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Mr. Tim Miflin  
Senior Manager, Market Conduct Policy Division  
Financial Services Regulatory Authority (FSRA)  
5160 Yonge Street, 16<sup>th</sup> Floor  
Toronto, Ontario  
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Dear Mr. Miflin:

## RE: CIFP RESPONSE TO FINANCIAL PROFESSIONALS TITLE PROTECTION RULE AND GUIDANCE – SECOND CONSULTATION (ID: 2021-003)

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Thank you for your request for comment letters regarding this important consumer protection initiative regarding the use of the titles ‘Financial Planner’ and ‘Financial Advisor’ in Ontario.

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), who represent over 10,00 members.

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

Yours very truly,



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

## OVERVIEW

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

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

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

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

CIFP views the standards outlined in the proposed Rule as consistent with these objectives and the approach chosen by FSRA as accommodative to the ‘complex and diverse existing landscape of financial planners and advisors, their employers and their designation or licence granting bodies, without introducing unduly burdensome barriers for new entrants.’

The perspective and constructive recommendations of CIFP as it pertains to the financial professionals title protection rule and guidance – second consultation are detailed in the pages that follow.

# PROPOSED RULE 2020-001 – FINANCIAL PROFESSIONALS TITLE PROTECTION (FPTP RULE)

## SHORTENING THE TRANSITION PERIOD FOR INDIVIDUALS USING THE FP OR FA TITLE WHO DO NOT HOLD AN APPROVED CREDENTIAL

In its submission on the Proposed Rule in November 2020, CIFP indicated the original transition period provisions (i.e. five years for FP title users and three years for FA title users) and the rationale for those provisions were fair and reasonable.

The counter argument from some stakeholders was that the originally proposed timelines were too generous however, CIFP believes this conclusion is based on a far too narrow perspective of the financial services industry. For an individual financial planner or financial advisor who is serious about his or her profession, a five-year or three-year timeframe as applicable, certainly allows more than sufficient time for the individual to attain an approved credential. However, it must also be recognized that for large financial institutions including the chartered banks, credit unions, insurance firms and wealth management firms, that have a sizeable distribution channel, bringing their would-be FP and FA title users up-to-speed is not as straightforward. For this segment in particular, CIFP believes a long runway of time is appropriate and necessary.

This said, CIFP is supportive of the revised FPTP Rule, under which the transition period will be reduced to four years for FP title users and two years for FA title users. While the compressed timelines will certainly create some discomfort for financial planners and financial advisors—be they independents or part of a large financial institution—the deadline by which individuals need to meet the required education requirements still remains achievable and equitable. Moreover, CIFP cannot argue with an expedited call-to-action if it ultimately helps mitigate the potential misuse and abuse of the FP and FA titles and better aligns the title protection framework with the stated consumer protection objectives put forward by FSRA.

### *Requirement for disclosure during transition period*

To this last point, as much as the most recent revision has shortened the transition period, it still grants individuals 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. Transitory though it may be, this runs counter to 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 is in agreement with other stakeholders who have called for 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’, as

recommended by the Investor Advisory Panel, is a particularly fitting disclaimer: it provides clear disclosure to consumers and investors without disparaging the abilities and competency of the individual.

## REQUIREMENT FOR CREDENTIALING BODIES TO PROVIDE INFORMATION ON THEIR WEBSITE TO THE CEO

CIFP has no objection to a requirement that credentialing bodies provide the information posted on their websites to the CEO so as to enable FSRA to develop a consolidated public registry.

The most significant benefit of a registry is that it provides consumers with a trusted source through which they can verify who exactly they are dealing with namely, for whom the individual works and what gives him or her the right to hold out as a financial planner or a financial advisor. To this end, CIFP fully agrees that a consolidated public registry helps ‘advance the professionalism of the sector and strengthen the brand value of the FP and FA titles.’

To promote consumer confidence, it is important that the registry:

- be managed and maintained directly by the regulator (i.e. FSRA); consumers and investors need to know that FSRA is the single, go-to source to find out whether an individual is authorized to use the financial planner or financial advisor titles
- is simple to access—considering the broad spectrum of individuals who may wish to inquire about the status of the financial professional with whom they are working by way of a public registry (e.g. the elderly, individuals who do not have a high degree of computer or technical proficiency, individuals for whom English may not be their native language, individuals who do not have a high degree of financial literacy), it is imperative that accessing information is a simple process.

The provincial government-run COVID-19 vaccination booking sites may be viewed as analogous to the concept of a public registry. FSRA may want to draw from the experiences of Ontario residents who booked their vaccinations online for valuable lessons on the difficulties encountered by some users.

- is user-friendly; ease-of-use and simplicity will also encourage—or at least, not discourage—consumers and investors from using the registry; after all, there is no point establishing such a resource if it is not utilized

While an Ontario-specific public registry is a good first step, CIFP believes the real value to consumers and investors will be for the registry to evolve into a database that is national in scope and harmonized with other Canadian jurisdictions. Clearly, at this stage, that may represent a far too lofty goal, one that is rife with too many challenges and, in any event, beyond the scope of FSRA but, it is a good objective to aim for over time.

## PROPOSED APPROACH TO ESTABLISHING THE FP/FA FEE STRUCTURE

CIFP recognizes the implementation of the FP/FA title protection framework is an undertaking of significant scope and by extension, significant cost. CIFP is supportive of the rationale behind the proposed FP/FA fee structure:

- to enable the recovery of costs incurred to design and implement the framework
- to enable the recovery of ongoing regulatory costs for overseeing the FP/FA sector
- to avoid an undue burden on individual credential holders and potential credentialing bodies
- to support FSRA's mandate to operate as an independent, self-funded regulator

CIFP accepts the numbers put forward by FSRA and the accompanying fee structure.

All of this said, 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.

With this in mind, CIFP requests that FSRA cast as wide a net as is possible in the application of its fees. This will serve to reduce costs for all credentialing bodies. Any entity that wants to participate and reap the benefits of the framework should be prepared to make a fair, proportionate contribution to ensure the ongoing viability of the framework—there should not be exceptions on this point.

It is understood that FSRA will issue a separate consultation on the proposed fee structure later this summer—CIFP will provide additional comments on this aspect of the FPTPA framework as part of that consultation.

# PROPOSED APPROACH GUIDANCE – FINANCIAL PROFESSIONALS TITLE PROTECTION – ADMINISTRATION OF APPLICATIONS

## EDUCATION REQUIREMENTS

In principle, CIFP supports the components of the curricula assessments outlined for financial planners and financial advisors as well as the approach FSRA will take to assess the curriculum of a credentialing body against the FP/FA credential approval criteria. CIFP agrees that the baseline competencies identified in the assessment tables set a ‘benchmark for the technical knowledge, professional skills and competencies that would reasonably be expected of FP and FA title users.’

To reiterate the position of CIFP as per our submission from November 2020, at this particular juncture, a high level approach to the content requirements that should be reflected in the curriculum of a credentialing body is prudent. FSRA is correct in its assessment that the ‘diversity of training and experience of individuals who currently hold a financial services licence 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 licence or designation.’

If 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 Proposed Rule, 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. The most important approach FSRA can take with the implementation of the Proposed Rule is one where it is broad enough to keep the ball rolling.

With this said, and, keeping in mind the objective of this framework is to mitigate consumer confusion and to ‘provide confidence to consumers and investors that the individual with whom they are dealing will meet minimum standards of expertise and knowledge when providing financial planning or advisory services’ CIFP encourages FSRA to set the minimum standards at a sufficiently high level to weed out individuals who do not possess a reasonable standard of professional competency or, the best interests of clients in mind.

### *Expanding and defining minimum standards in the future*

At a future point, following the introduction of a solid framework, it would be appropriate to expand and define the minimum standards as set in the proposed curriculum assessment tables.

CIFP is generally a proponent of keeping matters open-ended where possible however, there are times when parameters should be set. What constitutes a minimum degree of proficiency would be one such area.

It is recognized that not all existing financial planning credentials are of the same quality. Similarly, not all educational programs—even those in support of an approved credential—provide the same breadth of knowledge and promote the same learning outcomes. As an example, to what degree of complexity does the topic of government-sponsored retirement income programs need to be addressed in an educational offering to meet the minimum standard? Is it sufficient to have a rudimentary understanding of the technical aspects of the various programs or, given the importance of this learning objective, should the FP or FA title user possess more detailed knowledge of the rules and operation of the programs as well as demonstrate an ability to make actual recommendations relating to these programs based on real life client scenarios?

This question can be extrapolated to a multitude of financial planning concepts within the spheres of retirement planning, taxation, investment planning, risk management, legal concepts and estate planning.

In the current environment, approved educational programs run the gamut from offering a basic understanding of concepts to a high degree of specialized knowledge. Depending on where in this spectrum his or her chosen educational program lies, clearly, there will be significant variance in the foundational knowledge graduates possess relative to graduates of other programs. Yet, under the current structure, all approved programs inaccurately imply their graduates are on an equal footing. This does not help alleviate the confusion of the Canadian public.

Again, it is the position of CIFP that for the moment and in the interests of moving forward, the broad, open-ended approach adopted by FSRA with regards to the minimum standards of the curriculum assessments is the best way to proceed. In ‘phase two’, CIFP would encourage a bolstering of these minimum standards to promote greater uniformity in the competency of FP and FA title users by providing clear definitions of proficiency for each required learning objective. Even in setting these parameters, there remains room for flexibility such that they stop short of being prescriptive.

# PROPOSED APPROACH GUIDANCE – FINANCIAL PROFESSIONALS TITLE PROTECTION – SUPERVISORY FRAMEWORK

## MONITORING AND SUPERVISION

In principle, CIFP is supportive of the monitoring and supervision framework set out by FSRA. This said, CIFP is of the opinion that the proposed system is too reliant on the capabilities and the good faith of credentialing bodies to diligently and uniformly apply the standards set by FSRA. In addition, CIFP feels FSRA is too far removed and passive in its proposed supervisory approach.

CIFP fully appreciates that under the title protection framework, it is not the role of FSRA to oversee the conduct or activities of individual title users—by design, this is meant to be the domain of the credentialing bodies. Rather, the intention is for FSRA to restrict its supervisory activities to the actual credentialing bodies. In so doing, it means FSRA is one level removed from the individual financial planner and individual financial advisor.

In theory, this makes sense. If the credentialing bodies are fulfilling their mandate, they will diligently watch over their credential holders to ensure their conduct is appropriate and they are abiding by the applicable code of conduct, code of ethics and practice standards that govern the designation. Credentialing bodies will also enforce the policies in place to manage real or perceived conflicts of interest. In such an environment, it is understandable why there would be no need for oversight of individual FP/FA title users directly by FSRA.

However, in practical application, is the process likely to be so linear? Is it realistic to believe all credentialing bodies will have a proper understanding of the standards set by FSRA or, will have the resources and/or willingness to administer the policies in a manner that meets the objectives of the framework?

Even in overseeing credentialing bodies, for the most part, FSRA will only do so by conducting annual compliance reviews based on information returns. On-site reviews would only be done if required—CIFP does not get the impression based on the phrasing in the guidance for the supervisory framework that these more stringent on-site tests will be done with regularity.

The concern for CIFP is whether FSRA has shifted too much of the supervision function on credentialing bodies and in so doing, opened the door for improper title usage to slip through the cracks?



## *Complaints-based monitoring supplemented with pro-active oversight policies*

FSRA has indicated it will utilize a supervisory approach that includes complaints-based monitoring. CIFP fully agrees that a passive, complaints-based system can offer value however, the reality is that most consumer complaints stem from investment or planning advice that has gone wrong—whether or not the financial planner or financial advisor is actually at fault—or, from more flagrant breaches such as fraudulent activities and transactions. In other words, an investor may be upset with his or her planner or advisor for any number of reasons however, the investor is typically only driven to file a complaint when he or she incurs a tangible loss.

It is less clear to what extent a consumer or investor would be motivated to file a complaint strictly upon learning the individual with whom they are dealing does not possess the proper credentials to hold out as a financial planner or a financial advisor. At the end of the day, even with restrictions on the use of the FP and FA titles, the meaning of the terms ‘financial planner’ or ‘financial advisor’ to the average consumer remains general and broad-based and can be construed to describe an individual who offers a broad range of services. In fact, consumers are more likely to be offended to learn an individual is using a specific professional designation that they have not rightfully earned, such as the CERTIFIED FINANCIAL PLANNER® credential or the Chartered Financial Analyst® title, as a means to promote themselves than merely the misuse of the financial planner or financial advisor title.

Based on this, CIFP would favour a supervisory approach adopted by FSRA that includes complaints-based monitoring—not in isolation—but, in conjunction with additional pro-active oversight policies implemented by FSRA. These pro-active measures need not be expansive and over-bearing—they just need to be present and in full-view of financial planners and financial advisors. Fully appreciative of the challenges of increased costs and limited resources, CIFP nonetheless believes a more hands-on approach by FSRA to actively seek out inappropriate usage of the FA and FP titles would offer the sought after protection for consumers and investors and is more likely to allow the *Monitoring and Supervision* framework to act as a deterrent for non-compliance and to promote proper marketplace conduct.

## **TITLES THAT COULD REASONABLY BE CONFUSED WITH FP/FA**

Appendix 1 of the FSRA guidance for its supervisory framework provides examples of titles that could reasonably be confused with the FP and FA titles.

In describing the titles that comprise the prohibited list, the common elements include:

- any variation in spelling or abbreviation of ‘financial planner’ or ‘financial advisor’
- a list of titles that include the words ‘financial’ and ‘planner or planning’ in some combination with another word or words (e.g. Senior Financial Planner, Financial Planning Consultant)

- a list of titles that include the words ‘financial’ and ‘advisor or advising’ in some combination with another word or words (e.g. Senior Financial Advisor, Financial Advising Consultant)
- any variation of the listed titles in a language other than English

Banning these titles is understandable. With the use of such titles, it is not difficult to envision the potential for confusion, misrepresentation or, misunderstanding with the FP or FA titles given the specific use of the words ‘financial’ and ‘planner or planning’ and ‘financial’ and ‘advisor or advising’.

### *Caveat with regards to prohibiting titles*

Some stakeholders may be of the opinion that many of the titles that FSRA has listed in Appendix 1 as examples of titles that likely would *not* reasonably be confused with the FP and FA titles do in fact represent confusing titles. The position of CIFP is, as with most things, such a contention is accurate in some instances however, certainly not in all.

CIFP applauds the position taken by FSRA whereby it will ‘review any concerns or complaints brought forward about the use of titles that could reasonably be confused with the FP or FA titles, subject to the specific facts and circumstances of such use, on a case-by-case basis.’

In taking steps to ban certain titles, care must be exercised so as to avoid unintended consequences, to wit: tarnishing valid credentials that happen to include one or more root words as part of its name that may be erroneously interpreted as confusing. For example, the Registered Retirement Consultant designation contains the word ‘retirement’. CIFP is in agreement that this word cannot be combined with the word ‘planner’ or ‘advisor’ to form a stand-alone title (i.e. Retirement Planner or Retirement Advisor) and should there be attempts to use a title of this ilk, it should rightfully be disallowed.

However, by the same token, an individual who has attained the Registered Retirement Consultant credential—a well-respected and well-subscribed designation within the financial services industry that satisfies the credential recognition standards under the FPTPA framework—should not be precluded from holding out as a financial planner or a financial advisor simply because the RRC designation contains the word ‘retirement’.

In essence, provided a designation is recognized—which by definition means it has satisfied the credential standards set out by FSRA—its holders should not be penalized and the merits of the designation should not be diminished simply on the basis of nomenclature.

In fact, the use of words such as ‘retirement’—as long as it is not used in combination with the words ‘planner’ or ‘advisor’—can be beneficial. Certain words can often offer clarity and give the public a better understanding of the qualifications and competencies of the financial planner or financial advisor and the scope of services he or she provides to the consumer. Is there any confusion that a holder of the Registered Retirement Consultant designation provides planning services that specialize in retirement? Similarly, there is nothing ambiguous about the area of

expertise for an individual who holds the prestigious Trust and Estate Practitioner designation. This kind of directness and transparency is lacking with many of the titles currently in circulation. For example, what exactly is a consumer to think of an individual who holds the QUALIFIED ASSOCIATE FINANCIAL PLANNER™ credential and how does such a title mitigate consumer confusion?

The point to be made is that it is one thing to allow usage of a title that has the effect of misleading the public—deliberately or inadvertently—in relation to the FP and FA titles. It is something entirely different to be the holder of a designation that satisfies the credential recognition standards and that may contain one or more root words that serves as a meaningful descriptor of the qualifications and services offered by the financial planner or financial advisor and enhances the public’s understanding of what the professional can do for them.

## CONCLUSION

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