

June 21, 2021

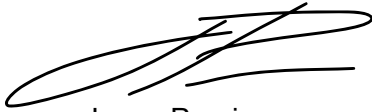
Attn: The Financial Services Regulatory Authority of Ontario  
Re: Commentary on Proposed Rule [2020-001]

To Whom it May Concern:

Please accept the following commentary paper put forth by the Financial Planning Association of Canada in regards to Proposed Rule [2020-001] Financial Professionals Title Protection. We would like to thank you for the opportunity to formally submit to you our views on the subject matter.

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,

A handwritten signature in black ink, appearing to read 'JP', with a large, sweeping flourish underneath.

Jason Pereira  
President

The Financial Planning Association of Canada

Official Commentary Submitted to

The Financial Services Regulatory Authority of Ontario

Regarding

Proposed Rule [2020-001]

Financial Professionals Title Protection

June 2021

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# About this Submission

This commentary is submitted to the Financial Services Regulatory Authority of Ontario in response to their request for commentary on proposed rule [2020-001] in regards to Financial Professionals Title Protection and the proposed framework for implementation and enforcement of the Financial Planners Title Protection Act (2019).

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 possible practice standards, fiduciary responsibility, and competency. It is our core belief that Financial Planners are uniquely positioned to help improve the lives of Canadians through comprehensive financial planning.

FPAC's founding Charter expressly prohibits us from issuing any credentials. We are therefore participating in this commentary solely from the perspectives of consumer protection and industry professionalization. We believe that only once Financial Planners are 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.

# Acknowledgement of Limitation

We recognize that the scope of the proposed framework is limited to:

- The regulation and protection of the titles Financial Planner and Financial Advisor,
- The determination of which credentials will sufficiently demonstrate proficiency to warrant the granting of such titles, and
- The approval of credentialing bodies which have demonstrated sufficient oversight of those members to whom it has granted a credential.

Like many who participated in various feedback sessions regarding this process, it is FPAC's position that the preferences of our members would be met and Canadians would benefit if the Financial Planners Title Protection Act (FPTPA) was revisited by the Ontario government and its mandate expanded to include:

- (1) the confirmation of relevant work done on behalf of consumers by the titled professional, based on their title,

- (2) a fiduciary level standard of care as criteria for titling, and
- (3) the ability for FSRA to impose monetary penalties on those who violate the Act.

Nevertheless, despite the limitations of the current legislation, we recognize it as an important step towards reaching our goals.

## Acknowledgement of Progress

We would like to commend FSRA on what we at FPAC see as improvements to the implementation of the title protection framework that was announced on the 28th of May. These include:

- The creation of a public national registration database,
- The shortening of the implementation period for this framework, and
- Not granting exemptions to various bodies seeking them.

Despite these improvements, we feel that there are still areas of continued concern that need to be addressed.

## Areas of Continued Concern

The key areas of this framework we wish to address in this submission include:

- Alternate titles that could be reasonably confused with the protected titles,
- Proficiency standards,
- Enforcement and consumer protection,
- SRO's ability to be a credentialing body, and
- Cost considerations and implications.

## Alternate Titles

Under sections 2 & 3 of the FPTPA, the use of titles that could be reasonably confused with Financial Planner (FP) or Financial Advisor (FA) is to be prohibited. Given that the core purpose of this legislation is to protect both titles in order to ensure consumer protection, we feel that this function of the legislation is a cornerstone policy that must be treated as vital to the success of this initiative. While we appreciate that it would be a daunting task to police the countless possible combinations of terms that people could conceive, we believe that in order to be successful the framework should take a very broad view of the term "reasonably confused."

In our prior submission we stated that we believe the use of a title that combines any one or more of the following terms should be prohibited:

- Financial
- Advisor

- Adviser
- Planner
- Wealth
- Insurance
- Estate
- Manager
- Consultant
- Co-ordinator
- Coach
- Personal
- Private
- Designated

This list should not be considered exhaustive and any other term that possibly denotes the concept of either financial advice or planning should similarly be prohibited.

Based on the outline provided in Appendix A<sup>1</sup> in the May 28th announcement and subsequent conversation with members of FSRA, it has been made clear that some items on the list we requested for consideration are viewed as beyond the scope of the legislation.

We strongly recommend that you reconsider this position and include the exhaustive list above.

Failing that, we wish to address several issues we see with the examples of titles that you have listed as not being reasonably confused with the FP and FA titles. In our opinion it appears that the definition “reasonably confused” was taken narrowly to mean use of the key words to be protected, but not taking into consideration the concept of “reasonable confusion” with the function said professional would be providing. We would state that we feel both definitions or interpretations are of paramount importance.

Based on the competency profile outline, titles beginning with *Portfolio, Money, Wealth, Retirement, Asset, and Investment* are all areas addressed by topics within the competency profile. It stands to reason then that someone holding out as a professional with a title using any of these could be easily confused with the FA or FP titles given they overlap in functions.

Now we recognize that not all of these would necessarily lead to that confusion. For instance, the title “Portfolio Manager” is commonly used to denote a level of licensing. However, there are many titles commonly used by individuals that this framework would logically wish to capture that could very easily be reasonably confused. These include, but are not limited to:

- Wealth Manager (a title used by advisors at most bank-owned brokerages)
- Investment Manager (a title that has been used commonly throughout the industry for years)

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<sup>1</sup><https://www.fsrao.ca/industry/financial-planners-and-advisors-sector/proposed-financial-professionals-title-protection-supervisory-framework>

- Financial Consultant (a title used extensively for years by IG Wealth)

These titles in particular are used frequently throughout the industry, and without an explicit ban, what is to stop their use? Failing to do so would limit and hinder the success of this entire effort.

As such, we request that the FSRA expand their view of “reasonably confused” to contemplate not just titles that could be confused, but titles currently in use whose functions are within the scope of the competency profile.

## Proficiency Standards

Another area we previously commented on and feel the need to address again is that of proficiency standards for each title.

While the competency framework does a good job of establishing areas of knowledge, it does not address the level of proficiency necessary. We believe that not only the areas of knowledge, but the level of required knowledge to obtain an approved credential is a second vital cornerstone of this legislation.

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 themselves 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 Ontario with Quebec and be the first step towards what could be a national standard for the FP title.

In regards to the FA title, we will again reiterate our position that given that the FA title is reflective of one of the areas outlined in the FP competency profile, that the standard within those areas for the FA designation should be equal to or greater than the bar for proficiency for that area of the FP title.

Lastly, we wish to in particular note that the only way to ensure said level of proficiency is to monitor the adequacy 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.

## Enforcement and Consumer Protection

The third key cornerstone to this framework is enforcement to protect the consumer. Without this vital area being effectively addressed, all of this is for naught.

Of particular importance, we wish to reiterate our previous statements that organizations that fail to demonstrate a history of enforcement actions should not be considered as certifying bodies

until they can show a sufficient history of enforcement actions over a reasonable amount of time.

Unfortunately, certifying bodies face a conflict of interest between maintaining high standards for certification holders and collecting dues. This economic incentive to turn a blind eye cannot be ignored.

## SRO's Ability To Be a Credentialing Body

While we were pleased to see that the SROs were not granted an exemption, we do have concerns about them being allowed to apply to be credentialing bodies.

In our prior commentary we pointed out the following:

- Licensing bodies are neither educators nor credentialing bodies which grant designations. The former is concerned with approving someone to sell financial products, while the latter is concerned with educating to a level of proficiency required to demonstrate the understanding and application of one or more topic areas in order to drive forward an outcome. These are not the same functions.
- Several, if not all, licensing courses, are woefully inadequate to provide one with anything more than entry-level knowledge of products. FSRA has already recognized this in its assessment of the LLQP.
- Worse yet, FPAC is of the opinion that if these SROs are granted the authority to permit licensees to utilize one or both of the regulated titles by virtue of their licensing, that this entire effort will be seen by consumers, consumer advocacy groups, and the media as nothing more than a rubber-stamping exercise and, in the end prove to be a fruitless exercise that changes nothing.

We would like to not only reiterate these views, but also point out what we see as gross deficiencies in the minimum standards to obtain a licence. Some examples of this include:

- The Mutual Funds Licensing course has long been seen by those in the industry, especially bank branches, as one of the easier ways of getting licensed. The mutual fund licensing course itself is believed by many to represent a bar of proficiency no better than that set by the LLQP.
- The Canadian Securities Course has been revised no less than three times in the last 20 years with the bar for completion being dropped every time. What once involved two corporate case studies and one long-form exam now tests less content, no cases, two multiple-choice exams, and barely any math.

Should the standard for licensing by the SROs be made the standard for the use of the title, we are of the opinion that this will both be a failure to ensure sufficient levels of proficiency and at



the same time be seen by the public as nothing more than a rubber stamp of the status quo, jeopardizing the public perception of the validity of both titles.

We ask that you reconsider your position on the SROs being credentialing bodies. Failing that, we recommend that you look beyond the minimum standard and consider only designation programs from their outsourced education provider, the CSI, as sufficient to meet the requirements for the Financial Advisor title. In regards to the Financial Planner title, we do not see any designation offered by the CSI as being sufficient to meet a standard for proficiency that we could support.

## Cost Considerations and Implications

The final area we wish to address is the area of the proposed fee structure for certifying bodies and credential holders. Our primary concern lies with the five-year period to recover startup costs. We appreciate that scaling this framework in the early stages will be a significant task given the number of audits and reviews that must be performed. However, we fear that the cost on smaller potential credentialing bodies will be very prohibitive. For instance, the fee schedule demonstrates that a credentialing body with 100 credential-holders would see an estimated first-year fee of \$26,050 or \$260.50 per credential holder.

After conversations with various bodies, we believe that this structure will leave several potential credible credentialing bodies with no choice but to opt out of the framework.

Another fear is that this framework only covers Ontario registrants. This will lead many credentialing bodies to be concerned with both the potential duplication of costs as other provinces set up their own title frameworks, which could in turn make involvement even less economically feasible.

A final concern is that if a sufficient number of credentialing bodies choose to remain outside of this framework for economic reasons that it could endanger FSRA's ability to fund this initiative's overhead, which would, in turn, lead to higher costs for those who do remain part of it.

We understand that this is a difficult task, but we feel that this area, in particular, needs to be reconsidered in order to ensure the economic viability of this initiative and its success.

## 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 this initiative.