and brief, or non-existent, over the past year. See **A Measure of Advice: How much of it do investors with small and medium-sized portfolios receive?**

https://www.osc.ca/sites/default/files/2020-10/iap_20190729_survey-findings-on-how-much-advice-investors-receive.pdf While title protection is an important issue, the lack of robust advice is having the greatest adverse impact on Main Street investor savings.

It appears to us that Saskatchewan is looking to make the FA title provide advisory services closer to what retail investors expect and need from a **financial advisor**. We fully support that forward looking approach.

Over the years, regulators have tried to strengthen the regulation of investment industry advice. An attempt by the OSC to bring in an overarching best interests advice standard ultimately resulted in the Fair Dealing Model being dropped in 2004 .It wasn't until this year that a much watered down advice standard was implemented - the Client Focussed Reforms (CFR). Regulatory attempts to eliminate advice-skewing trailing commissions also failed but toxic DSC mutual funds were banned after many years of persistent effort by investor advocates. This year, Ontario implemented the Title Protection Act which was criticized by consumer advocates for protecting the interests of industry to use their titles, but did little to really protect consumers from harm .The Ontario Act chose not to harmonize with what Quebec had successfully implemented for the regulation of financial planners.

The Nov. 1,2016 Final Report FINAL REPORT OF THE EXPERT COMMITTEE TO CONSIDER FINANCIAL ADVISORY AND FINANCIAL PLANNING POLICY ALTERNATIVES recommended that no one can provide financial planning or financial advice without regulatory oversight and that regulated providers of financial planning and financial advice are subject to harmonized standards for these activities. It also recommended the enactment of a universal statutory Best interest duty. We do not believe that the FSRA FA standard reaches that standard. The Ontario government did not accept the recommendations from the Experts it selected. [The FINAL REPORT is no longer available on the Ontario government website].

Our expectation is that New SRO for securities-related regulation will take steps over time to increase registrant competency and conduct standards through education, training, compliance and enforcement. Advocates have called for higher proficiency standards for near retires/seniors- advising de-accumulating accounts, stronger KYC for retirees, emphasis on taxation/ social benefit programs impact and enhanced analytical skills.

The complaint system for addressing client complaints about deficient advice remains weak with outdated CSA and SRO complaint handling rules. According to OBSI, there were more client complaints handled in 2021 than ever before.

The real problem has not been limited to protecting titles but protecting investors from misrepresentations of proficiency and conduct standards. Everyone holding themselves out as a Financial Planner or Financial Advisor should be required to hold a meaningful FA/FP title. Anyone practicing financial planning or advice should have a meaningful

professional designation .The fact that the Act does not require this, limits its impact.

Overall, it is clear that Canada lags other jurisdictions in providing a professional advisory framework with current regulatory priorities diverted to promotion of capital formation, regulatory "burden' reduction, Access Equals Delivery and granting regulatory exemptions.

Business Titles versus professional designations

It is important to distinguish between business titles and professional designations. Both must be regulated. Contrived titles like "Seniors Expert" that are not based on specialized training and specific standards can deceive elderly financial consumers. To provide the necessary financial consumer protections, ANY title (or designation) used must be supported by a rigorous curriculum, examination process, experience requirements and enforcement process administered by a credible Credentialing Body or regulator when deciding whether or not to approve the title/designation's use.

Our thoughts on the scope of "financial advice"

For basic income tax related needs, an accountant, tax filing service or commercial software is often used by Main Street. For life or home insurance, Main Street relies on an insurance agent. When buying or selling a home, a licensed real estate agent is used. For routine legal needs like a POA or a will, such clients typically engage a lawyer or para-legal or a DIY kit.

With the decline of DB benefit plans and increased longevity, planning for retirement has become a high priority for Canadians. It appears to us that a registered investment person (a securities registrant) is the most likely person to build upon for broad-based advisory services for the mass market. This type of *financial* advice is continuous and is focussed on primary financial needs.

What services would a broad-based financial advisor provide? We suggest: (a) Recommend an Emergency fund (b) Establish a personalized investment strategy for the long term (c) Guidance on major financial decisions such as buying a home (d) Recommend suitable investments and portfolio; (e) Assist in developing good financial habits. (budgeting, use of borrowed money) (f) Provide tax-efficient investment solutions for individual / family (g) suggest insurance to protect family and assets (h) help integrate social benefits and Company benefits with savings (RESP, OAS, CPP, Company pension plan, health benefits etc.) and (i) general guidance on estate planning.

Main Street clients are looking for more fulsome financial advice which empirical research demonstrates they are not receiving. The professional FA title (designation) should include knowledge in several technical areas and take a less product-focused view. Professional FAs should take a broad approach to financial advice where the advice would be focused more on integrated strategies and approaches along with product

recommendations and suggestions related to the advice. [High Net Worth clients are more likely to use a financial planner and/ or a fee-based adviser. They most likely also routinely engage with a lawyer and professional accountant for more complex financial issues.]

Limitations of the FPFAA/regulation

To avoid misleading and confusing consumers, the objective should be to limit the use of titles to the least number of titles in the marketplace as possible. A September 2015 OSC mystery shop survey found a whopping 48 titles in use across the four platforms shopped.

Ontario FSRA research (in APPENDIX C to their consultation) revealed that (a) only 31% of consumers are confident that they can explain the difference between FPs and FAs, and only 6% are completely confident and (b) 56% of consumers assume that FP and FA title users hold credentials which are regulated by a government regulator, and 46% believe that the individuals themselves are regulated by the government. It is clear from this and other empirical research that retail financial consumers do not have sufficient knowledge or information to distinguish between titles. That is in fact why so many misleading titles have been fabricated by the financial services industry.

Kenmar urge the FCAA to take a consumer -focused approach to interpreting the Act, in particular the provisions on confusing titles. It is critically important that these provisions be interpreted broadly to achieve the Act's intended legislative purpose. Specifically, the provisions in the Act aimed at reducing public confusion should capture all titles that are likely to evoke, in the minds of the typical retail financial consumer, a belief that the title holder is qualified to provide personalized *financial advice and services* as an FA or FP credentialed person.

We recommend that the FCAA harmonize with the CSA's CFR provisions relating to standards /titles in order to eliminate regulatory arbitrage and provide SK financial consumers a consistent level of protection in the financial services industry. As an aside, we urge the FCAA to adopt a rule banning toxic DSC sold segregated funds to prevent regulatory arbitrage with mutual funds.

There should also be greater cooperation between insurance and securities regulators. See **How banned IIROC and MFDA advisors can still sell insurance** https://www.advisor.ca/news/industry-news/hidden-in-plain-sight-how-banned-iiroc-and-mfda-advisors-can-still-sell-insurance/ The FCAA can play an important supporting role by ensuring that individuals banned by securities regulators, the MFDA and IIROC are not licensed to practice in the Saskatchewan insurance sector. In addition, the FCAA should not allow the licensing (or credentialing) of any individual that has not fully paid a fine to another regulator. This practice would eliminate or reduce access of such "advisors" to trusting consumers no matter what title or credential they hold.

The Act may prevent non-credentialed people from using the FA or FP title, but it will not stop them from selling their services based on promises to perform work that involves financial advising/planning or asserting that they provide financial plans.

Question: Would it be possible that anyone, including an individual banned from the industry and unregistered persons, could use the FA title granted by a CB? If so, this could be potentially harmful to consumers.

To address misleading titles in the financial services industry, one would need to establish rules authorizing only credentialed persons to practice financial planning as is the case, say, for professional engineers practicing engineering under the P.Eng. designation. This Rule does not do that, so the confusion over misleading titles should be expected to continue under this regime, albeit at a reduced intensity.

To eliminate confusion on financial planning, we are convinced that Quebec's approach to financial planning professionalism is the superior path to professionalism in financial planning.

Response to FCAA Questions

1. Credentialing Bodies – Process when Approval Revoked or Operations Cease

Kenmar are of the firm conviction that if a CB ceases to be approved or exist, the FA or FP title should cease to be used. To allow title continuance knowing that there is no monitoring, enforcement or examinations would deceive the public. In addition, a database for consumers to check credentials would not be available. If another CB wishes to recognize the applicant, reversion to a new CB should be permitted assuming equivalent standards. **Non-registered individuals should not be permitted to use the FA title. [**From a practical perspective, the complaint processes applied by the FCAA, SRO or OBSI are established to deal with consumer complaints against registered Reps and their Firms].

The extinction of a FCAA approved CB does not impact the ability of an individual to continue practicing financial advice giving. A person impacted by an extinct CB would not be able to use the FA title only during the short period of time it would take to join a competing CB, who would be obligated to recognize the training provided by the prior FCAA approved CB .Upon payment of the applicable fee(s), he/she could again obtain full unencumbered use the FA title.

As an aside, CB's should be required to file audited financial statements on financial condition on an annual basis with FCAA. Early Warnings should be sent to FCAA if financial condition indicates impairment or possible closure. Unlike OBSI or IIROC/MFDA, participation in a CB is not a regulatory requirement so there is no reliable revenue

stream.

The best way to deal with CB dissolution is to prevent it. The FCAA must apply rigorous governance, operational and financial approval criteria. With respect to CB governance, Kenmar recommend that (a) the FCAA have the right to nominate at least one Member of the CB Board of Directors and (b) have veto power over CB Director selection in accordance with defined criteria. The Board should have at least one Director with financial consumer protection experience.

If CB's are to exist, there should be only one Canadian FA CB in our view. This would give it critical mass. We don't want CB's to become dipoma mills aggressively marketing for business. [One can only imagine the problems the FCAC (and complainants) will face in moving to a single ECB in the banking sector from the existing competitive multiple ECB structure].

In our view, a single national Credentialing Body (if CSA regulatory registration is deemed inadequate) would better provide consistency, would be easier for the FCAA to monitor, would eliminate CB- hopping and would reduce complexity and confusion for financial consumers. A single central online searchable registry should be made available for consumers to validate credential holders regardless of CB affiliation.

We urge the FCAA to adopt an internationally recognized standard, the **ISO 17024 Conformity assessment- General requirements for bodies operating certification of persons** See https://www.ihf-fih.org/resources/pdf/Conformity_assessment-General_requirements_for_bodies_operating_certification_of_persons.pdf (28 pages) and https://www.iasonline.org/wp-content/uploads/2017/04/474-Sep-2018-1.pdf as the baseline, supplemented by any tailoring needed for the Canadian/ Saskatchewan regulatory environment.

2. Approval Criteria for FA Credentials

ISO 22222:2005 *Personal financial planning — Requirements for personal financial planners* defines the personal financial planning process and specifies ethical behaviour, competences and experience requirements for personal financial planners. https://www.iso.org/standard/43033.html . We recommend that this proven international standard be the baseline used by the FCAA, modified only by any conditions unique to Saskatchewan /Canada. The Quebec model for FP's could be used as the basis for the FCAA. To our knowledge, there is no ISO or other internationally recognized standard for a FA designation. It has become a generic catch-all.

The FA proficiency requirement raises an issue worthy of debate. The CSA has moved beyond the suitability standard- now all individuals advising retail investors must comply with the Client-Focussed Reforms (CFR), a higher standard than suitability but lower than an overarching Best interests standard. Since professional planners and advisors have a

duty to act in the client's interest by placing the client's interests first i.e. placing the client's interests ahead of their own and all other interests , this should be the minimum FCAA standard for those individuals carrying the professional designation FA . See IIROC consultation paper ***IIROC to consult on competency profiles for registered investment representatives*** https://www.iiroc.ca/Documents/2020/a396b71f-06bd-4bb8-b524-362b604d5dfa_en.pdf While MFDA representatives have lesser proficiency standards due to product restrictions, conduct and other CFR standards/processes apply equally to all SRO registrants.

It is very important that a FA credentialed individual should have a basic understanding of how investment management interacts with taxation, estate planning and govt. benefit programs.

Unless the FA title approval involves proficiency and conduct standards that are higher than those of CSA registration/ CFR, there is no rational justification for FA CB's for CSA registrants which number in excess of 100,000.

We expect that the use of the FA title would be limited to those individuals registered with a regulator since unregulated FA title holders can cause consumer harm without the consumer protections linked to a regulator. In the securities sector, investors have access to OBSI while clients of an unregulated FA title holder individual would not. In addition, registrants associated with the MFDA and IIROC (or New SRO) would have access to a $1M investor protection fund.

We firmly believe that an FA with knowledge and competency in only one product generally takes a product-centric approach, potentially leaving consumers vulnerable to advice that may not be suitable for their needs. The "Product-Focused Approach" is more focused on the sale of specific financial products and related services than the provision of 360 degree financial advice. The "Comprehensive Approach" differs conceptually from the "Product-Focused Approach" in that the advice provided by the FA would, after considering the client's personal circumstances and objectives, be focused more on recommending integrated financial strategies /approaches as opposed to the purchase of specific products. This requires a different skill set although investing remains at the core.

We recommend that the FCAA liaise with the UK FCA Re their experience in requiring higher professional and conduct standards for individuals providing personalized financial advice. If you look at the FCA they have a wide range of course and bodies that they reference for acceptable standards for given functions
etc. https://www.handbook.fca.org.uk/handbook/TC/App/4/1.pdf

The FA title must not become a rubber stamp that will give politicians a headline that says they achieved something when they did not.

3. Decrease in Harmonization

Kenmsr believe that a non-harmonized solution to regulate Financial Planning and Financial Advice would not be an optimal long-term solution or in the best interests of Canadian investors and could be onerous for national Firms. All Canadian investors should receive a uniform level of competence, conduct and service when they engage the services of a registered (or credentialed) financial advisor or planner. (We note that Ontario chose **NOT** to harmonize with Quebec's approach to the credentialing of financial planners).

Harmonization should be subordinate to a higher advice standard that meets the needs of ordinary Canadians. We wish to point out that standards include not only proficiency but also conduct standards. The closer to the fiduciary standard, the better for the financial advice profession. In the case of Quebec, their administration/ regulation of the financial planning profession appears to be robust and satisfying to clients. In our opinion, the proven Quebec (NOT Ontario) model should be the FCAA model benchmark for harmonized regulation of **financial planners** in Saskatchewan.

The FPFAA provides the FCAA with the ability to enter agreements with, and recognize decisions made by, extra-provincial authorities in other jurisdictions. Kenmar are supportive of this ability with respect to the approval process for CBs and credentials, enforcement decisions, and ongoing supervision of CBs. This should reduce inefficiency and consumer confusion without compromising consumer protection. A person who loses their right to use a title with one CB should not be permitted to be credentialed with another CB in Saskatchewan or in another jurisdiction.

4. Mandatory disclosure of products (and credentials)

FAs should be required to disclose the product(s) they are authorized to sell- if the product shelf is restricted (or proprietary only), the potential adverse impact on client accounts should also be revealed.[In the securities sector, the disclosure of products is achieved via the mandatory client relationship disclosure regulation] .In principle, we would argue that individuals with severe product restrictions should **not** be permitted to use the FA title (designation) as their Firm considers them a product distributor i.e. a salesperson with "advice" tied to sale transactions. We would double down on this position when the individuals 'method of compensation is solely or primarily derived from embedded trailing commissions obtained from product sale transactions.

However, the additional disclosure on product shelf range may not be warranted if the Comprehensive Approach to the FA BCP is adopted since the emphasis is on financial service not product sales/transactions.

If credential disclosure is not mandatory, some of the benefits of the FPFAA will not be achieved. For instance, consumers will not be able to seek out FA title holders or complain to a CB about advice if they are unaware of the advisor's credentialing. We appreciate that some financial institutions, such as banks, may not want their representatives to disclose their credentials as that might provide evidence that the

bank represented to its clients a higher standard of proficiency/ conduct (and associated liability) than the institution wishes to be held to.

We believe an FA should be required to disclose his/ her professional designation(s) and registration category to clients. This helps clients assess if they have the right advisor for their financial needs. A central database should be available so that clients can independently check the status of their (or prospective) FA. However, it is our understanding that while Firms may wish to embrace these titles given the potential marketing value they project, they are not required to use these titles, or allow their use under FPFAA. In other words, Firms may prohibit employee/agent use of the FA or FP title.

The disclosure of credentials could be effected through business cards, stationary, email signatures and in written communications with clients. The relevant CB should be identified. The CB will need to have a robust process for confirming this disclosure is actually made in a meaningful manner.

FA's who are dually registered (insurance and securities) must not use the title outside the scope of the registration/licensing.

5. Implementing the framework and transition date

We are not able to offer a definitive view on an appropriate transition time but feel it should be a short as practicable and that clients are made aware of their FA's actual status. Given all the time that has passed since the titling issue has been around , it seems to us that any serious professional would be proactive in taking recognized courses applicable to achieving the FA title. In this respect, we agree with the FPAC position that the July 3, 2020 date should be retained. Any further delay impairs financial consumer protection and benefits to the professional advice industry, which is counter to the regulatory intent of FPFAA.

We recommend dialogue with the Board of New SRO and staff at the MFDA and IIROC since most "Financial advisors" are registrants of these entities.

The title regulations must demonstrate value -add above that offered by CSA/ SRO registrants operating under CFR. If no added value, the only impact will be higher costs for advice for SK based financial consumers.

6. Fees and Fee Structure

We are unable to comment on the fee structure. At a quick glance it appears to us that a CB will require a substantive number of credential holders in order to remain financially viable and meet the demanding obligations of a credible CB. We do not know the number of potential credentialed persons in the province but it would have to be substantive unless it was a CB already established in another larger province. In any event, the fees

charged will, in the end, be flowed down to consumers, so the benefits to consumers should be commensurate with any added advisory fees. If fees to consumers are excessive, public access to personalized advice could be constrained. Ideally, there would be one authorized CB for the FA title recognized by all CSA jurisdictions.

As regards the FA title, it could prove expensive and burdensome for CB's to be ultimately subject to oversight by 13 jurisdictions in the securities sector. There might have to be some CSA Recognition process, similar to the practice currently used to recognize the MFDA and IIROC as SRO's subject to CSA oversight. The CSA JRC-MOU model structure overseeing OBSI might be another possible model that could be used.

Consumer Education

We support clear, accessible and wide-spread investor education to raise awareness among financial consumers and address the policy concerns raised by current titling practices. It is important not only that financial consumers are aware of the title regulations and know what to look for when engaging a Financial Advisor or Financial Planner , but also that they understand what the titles mean, and what services to expect from their Financial Advisor or Financial Planner.

A key success factor of the Act and accompanying Regulations will be how well the FCAA, other regulators and the CB's educate the public on the benefits of working with individuals granted the FCAA endorsed FA and FP title (designation) .If this is well done, the increased awareness could lead to a shift away, over time, from individuals who are not members of an FCAA approved credentialing body. Conversely , if the CB's do not live up to ISO credentialing body standards , FCAA CB approval criteria and consumer expectations, this well-intentioned consumer protection initiative will not succeed and may in fact, be counter-productive.

SUMMARY and CONCLUSION

Given that all securities registrants in Canada are now regulated under CFR, including in particular, its enhanced titling rules, there appears to be little or no incremental benefit of having individuals carry the FCAA approved FA title in the securities sector **unless it offers something more beyond investing.**

Titles offering advisory services that are deemed unlikely to be confused with the FA title will be permitted under the Act.

In the lightly regulated banking sector there potentially could be a consumer protection benefit of constraining the usage of the FA title if there was individual uptake and bank support. See CBC News: **'I feel duped': Why bank employees with impressive but misleading titles could cost you big time**
https://www.cbc.ca/news/business/bank-s-deceptive-titles-put-investments-at-risk-1.4044702 . Of course, banks could simply not permit employees to reveal the FA title.

They could also invent the inflated title of Financial consultant or wealth advisor or other title that is not enforceable under FPFAA. NOTE: The FCAC does not license/register bank employees.

By creating service standards aligned with what consumers expect and need, Saskatchewan can create a model framework for other provinces when regulating professional Financial Advisors (FAs).

As to the FP title, there would be a benefit to financial consumers by regulating (albeit indirectly) the unregulated (except for Quebec and Ontario) FP title (professional designation) , although those holding themselves out as offering financial planning services will still be able to practice financial planning as long as they do not cross FCAA titling guidelines.

Nevertheless, we support the initiative for the FP designation since the "financial planner" title and financial planning is not regulated at all in Saskatchewan. This is a gap that the FPTPA and FCAA rules could potentially fill **if** the proficiency and conduct standards are at an elevated level and a trusted, qualified and independent financial planning CB is approved and overseen by FCAA.

On-site reviews are an important component of any supervisory framework as they provide insight that cannot be gained from "desk reviews" alone. Kenmar therefore recommend that periodic on-site reviews form an integral part of FCAAs CB supervisory program.

We urge the FCAA to work closely with other CSA jurisdictions and with the MFDA/ IIROC (New SRO) in developing criteria for FA title recognition and CB approval, if that avenue is pursued. We note that a recent FSRA approval of a new designation / CB ruffled feathers among certain regulators and could add to consumer confusion (See first reference).

We would like to make it clear that it remains our conviction that financial services Firms must be held accountable for the actions, negligence or misconduct of their representatives no matter what title or designation, individual representatives employ.

Kenmar Associates agree to public posting of this Comment Letter.

We would be pleased to discuss our comments and recommendations with you in more detail at your convenience.

Sincerely,

[redacted]

REFERENCES

Latest credential undermines title regulation, advocates say: IE
New designation approved by FSRA has requirements very similar to those of SROs
https://www.investmentexecutive.com/news/industry-news/latest-credential-undermines-title-regulation-advocates-say/

Critics question approval of Ontario group to certify financial advisers, planners - The Globe and Mail
But several investor advocates have expressed concern with the existing certified life underwriter (CLU) designation, which has been approved as a credential for financial planners, and the professional financial adviser (PFA) designation, which was created in 2020 for people who wish to use the title financial adviser. The two designations are administered by IAFE, which is a subsidiary of Advocis, an industry lobby group that has about 17,000 financial adviser members. Investor advocates say Advocis does not have the track record or independence to oversee credentials in the best interests of investors.

"Advocis has a lobby group for the industry, so in my mind that is a direct conflict of interest," Harold Geller, a lawyer at MBC Law Professional Corp. in Ottawa who handles negligence and fraud cases, said in an interview. "They are essentially putting a fence around their members to protect their existing members, as opposed to putting a fence around legitimate financial advisers and financial planners."
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Investor Education and Protection

working-paper- v1.pdf

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Summary of the CSA Client Focused Reforms can be found at.
https://aumlaw.com/wp-content/uploads/2020/09/Client-Focused-Reforms-in-a-Nutshell-October-19-2020.pdf

Awareness and Perceptions of Financial Planners in Canada: Leger research Key findings- 92% have heard of the title financial planners; 44% believe there are regulatory standards in place for financial planners
http://fpsc.falafeldev.com/docs/default-source/FPSC/awareness-and-perceptions-of-financial-planners-in-canada-(coalition-research).pdf?sfvrsn=2

The Canadian Financial Planning Definitions, Standards & Competencies.
https://fpcanada.ca/docs/default-source/archive/fpsc_definitions_en_web.pdf These standards are at a high level, are not proprietary and could, along with other standards, form the basis for FCAA FP credentialing baseline criteria.

Financial Advisors and Planners: in Search of Regulatory Principles by Michael Trebilcock, Anita Anand, and Francesco Ducci
https://www.thomsonreuters.ca/en/westlawnext-canada/canadian-business-law-journal/financial-advisors-planners-search-regulatory-principles.html

Purse Strings Attached: Towards a Financial Planning Regulatory Framework.
The report reveals that the pace of reform has been slow for an industry entrusted with the retirement security of Canadian consumers. "It's time all employees of the financial planning industry in Canada face the reality-they need to employ a uniform standard of care for investors, complete with a full disclosure of how they're being compensated". The research reveals Canadian consumers are potentially leaving thousands of their retirement dollars in someone else's hands by not being fully informed .The Report is available at http://www.piac.ca/files/pursestrings_attached_final_for_oca.pdf

"Held to a Higher Standard" – Should Canada's Financial Advisors Be Held to a Fiduciary Standard? Abstract Canada's financial regulators are set to bring in a number http://dtpr.lib.athabascau.ca/action/download.php?filename=mba-15/open/punkon-aprj-final.pdf

Kenmar Associates
Investor Education and Protection

W**HITE Paper: The "advice gap" from an investor perspective**
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Why A Fiduciary Standard For Investment Advisers Is Urgent And Crucial
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OSC IAP Horizon Project https://www.osc.ca/sites/default/files/2021-06/iap_20210610_iap-horizon-executive-summary.pdf , the OSC Investor Advisory Panel said it had spoken with several industry groups about a "looming advisor shortage" caused by imminent retirements and persistent deficits in recruitment. While advisors in some segments are pushing 59 years old on average, many also see declining interest among younger generations in pursuing financial advice as a profession. "This is being managed currently by finding efficiencies through adoption of new technologies," the IAP said in its report. However, the IAP said the delegations it engaged with expressed concerns that new models of advice "are not translating into a better customer experience and, in fact, often result in less advice and lower quality of touch." The lack of professional standards and meaningful designations appear to be a major factor keeping individuals away from the advice business. The FCAA title rules can reverse this trend by making the title (designation) FA, a meaningful professional career choice. It would be a real shame if all this effort amounted to a rubber stamping of the status quo.

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NOTES

Approval of Credentialing Bodies (CB)

An approved CB must be responsible for the impartiality of its certification activities and shall not allow commercial, financial or other pressures to compromise impartiality. Entities that engage in political lobbying on behalf of investment industry interests or for their members and pursue advantages for them is incongruent with acting in the Public interest. Accordingly, such entities should be barred from being approved as CB's. CB's

must behave like industry-independent, not-for-profit educational institutions per the ISO 17024 standard.

Only CB's whose practice standards, ethics codes and codes of conduct explicitly require their credential holders to adhere to 'Best interest' duties and practices free from conflicts-of-interests, at least equivalent to the ones articulated in the CSA CFRs should be approved. If this is not done, the indirect intent of the FPTPA to increase professionalism will not be met. It should be noted that CFR is not a fiduciary standard, does not prohibit conflicts-of-interest or the payment of sales commissions or ban dealer representatives with restricted product shelves. CFR does not require an annual update of KYC, restrict an advisory Firm from offering only proprietary investment products and relies on "professional judgement" in a number of key client touch points. The term "Best interests" is not defined; time will tell how CFR works out in achieving better outcomes for retail investors.

If there are going to be multiple CB's, we strongly recommend that there be a single Code of Ethics for all CB's; one approved by the FCAA in conjunction with other regulators. The Quebec model appears to be use-ready for the financial planner title.

CB's should have an explicit obligation to promptly report suspected or demonstrated fraudulent /criminal activity to the FCAA (and law enforcement) for follow up action.
To ensure the Public interest is protected, it will be essential to ensure that before any Credentialing Body is approved, it must have a governance structure that avoids conflicts-of-interest, act in the Public interest, and has sufficient expertise, financial and human resources and infrastructure to effectively fulfil its mandate. It is critical to avoid a race to the bottom to a minimum standard in order to gain consensus from a large field of self-interested stakeholders.

The Canadian Institute of Financial Planning

DELIVERY: finplannerconsult@gov.sk.ca (e-mail)

September 20, 2022

Financial and Consumer Affairs Authority of Saskatchewan
Insurance and Real Estate Division
1919 Saskatchewan Drive, Suite #601
Regina, Saskatchewan
S4P 4H2

FINANCIAL AND CONSUMER AFFAIRS AUTHORITY OF SASKATCHEWAN
NOTICE OF PROPOSED CHANGES AND REQUEST FOR FURTHER COMMENT
PROPOSED REGULATIONS [2022-001]
THE FINANCIAL PLANNERS AND FINANCIAL ADVISORS REGULATIONS

RESPONSE FROM THE CANADIAN INSTITUTE OF FINANCIAL PLANNING

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 Saskatchewan.

The Canadian Institute of Financial Planning (CIFP) is pleased to represent the views of its more than 7,000 students. Further, our submission also represents the comments of our affiliate member organization, The Canadian Institute of Financial Planners (CIFPs), which represents over 10,00 members.

Thank you for taking our comments into consideration. Please contact [redacted] 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,

[redacted]

390 BRANT STREET, SUITE #501, BURLINGTON, ONTARIO L7R 4J4
TOLL-FREE: 1-866-635-5526 FAX: (647) 723-6457 CIFP WEB SITE: WWW.CIFP.CA

OVERVIEW

The Canadian Institute of Financial Planning commends the government of Saskatchewan for its proactive stance to restrict the use of the titles 'Financial Planner' and 'Financial Advisor' through the *The Financial Planners and Financial Advisors Act (FPFAA)*.

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. 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.

The perspective and constructive recommendations of CIFP as it pertains to the FCAA request for comment on the Proposed Regulations are detailed in the pages that follow.

390 BRANT STREET, SUITE #501, BURLINGTON, ONTARIO L7R 4J4
TOLL-FREE: 1-866-635-5526 FAX: (647) 723-6457 CIFP WEB SITE: WWW.CIFP.CA

1) CREDENTIALING BODIES – PROCESS WHEN APPROVAL REVOKED OR OPERATIONS CEASE

Transitioning credential holders from a credentialing body that is no longer active or approved

It is the hope and expectation of CIFP that the risk of a credentialing body ceasing its operations or having the approval of one or more of its credentials cancelled or suspended is low. Implicit in this expectation is that when the FCAA receives an application for approval of a financial planning or financial advising credential and even moreso, an application for approval as a credentialing body, it will scrutinize the entity beyond its ability to simply meet the current prescribed standards. It is presumed the FCAA will project forward to assess the long-term relevance of the credential and the long-term viability of the credentialing body based on its experience, governance, structure, systems and processes. This sentiment is in fact reflected in Part 3, paragraph 5(1)(b) of the proposed *Financial Planners and Financial Advisors Regulations* so, CIFP is confident the probability of a credentialing body failing will be minimized.

This being said, CIFP recognizes that sound judgements made today do not guarantee they will remain so indefinitely. Leaving aside the unforeseen internal mismanagement of the credentialing body, unpredictable external factors can dramatically shake the stability of an organization. We need only look to the recent past and the fallout from the COVID-19 pandemic to see how companies, big and small, are struggling to maintain their operations in the midst of difficult macro-economic conditions.

Transition provision where a credential has been suspended or cancelled

CIFP would like to emphasize that in the event a credentialing body ceases its operations or has its approval cancelled or suspended, fault does not reside with credential holders. In good faith, these individuals pursued what was at one time an FCAA-approved credential from what was at one time an FCAA-approved credentialing body. Consequently, it would be unfair to punish the individual credential holder and potentially impact his or her livelihood by prohibiting his or her use of the FP or FA title based on issues over which the individual has no control.

Accordingly, CIFP believes a six-month transition provision is appropriate for individuals who hold a credential that has been cancelled or, who belong to a credentialing body that has terminated its operations. If an individual has not attained a new approved credential by the expiration of this transition period, he or she should not be permitted to continue to use the FP or FA title until he or she meets this requirement.

In the case where a credential has been suspended, it is assumed it is because the FCAA has identified deficiencies in the program or operations of a credentialing body and is working with them to restore the credential to the required standard. Failure by the credentialing body to satisfactorily address the issues raised by FCAA would presumably then result in a revocation of

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the approval of the credential. Based on this, during the period where a credential is under *suspension*, CIFP does not believe the prohibition on the use of the FP or FA title is warranted or fair to existing credential holders until such time as the credential is actually cancelled.

Based on their personal and professional circumstances, a six-month window to allow an individual who has had his or her credential cancelled to obtain a new approved credential from a credentialing body in good standing may well cause meaningful hardships and anxiety for some individuals. However, in determining an appropriate transition period, the focus should not be on the individual credential holder—even if they find themselves in this predicament through no fault of their own—but rather, on the best interests of the consumers served by the credential holder. From this lens, there needs to be some urgency for an individual who wishes to use the FP or FA titles to demonstrate to the public that he or she has met the requisite standards that allow him or her to do so.

A six-month time frame should also be sufficient given that in seeking a new approved credential, the individual should not have to complete the entire program of study tied to that designation. The individual has already completed an education curriculum that at one time was deemed to adhere to the baseline competency profile for the FP or FA title. The core competencies learned under that curriculum remain relevant and should qualify for significant academic equivalencies in the program of study for the new credential.

Essentially, this means to attain a new approved credential, the individual is tasked with reviewing previously learned content, topping-up his or her knowledge base to account for new concepts and for currency and satisfying any unique requirements specific to the new credential. Without minimizing the effort involved, this should be a less arduous process than learning the entire program of study from scratch as the individual had to do under when he or she obtained their original credential and therefore, six months ought to be a sufficient timeframe.

CIFP believes the same six-month transition provision is equally appropriate if it is only a credential that is no longer approved.

Transferring a credential to a new credentialing body

Unless a credentialing body that has ceased its operations has been taken over by a credentialing body in good standing and the credentials offered by the now defunct credentialing body continue to be approved under the FPFAA as part of the new structure, it does not make sense for an individual to be able to continue to use the credential. As such, CIFP does not support the 'transfer' of a credential to a new credentialing body barring the above-noted exception.

In all other instances, an individual must apply for a new approved credential to continue to use the FP or FA title.

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Complaints against title holders without an overseeing credentialing body

Complaints brought against title holders whose overseeing credentialing body is no longer a functioning entity should be received and managed by the FCAA (assuming it is within the rule-making authority provided under the FPFAA).

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2) APPROVAL CRITERIA FOR FA CREDENTIALS

General nature of baseline competency profiles

CIFP is in agreement with other stakeholders who have indicated that the baseline competency profiles for both FPs and FAs are too general and require greater detail to differentiate between the FP and FA titles as well as between the FA title and individuals who are authorized to sell specific financial products.

This said, at this particular juncture, CIFP also feels a high level approach to establishing technical proficiency requirements is prudent. In the early stages of the Ontario framework, the Financial Services Regulatory Authority of Ontario made the astute assessment that the 'diversity of training and experience of individuals who…hold a financial services license or designation' means the Proposed Rule should focus on a minimum standard for title use 'rather than seeking to build a consistent level of proficiency for all individuals who hold a license or designation.' Similarly, the FCAA has noted that in Saskatchewan, the 'primary objective of the framework is to create minimum standards for title usage for the protection of consumers and investors, without creating unnecessary regulatory burden for title users.'

As evidenced in Ontario, done in the right way, this approach can work. Minimum standards need not equate to setting the bar at the lowest level. Moreover, at this stage of implementing the Regulations in Saskatchewan, given the diverse and incongruous make-up of the financial services industry, a high level approach is appropriate as, first and foremost, the focus should be on establishing a workable framework and then adopting processes that maintain forward momentum. Too many details at this relatively early stage only invites bickering among stakeholders, as each weighs-in with their own self-interests and inevitably, progress is stalled. At this critical moment in time, what is most important for the FCAA is to keep the ball rolling. In the context of the BCPs, it means, by necessity, they will be broad and general and perhaps imperfect but nonetheless, sufficient for consumers to have confidence that the FP or FA with whom they are dealing has the requisite expertise and knowledge to manage their financial affairs.

This is only the starting point. Improvements to the framework can be made incrementally and with the benefit of further consultation. At a future point, following the enactment of the legislation, it would be more appropriate to expand and define the minimum standards set in the BCPs. In 'phase two', CIFP would encourage a bolstering of these minimum standards by identifying mandatory learning objectives for each planning area and providing clearer definitions of proficiency for each required learning objective.

Product-Focused Approach

The push for amendments to the FA BCP in large part appears to be centred on the fact that in its current form, it has a Product-Focused Approach. If the entirety of the proficiency requirements were based solely on the sale of financial products and services, CIFP would be in agreement

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that this does not serve the public interest. However, to categorize the FA BCP in this manner would be inaccurate.

The current proficiency requirements may well be skewed towards providing financial advice related to the products and services the FA is authorized to sell however, it is in the context of doing so using ethical practices—including placing the interests of the client first at all times and satisfying suitability requirements—conducting himself or herself in a professional manner, disclosing conflicts of interest and managing them in favour of the client and satisfying know-your-client obligations. This is an entirely different paradigm than the product-centric approach some stakeholders have expressed concerns about. With proper oversight, the existing FA BCP does not have to leave 'consumers vulnerable to advice that may not be appropriate for their circumstances.'

Is it possible for an FA to simply sell financial products and services to clients without their best interests in mind? Absolutely it is. It is also equally possible for FPs who have broad-based knowledge and who are held to a higher standard to engage in the same type of misconduct. In fact, based on the lengthy list of disciplinary actions taken against FPs, it appears this occurs with alarming regularity.

CIFP would contend that the existing FA BCP modelled on the FSRA approach and under an umbrella of professional and ethical conduct, contains sufficient safeguards to ensure the best interests of consumers and investors are preserved. Moreover, there is no reason to believe an FA who is living up to his or her professional obligations is ill-equipped to make a product recommendation that is suitable for his or her client based on the existing BCP framework.

Comprehensive Approach

It must be emphasized that CIFP is, and always will be, a proponent of education and enhancing the proficiencies of individuals who provide planning or advisory services to Canadian consumers. Elevating standards is a win for all concerned: the Financial Planner or Financial Advisor, his or her firm, the industry in general and most importantly, the individual investor.

This said, a requirement for higher standards must be warranted, realistic and must produce outcomes that meaningfully further the mandate of the title protection framework. It is not definitively apparent to CIFP that expanding the proficiency requirements for FAs to include multiple technical areas such that they are more closely aligned with FPs will achieve this goal.

To be clear, CIFP is supportive of elevating the technical proficiency requirements for FAs such that they have a solid grasp of the *fundamentals* as it relates to each financial planning area. This approach has merit. However, CIFP believes imposing a requirement for advanced knowledge for FAs to 'reduce the substantive differences' with their FP counterparts is more than what is needed at this stage and that comprehensive planning and recommending strategies is more in the realm of a Financial Planner.

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Another area of concern with the Comprehensive Approach is that it may be misleading to the public. If the FA title is built-up such that it is viewed as 'signifying the individual can give comprehensive personal financial advice' and 'after considering the client's personal circumstances, be focused more on recommending specific strategies or approaches' how is the public supposed to differentiate between the FA and FP titles? In fact, the public would be justified in questioning the purpose of having two titles if both planners and advisors essentially provide comprehensive personal financial advice and recommend strategies. It would be a stretch to presume the public will be able to differentiate that the competencies of a planner allow him or her to draft an integrated financial plan whereas an advisor has knowledge in respect of providing suitable recommendations relating to broad-based financial and investment strategies.

CIFP also questions whether the Comprehensive Approach places an unfair and an unrealistic expectation on the Financial Advisor with regards to the advisory services he or she is qualified and capable of delivering to clients especially if the FA title is marketed in the way some stakeholders have suggested. Even the name 'Comprehensive Approach' connotes more than what many FAs are able to do.

It must be understood that for many client-facing industry participants, comprehensive planning may be a step too far based on their aptitude, their ambition, the nature of their role within a financial institution, the type of clients with whom they engage, the willingness of clients to buy-in and participate in the planning process and a host of other reasons. However, these individuals may be fully capable of providing certain advisory services that are not meant to be holistic but, nonetheless offer value and help clients achieve a desired goal (e.g. initiating a savings program). The additional FA requirements for these individuals under the Comprehensive Approach would pose significant challenges.

Comprehensive Approach vs. Product-Focused Approach

The FCAA has suggested that a potential advantage of the Comprehensive Approach over the Product-Focused Approach is it makes for a better alignment with client expectations. If the prevailing expectation from clients is that FAs will provide broad-based comprehensive financial advice, CIFP is in agreement with the suggestion that this mismatch in client expectations can be offset by requiring FAs not only to disclose the authorized credential(s) they hold but, to also disclose that the scope of their financial advice is focused on certain products only (i.e. enhanced disclosure).

Enhanced disclosure provides clarity for the consumer in terms of the nature of the services they can reasonably expect to receive from the FA and allows them to make a more informed decision as to whether or not the FA is adequately equipped to help them meet their goals and objectives.

In the estimation of CIFP, enhanced disclosure is a more appropriate measure than amending the FA BCP to include proficiency in multiple technical areas.

390 BRANT STREET, SUITE #501, BURLINGTON, ONTARIO L7R 4J4
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The FCAA has also stated that the Comprehensive Approach provides for a better alignment with other financial sector regulatory frameworks. As previously stated, in principle and subject to further consultation, CIFP is supportive of elevating the core financial technical education requirements to obtain an FA credential provided it relates to the *fundamental* concepts of each financial planning area. A requirement for advanced knowledge in each financial planning discipline should remain the domain of Financial Planners as it is more pertinent to their key functions: comprehensive planning, recommending strategies and drafting integrated financial plans.

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TOLL-FREE: 1-866-635-5526 FAX: (647) 723-6457 CIFP WEB SITE: WWW.CIFP.CA

3) DECREASE IN HARMONIZATION

If serving the best interests of Canadians is truly the end goal of the title protection framework—not just in Saskatchewan but, in other Canadian jurisdictions as well—CIFP believes there are two guiding principles that must remain at the forefront as the FCAA works towards the end goal: urgency and harmonization.

For far too long, individuals have been permitted to practise as Financial Planners and Financial Advisors even though they lack the requisite education and competencies. It has contributed to confusion, posed a risk to the Canadian investing public and continues to represent a consumer protection concern to which we cannot turn a blind eye.

Despite several failed attempts over the years, it finally appears that real and meaningful strides are being made with regards to advancing the regulation of FP and FA title usage. This momentum must be maintained and therefore, in assembling a framework, it is imperative that the FCAA do so with a sense of urgency. It may well mean that to varying degrees, the Regulations that are enacted are not the finished article but, provided they contain the essential elements to protect consumers, they will serve as an important benchmark and launching point. Once in place, there will be opportunities to amend the framework in keeping with an ever-changing landscape. Is there any doubt that the model adopted in Ontario will continue to evolve in the years to come?

Secondly, the regulation of Financial Planners and Financial Advisors must be a platform adopted in all Canadian jurisdictions. If this ideal is unattainable, then it should be the case in at least all of the common-law provinces. Most importantly, for a framework to be efficient, effective, viable and sustainable, such regulation must be harmonized across the country. **This cannot be overstated.**

A uniform approach is integral to a successful adoption of the program by the financial services industry and Canadians at large. It is worth noting that most FPs and FAs are not independent but rather, they are part of large, national financial institutions. This places an even higher priority on the need for harmonization.

If it is presumed the Ontario framework will serve as the template, it is understandable that each participating jurisdiction may have some variance from the Ontario framework to better reflect their unique perspective but, by and large, title protection regulation should be consistent across the country. Doing so will mitigate regulatory duplication, excess administration and unnecessary costs and, of paramount importance, it will truly be in the best interests of Canadian consumers and investors.

It is encouraging to note that the FCAA has recognized this point from the beginning and even in its latest consultation ‘continues to be mindful of the importance of harmonizing…[its]… legislation with that of other jurisdictions.’

390 BRANT STREET, SUITE #501, BURLINGTON, ONTARIO L7R 4J4
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An opportunity presents itself to introduce a modern, efficient and harmonized regulatory framework that distinguishes itself from the myopic and splintered system that has been in force for too long where jurisdictions have seemingly operated as islands unto themselves.

With this as a backdrop, CIFP firmly believes that any perceived benefits of increasing proficiency requirements to hold the FA credential in Saskatchewan does *not* outweigh the resulting decrease in harmonization with the Ontario model. As detailed in the response to the previous question, fundamentally, CIFP is not convinced that amendments to the FA BCP modelled on the FSRA approach are necessary. However, even if enhancements are deemed necessary, it would be more appropriate to do so not at this moment in time but rather, in a subsequent phase, after an initial framework has been launched.

The FCAA has articulated the main issues with respect to the Comprehensive Approach that is being contemplated: it will lead to a misalignment between FA credentialing bodies in Ontario relative to those in Saskatchewan which could result in fewer credentialing bodies operating in Saskatchewan and could ultimately, mean Canadians seeking financial advisory services will have fewer options. Moreover, Ontario-based credentialing bodies may be subject to an additional regulatory burden to meet the standards in Saskatchewan.

CIFP is in agreement with this assessment and views the potential downside of the Comprehensive Approach as too high a cost to pay for an unclear benefit. As previously indicated, harmonization has to be one of the pillars for a title protection framework to be successful and to be sustainable. If harmonization is to be diminished in any way, the benefit derived must outweigh the costs by a significant factor—CIFP does not view the Comprehensive Approach as meeting this litmus test.

As highlighted by the FCAA, the Comprehensive Approach also creates practical hurdles for credentialing bodies. A credentialing body may have to develop *and maintain* a discrete education curriculum to meet the proficiency standards set in Saskatchewan. This is incredibly costly in terms of financial resources, human resources, time and administration.

A case in point: the Canadian Institute of Financial Planning offers education curricula in support of three credentials; it is also accredited by FP Canada to offer students the Core and Advanced Curricula for the CERTIFIED FINANCIAL PLANNER® certification program. As a national provider, CIFP offers one version of each of the four education curricula in English for the common law provinces, one version in French for the common-law provinces, one version in English based on Québec's Civil Code and one version in French based on the Civil Code. Keep in mind, each version also requires an annual update. From this perspective, it is clear to see the effort required to maintain these programs of study and the inherent logistical complexity.

This will only be compounded if CIFP and other credentialing bodies are asked to add a new version of its curriculum solely for purposes of Saskatchewan. What if New Brunswick also introduces a structure that deviates from the Ontario model when it brings its legislation into force and similarly, other provinces and territories follow suit with unique requirements as title protection rolls out across the country?

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The Comprehensive Approach may also impose additional and unwelcomed requirements on individual FAs. Despite having met the proficiency standards for Ontario, they may find that to be able to use their title in Saskatchewan, they will require a top-up of their competencies.

The best intentions of jurisdictions when they first dip their toes into title usage legislation to be mindful of harmonization, to minimize duplication and excessive costs and to avoid unnecessary regulatory burdens can quickly unravel when harmonization is diminished. CIFP believes straying from the baseline Ontario model other than in situations where there is an unequivocal and sizeable advantage to be gained, is fraught with challenges and unintended consequences and is in opposition to the premise behind the framework and the best interests of the industry and Canadian consumers and investors.

Transition period for an FA's compliance with the FPFAA

If the FCAA does in fact adopt the Comprehensive Approach, in fairness, the transition period for an FA to comply with the FPFAA set out in section 9(3) of the Proposed Regulations should be extended from two years to four years to match that of an FP.

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TOLL-FREE: 1-866-635-5526 FAX: (647) 723-6457 CIFP WEB SITE: WWW.CIFP.CA

4) MANDATORY DISCLOSURE OF CREDENTIALS

Mandatory disclosure of credential and credentialing body

CIFP is supportive of a mandatory disclosure requirement for both the credential held by the FP or FA title user as well as the name of the credentialing body from which the credential was obtained. The requirement for disclosure should coincide with any and all use of the FP or FA title by the individual in the context of providing planning or advisory services to clients or prospective clients. If title usage is in printed form or online (e.g. business cards, letterhead, marketing materials, social media, Web sites), disclosure of the credential and the credentialing body should be in the same format immediately following the title (i.e. to show a causal connection between the credential and the use of the FP or FA title).

Public registry

Above all else, the proposed title protection framework in Saskatchewan is a public service initiative. It is therefore imperative that approved credentialing bodies maintain a public registry that is easily accessible by the public, that is intuitive to use and that identifies the specific credential(s) held by the Financial Planner or Financial Advisor, whether he or she is in good standing (i.e. the individual has met all of the requirements to continue to use the credential) and whether he or she is or has been the subject of any disciplinary action in respect of a breach of the code of conduct tied to the credential(s) he or she holds.

This is in keeping with Part 3, paragraph 5(4)(a) and (b) of the proposed *Financial Planners and Financial Advisors Regulations.*

Enhanced disclosure requirement for FAs

CIFP is also in favour of the proposed enhanced disclosure requirements for FAs.

If the concern with the current unregulated financial services' marketplace in Saskatchewan is that the wide array of titles and credentials in use by industry participants contribute to confusion and an erosion of confidence by Canadian consumers of financial products and advisory services and the premise of the title protection framework is to alleviate these concerns, it stands to reason that any provision that offers greater clarity and insight for the public should be welcomed.

A requirement for an FA to disclose the product(s) he or she is authorized to sell in addition to the credential he or she holds would improve transparency and provide the public with greater insight regarding the scope of services the FA can offer. This in turn should allow for a client to be better aligned with a Financial Advisor who has the capacity to meet their specific and unique needs and objectives.

390 BRANT STREET, SUITE #501, BURLINGTON, ONTARIO L7R 4J4
TOLL-FREE: 1-866-635-5526 FAX: (647) 723-6457 CIFP WEB SITE: WWW.CIFP.CA

The requirement for enhanced disclosure should coincide with any and all use of the FA title by the individual in the context of providing advisory services to clients or prospective clients. If title usage is in printed form or online (e.g. business cards, letterhead, marketing materials, social media, Web sites), disclosure of the product(s) he or she is authorized to sell should be in the same format immediately following the title (i.e. to show a causal connection between the product(s) and the use of the FA title).

Enhanced disclosure requirement under the Comprehensive Approach to the FA BCP

As stated previously, CIFP does not favour the Comprehensive Approach in respect of the FA baseline competency profile. This said, if this Approach is in fact adopted, it is the view of CIFP that the above-noted enhanced disclosure requirements for FAs would be rendered superfluous.

Of greater concern, under the Comprehensive Approach the enhanced disclosure requirements for FAs would run counter to the intent of the framework, would be misleading to the public and would be unfair to the individual title user.

Mandating enhanced disclosure while the Comprehensive Approach is in force, undermines the additional proficiencies the individual has worked hard to acquire especially considering that the individual was required to broaden his or her financial planning acumen precisely to avoid being pigeon-holed as merely a purveyor of a single financial product.

From the perspective of the public, enhanced disclosure under the Comprehensive Approach will overshadow the fact the individual is qualified to 'give comprehensive personal financial advice that encompasses more than just expertise in one particular product area'. One cannot reasonably expect the public to have a full understanding of what the Comprehensive Approach represents or expect that it will attach more credence to it when the enhanced disclosure of the financial product(s) an FA is able to sell is what the public will see most prominently alongside the title of the individual.

Finally, for the credential holder himself or herself, the enhanced disclosure provisions unfairly minimize the scope of planning and advisory services he or she is qualified to perform.

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TOLL-FREE: 1-866-635-5526 FAX: (647) 723-6457 CIFP WEB SITE: WWW.CIFP.CA

5) TRANSITION DATE AND IMPLEMENTATION PERIOD

Implementation period

Based on the nature of the activities the FCAA will conduct during a proposed implementation period following the enactment of *The Financial Planners and Financial Advisors Act* (e.g. reviewing applications and approving credentialing bodies), it would seem that the FCAA itself would be in the best position to determine the necessity for such a window and its ideal duration. Given this, CIFP will defer to the sound judgement of the FCAA on this point.

This said, CIFP does favour the shortest implementation period that is reasonably practicable (i.e. if an implementation period between three months and 18 months has been suggested, then a period closer to three months would be preferred). This will ensure individuals who do not hold an approved credential but, who continue to use the FP or FA titles under the transition rules are not given an unjustified extension for such use.

While an implementation period may be appropriate for the purposes of the FCAA, CIFP does not believe it is a benefit needed for title users to 'assess their options'—individuals have had sufficient opportunity to survey the landscape and settle on a course of action considering the FPFAA received Royal Assent in 2020. CIFP does however agree that if it is determined that an implementation period should be brought into force, existing FP and FA title users who do not hold an approved credential should not be penalized and judged to be in contravention of the legislation during that time.

Transition date

CIFP does *not* support an adjustment to the transition date of July 3, 2020.

As it stands, for individuals who used the FP or FA title in Saskatchewan immediately prior to July 3, 2020 while actively engaged in the business of providing services related to financial planning or financial advising continue to be able to use their title without limitation and, once the Regulations are in effect, will be offered a generous runway to earn an approved credential (i.e. four years for Financial Planners and two years for Financial Advisors).

Changing the date to a more recent date—one that coincides with the date the FPFAA and the Regulations come into force is being considered—simply expands the cohort of individuals who will be permitted to use the FP or FA title even though they do not hold an approved credential. Clearly, this runs counter to the objective of the title protection framework and can only be viewed as a disservice to consumers and investors. Moreover, it has already been two years since the FPFAA was enacted and the FCAA is still conducting consultations (no slight intended!)—there is nothing to suggest the completion of the process to bring the Act and the Regulations into force is imminent. In the interim, amending the transition date only increases the number of title users in Saskatchewan who do not have a supporting credential.

390 BRANT STREET, SUITE #501, BURLINGTON, ONTARIO L7R 4J4
TOLL-FREE: 1-866-635-5526 FAX: (647) 723-6457 CIFP WEB SITE: WWW.CIFP.CA

The transition period as currently proposed is appropriate. Title users prior to July 3, 2020, can hardly claim they have been blind-sided by the requirement to earn an approved credential to continue using their title. They have seen the development of the framework in Saskatchewan for a considerable period of time and they do not have to be clairvoyant to conclude that the odds strongly favour the realization of title restriction legislation in this province. If these individuals have been skeptical that the rhetoric will actually lead to meaningful changes, bearing witness to the implementation of the Ontario model has provided them with a dose of reality.

As for new entrants into the industry post-July 3, 2020, for better or for worse, they must accept the new standard as a cost of admission—of which there are many—to the career path they have chosen.

Requirement for disclosure during transition period

For eligible individuals, the transition period offers a considerable timeframe over which they can continue to hold out as a Financial Planner or as a Financial Advisor even though they do not possess an approved credential to support such title usage. While CIFP recognizes the need for a transition period and notwithstanding its transitory nature, it is nevertheless out of synch with the objective of mitigating consumer confusion and instilling confidence in consumers and investors that the individual with whom they are dealing is sufficiently qualified to provide financial planning or advisory services.

Therefore, CIFP would like to see a requirement for disclosure during the transition period for any individual using the FP or FA titles but, who does not hold an approved credential in good standing. The use of the word ‘candidate’ or, similar term, is a particularly fitting disclaimer: it provides clear disclosure to consumers and investors without disparaging the abilities and competency of the individual.

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TOLL-FREE: 1-866-635-5526 FAX: (647) 723-6457 CIFP WEB SITE: WWW.CIFP.CA

6) FEES AND FEE STRUCTURE

CIFP recognizes the implementation of the FP/FA title protection framework is an undertaking of significant scope and by extension, significant cost. In principle, CIFP views the fee structure proposed by the FCAA as reasonable. Using the model implemented by the Financial Services Regulatory Authority of Ontario is a logical approach and CIFP would encourage the FCAA to replicate the principles on which the FSRA fees are based:

- simplicity
- consistency
- fairness
- effectiveness and efficiency

CIFP acknowledges the challenges the FCAA 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 the FCAA is also a fair consideration in determining the fee structure.

At the same time, the annual fee is not insignificant. The fact remains the implementation and maintenance of this new system represents an additional and material annual expense to prospective credentialing bodies. In many instances, it may not be easy to flow these costs through to individual FP/FA title users leaving the credentialing body with no alternative but to absorb the expense. 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 aspiring credentialing bodies. Sensitivity towards costs are further magnified given the uncertain economic conditions we find ourselves in 2022. All entities—big and small—are facing unstable revenues and rising expenditures and cost minimization is at the forefront of strategic planning for management.

In light of this backdrop, in whatever format the fee structure is ultimately set—and of course, like all other stakeholders, CIFP would want fees to be as low as is practicable without creating material or unacceptable regulatory risk—the focus for the FCAA should be to ensure that a wide net is cast in the application of its fees such that the necessary costs are shared and the system is fair.

This means fee exemptions should not be granted (e.g. on the basis of holding multiple approved credentials or, simply by virtue of the fact the credential holder is already overseen by a self-regulatory organization). 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.

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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 the FCAA 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 also a 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.

Finally, CIFP is of the belief that unlike FSRA, where the fee structure is based on a full recovery of the costs incurred to launch the Ontario framework, in Saskatchewan, the FCAA is not charged with the same cost-recovery obligation. If this is in fact the case, is there room for the FCAA to reduce the calculation of the annual fee from the proposed level of $50 per credential holder operating in Saskatchewan?

Fee transparency

CIFP would also like to see transparency included as one of the guiding principles for any proposed fee structure. For example, if the responsibility of collecting and remitting fees payable by credential holders to the FCAA is to be placed on credentialing bodies, those fees should be clearly delineated as ‘FCAA charges’ (or, something to that effect), so that credential holders are not mistakenly left with the impression they are being assessed additional fees by the credentialing body.

CONCLUSION

CIFP would like to thank the Financial and Consumer Affairs Authority of Saskatchewan 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.

390 BRANT STREET, SUITE #501, BURLINGTON, ONTARIO L7R 4J4
TOLL-FREE: 1-866-635-5526 FAX: (647) 723-6457 CIFP WEB SITE: WWW.CIFP.CA

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THE INVESTMENT FUNDS INSTITUTE OF CANADA

L'INSTITUT DES FONDS D'INVESTISSEMENT DU CANADA

IFIC Submission

Financial and Consumer Affairs Authority (Saskatchewan): The Financial Planners and Financial Advisors Act - Notice of Proposed Regulations and Request for Further Comment

September 20, 2022

IFIC THE INVESTMENT FUNDS INSTITUTE OF CANADA | L'INSTITUT DES FONDS D'INVESTISSEMENT DU CANADA

September 20, 2022

Delivered By Email: finplannerconsultation@gov.sk.ca

Financial and Consumer Affairs Authority (Saskatchewan)

Dear Sirs and Mesdames:

RE: The Financial Planners and Financial Advisors Act - Notice of Proposed Regulations and Request for Further Comment

The Investment Funds Institute of Canada (**IFIC**) appreciates the opportunity to comment on The Financial Planners and Financial Advisors Act - Notice of Proposed Regulations and Request for Further Comment (**Consultation**).

IFIC is the voice of Canada's investment funds industry. IFIC brings together approximately 150 organizations, including fund managers, distributors and industry service organizations to foster a strong, stable investment sector where investors can realize their financial goals. IFIC operates on a governance framework that gathers member input through working committees. The recommendations of the working committees are submitted to the IFIC Board or board-level committees for direction and approval. This process results in a submission that reflects the input and direction of a broad range of IFIC members.

Summary

IFIC supports the appropriate use of titles that do not confuse investors, and that reflect competencies of the individuals using those titles. However, we believe that the Financial and Consumer Affairs Authority of Saskatchewan's (**FCAA**) proposed approach to base competency proficiency (**BCP**) for financial advisors (**FA**s) should not be pursued, for the reasons set forth in this letter.

This submission sets out the material elements of IFIC's concerns with aspects of the Consultation. In Appendix A we respond to the Consultation's six specific questions either by cross-references to applicable comments in this submission or directly in Appendix A.

Our feedback is focused on the following key points:

- BCP for FAs should not be expected to be the same as for financial planners (**FP**s). FAs and FPs provide very different services and engage in very different activities, for different client bases and needs, and the BCP for each should reflect these differences.
- Individual advisors who are registered with the Mutual Fund Dealers Association of Canada (**MFDA**) or the Investment Industry Regulatory Organization of Canada (**IIROC**) (MFDA and IIROC collectively, the **SROs**) are required to comply with proficiency requirements and comprehensive know-your-client, know-your-product and suitability requirements; are required to put the client's interests first; and must provide relationship disclosure information (**RDI**) at account opening that includes a description of the products and services they will offer to their clients. As a result, clients of such advisors, who are already regulated under a robust client protection regime with clear relationship disclosure requirements, do not require additional client protection requirements in Saskatchewan, particularly if those requirements are not harmonized with the SROs' proficiency and disclosure requirements and do not provide any additional benefits.

- The emphasis in the Consultation should be to achieve harmonization for individuals using the FA title, and who are not registered with an SRO, with those who are already subject to the SRO regulatory regime.

Activities And Services Provided by FAs Are Different Than Those Provided by FPs, And the BCPs Should Be Appropriate to The Different Activities

The Consultation proposes that the BCP for FAs should align with the BCP for FPs and would include "knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e., *estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management*). The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies." The Consultation proposes moving to a "Comprehensive Approach" for both FAs and FPs, as opposed to maintaining the distinction in the original consultation and adopted in Ontario by the Financial Services Regulatory Authority (**FSRA**), which adopted a "Product-Focused Approach" for FAs. The FCAA's proposed approach would create greater confusion, with no additional benefits, by taking a non-harmonized approach to regulating the FA title in Saskatchewan compared to FSRA or the SROs.

IFIC notes that individual mutual fund advisors (**Approved Persons**) registered with the MFDA are licensed to provide financial advice in relation to making investment decisions related to purchasing and redeeming investment funds. Estate planning, tax planning, retirement planning, and finance management are not part of the core services provided by Approved Persons, so an all-encompassing proficiency regime of the type contemplated is inappropriate for Approved Persons. According to its most recent annual report the "The Mutual Fund Dealers Association of Canada (the "MFDA") is a self-regulatory organization that oversees mutual fund dealers in Canada, which regulates the operations, standards of practice and business conduct of its Members and their over 77,000 Approved Persons with a focus on retail clients."[1] We submit that if the MFDA, which is overseen by the provincial and territorial securities regulators in Canada, believes it is appropriate to regulate financial advice that is product-specific, there is no reason to introduce a new regime in Saskatchewan that would take a different approach.

The BCPs for FPs, which the Consultation proposes to extend to FAs, is only appropriate to FPs. A financial plan, by definition, looks beyond current and proposed investments and considers them in a holistic analysis of a client's life cycle. Consequently, an understanding of estate and tax planning, insurance and risk management, in addition to understanding the client's current investments, is required to prepare a comprehensive financial plan for a client.

However, not every investor requires or desires a comprehensive financial plan and its attendant costs. Many retail investors only want advice in respect of investments. The current securities regulatory regime recognizes there is a continuum of investment advice needs, from basic advice for beginning investors with modest amounts to invest, to more sophisticated investors and households with larger investment portfolios requiring more diversified advice. This continuum is acknowledged by the difference between the registrations available to an Approved Person registered with the MFDA through their sponsor firms and the registrations available to dealing representative of an investment dealer registered with IIROC through their sponsor firms, who are permitted to advise on a broader range of investment options and products such as stocks and bonds.

[1] MFDA Annual Report 2021 page 12 https://mfda.ca/mfda-2021-annual-report/pdfs/MFDA_AR_2021_online.pdf

The SROs require their Approved Persons to meet a minimum standard of education, training, and experience before performing registerable activities. The fulsome education requirements include the following topics: legislation and regulations, ethics, conflicts of interest, compliance issues, know your client, know your product, suitability, strategic investment planning and issues relating to older and vulnerable clients. The minimum requirements to conduct registerable activities are substantially similar to the minimum standards for using the FA title under the FSRA rules. Similarly, the SROs have rules that prohibit individuals from holding themselves out in a manner that could be deceptive or misleading. This prohibition includes using a business title or financial designation without the required proficiency or qualifications prescribed by the SROs.

Further, it is important to acknowledge that in addition to day-to-day supervision of the advisor by the member firm, regular business conduct exams are conducted by the applicable SRO to help ensure a high standard of conduct by its members and Approved Persons. Furthermore, SROs are subject to oversight by the statutory regulators who ensure the SROs continue to develop and uphold acceptable standards to protect investors.

Given that the extensive securities regulatory regime which currently exists in a harmonized form across Canada contemplates and permits financial advisors who are MFDA or IIROC registrants to offer product-specific advice, the FCAA should not adopt a regime that is unique to the province of Saskatchewan and does not align with the current harmonized approach to the delivery of financial advice across Canada.

MFDA and IIROC Advisors Must Comply with Comprehensive Regulatory Requirements to Put the Interests of The Client First

Individual advisors who are registered with the MFDA or IIROC, including those that use the FA title, are already subject to comprehensive licensing, continuing education, and disciplinary requirements of their respective SRO.

Further, individual advisors who are registered with the MFDA or IIROC are required to: comply with recently updated, and comprehensive, know-your-client, know-your-product and suitability requirements; put the client's interests first; and provide RDI at account opening that includes a description of the products and services they will offer their clients.

The SROs have a comprehensive investor protection regime established, with appropriate disclosure to clients as to the products and services that the advisor is licensed to provide to their client. As a result, advisors registered with the MFDA or IIROC should not need to comply with any additional client protection or disclosure requirements in Saskatchewan.

The Consultation should be restricted to title users who are not securities registrants and who should be held to the same proficiency and transparency standards related to the products and services they offer, and the know-your-client, know-your-product, and suitability requirements that the Canadian securities regulators and the SROs have determined are required to provide appropriate investor protection when clients are receiving financial advice.

These are the more appropriate considerations for the proper delivery of financial advice, as they are tailored to what financial advice and the financial advisory relationship involves, which are different from the requirements in a financial planning relationship with a client.

Conclusion

As IFIC's CEO Paul Bourque has noted in a recent column in Investment Executive:

"When regulatory reform spans federal and provincial jurisdiction and involves provincial regulatory agencies as well as self-regulatory organizations, coordination and harmonization are critical if the objectives of the reform are to be achieved. Harmonizing the regulation of titles for financial planning and financial advising activities is key when the regulations cut across functional, geographic, and political boundaries."[2]

To conclude: IFIC recommends that the FCAA not pursue its proposed approach to base proficiency competency for financial advisors.

* * * * *

IFIC appreciates this opportunity to provide our input on the Consultation. Please feel free to contact me by email at [redacted] I would be pleased to provide further information or answer any questions you may have.

Yours sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA

[redacted]

By: [redacted]

[2] https://www.ific.ca/en/articles/the-importance-of-harmonizing-title-regulation/

APPENDIX A

CONSULTATION SPECIFIC QUESTIONS FOR CONSIDERATION AND COMMENT

Credentialing Bodies – Process when Approval Revoked or Operations Cease

1. *The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.*

   To minimize disruption to the provision of financial services to Saskatchewan invesotrs by FA/FPs, credential holders who, through no fault of their own, end up with a credential from an inactive or unapproved credentialing body should be afforded the greatest flexibility in complying the credentialing rules going forward, with a reasonable transition period. Their used of the FP or FA title should be grandfathered until a new credentialing body, with substantially similar creditialing requirements, is approved by the FCAA and after the FCAA confirms how existing credetinal holders can transitition their existing creditials. Generally a credential holder should not be required to repeat proficiency requirements mandated by the alternated credentialing body in order to be granted new credentials.

Approval Criteria for FA Credentials

2. *We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e. estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management). The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies. In considering this approach, please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectations and better alignment with other existing financial sector regulatory frameworks. Also please comment on whether there are any other advantages the Comprehensive Approach has over the Product-Focused Approach not identified in this paper.*

   Please see our discussion in the body of our submission as to why we disagree with revising the FA BCP to make it, in effect, identical to the FP BCP.

Decrease in Harmonization

3. *Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different education programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan. While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization. Also please*

provide comments regarding any other potential disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain the FA credential results in a need for consequential amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerns whether the transition period for an FA's compliance with the FPFAA set out in section 9(3) of the Proposed Regulations should be lengthened to match that of an FP?

We note that the FCAA states that the purpose of the proposed regulation of the use of the FA and FP titles is "to create minimum standards for title usage for the protection of consumers and investors, without creating unnecessary regulatory burden for title users." The FCAA has not undertaken a cost-benefit analysis of the costs associated with moving to a dramatically different approach to the use of the FA and FP titles in Saskatchewan. In the absence of such a rigorous analysis we believe that the costs of lack of regulatory harmonization far outweigh any potential/theoretical benefit.

Further, please refer to our comments in the body of our submission. We reiterate that we believe the BCP for FAs should not be the same as for FPs given the differences in services and activities conducted by FAs and FPs. FAs and FPs who are securities registrants are already subject to existing stringent and appropriate proficiency regulatory requirements and therefore should not have to comply with any additional proficiency or disclosure requirements in Saskatchewan.

We agree with the FCAA's own characterization of the problems that will arise if there is no harmonization of the titling process across the country and, in particular, with the FSRA approach: "An important advantage of the Product-Focused Approach is harmonization with the approach taken in Ontario. It is expected that most, if not all, approved credentialling bodies will be national or at least regional in scope. If the Comprehensive Approach is adopted here, it is possible that approved FA credentialling bodies in Ontario will not qualify to be an approved FA credentialling body in Saskatchewan without expanding their education requirements. *This might lead to fewer approved FA credentialling bodies in Saskatchewan and fewer options for consumers or investors to obtain financial advice* (emphasis added). It will also mean that FA credentialling bodies may need to incur additional regulatory burden to be approved in Saskatchewan." We do not believe an approach that would lead to fewer options for consumers or investors to obtain financial advice is in the best interest of consumers and investors.

<u>Mandatory Disclosure of Credentials</u>

4. *We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Please comment on whether this additional disclosure requirement is preferred and the form that it should take. Also please comment on whether this additional disclosure is warranted if the Comprehensive Approach to the FA BCP, as described under the Approval criteria for credentials heading, is adopted.*

   We do not support an enhanced disclosure requirement for FAs to disclose the products, if any, that they are authorized to sell, in the case of FAs who are also licensed by one of the SROs. To provide valuable clarity to consumers, securities registrants currently provide their clients with required RDI that includes a description of the products and services they will offer their clients. The RDI provides clarity for clients of securities registrants. To ensure consumer clarity, it may be prudent to consider the extent to which title users who are not securities registrants should provide similar transparency to their clients.

We also note that IIROC has the following requirement for its dealer members: "When providing services to retail investors, include a link and visible reference to IIROC's online advisor check database, IIROC Advisor Report, on their website homepage and on any other Dealer Member webpage that includes a profile of an IIROC-regulated investment advisor." With one click on the dealer's website any client or potential client can search the advisor's profile. As IIROC and the MFDA will be consolidating their rule book after their proposed merger, it is reasonable to expect this requirement will be applicable to MFDA dealers as well. We also understand that a number of MFDA dealers currently voluntarily provide similar disclosure on their websites. Further, the Canadian Securities Administrators (**CSA**) maintains the National Registration Database that allows the public to search the registration details of a registered firm and/or a registered individual including mutual fund dealers and mutual fund dealing representatives. The search result sets out information such as the products in respect of which an individual is licensed to provide financial advice.

Finally, our members' representatives are often licensed in a number of jurisdictions, including Saskatchewan. Maintaining different titles or disclosures is not practicable and inhibits the ability of firms and their representatives to provide a seamless client experience. Further, use of similar titles in differing jurisdictions with differing proficiency requirements will result in client confusion.

Transition Date and Implementation Date

5. *We are seeking feedback on two items. Please advise: a) whether you support an implementation period and provide a suggested length of time for said period; and b) whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force. In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects that an alternate date may have on the protections afforded by the legislation as well as the implementation process.*

   The transition date should be adjusted to the date that the Act and Regulations come into force; it will be too confusing to have multiple dates especially when one (July 3, 2020) no longer has any obvious relationship to the Act and Regulations.

   Further, and importantly, the transition period must extend to a reasonable period of time after all credentialing bodies have been approved by the FCAA to ensure that FPs and FAs are able to assess whether their credentials are sufficient and, if not, to upgrade them accordingly. We suggest a period of 24 months after the last credentialling body has been approved for FAs (assuming the new proposed BCP is not adopted) and 48 months for FPs.

Fees and Fee Structure

6. *Please provide your feedback regarding the proposed fee structure and amounts.*

   We note that the fee structure is similar to the FSRA fee structure. It is important for the FCAA to consider minimizing the cost attributed to the creditialing body based on the number of credential holders as such fee will be invoiced back to the firm. Such cost is an unnecessary burden, the impact of which will eventually be passed to clients in many instances.