



FP CanadaTM

*Advancing Professional
Financial Planning*

RESPONSE TO FSRA CONSULTATION ON FP/FA FEE STRUCTURE

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INTRODUCTION

FP Canada is pleased to respond to Financial Services Regulatory Authority of Ontario's (FSRA) consultation on *Amendments to the FSRA Fee Rule to Create the FP/FA Fee Structure*.

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, more than 9,000 of whom are in Ontario, who meet FP Canada's rigorous professional and ethical standards.

FP Canada continues to support FSRA's work to build out and implement the *Financial Professionals Title Protection Act*. We believe this legislation, once in effect, will serve the public interest by creating clarity and enhancing protection for consumers in Ontario seeking out professional financial advice.

In responding to the consultation questions, we have strived to keep consideration of the public interest at the centre of our advice. In thinking about what kind of framework will be most impactful, and best serve consumers, we believe it is one that fosters broad participation and inclusion within the framework, while minimizing off-ramps and exemptions.

We urge FSRA to continue to keep the public interest at the centre of its decision making, and to strive for a framework that maximizes consumer protection.

RESPONSE TO CONSULTATION QUESTIONS

Question 1: Prior to finalizing the proposed fee structure, FSRA is seeking feedback on how it should apply the "credential holder" variable. For example, the number of credential holders could be determined based on whether a person: resides in Ontario, conducts business in Ontario, holds an approved credential, uses the FP or FA title, a combination of the above factors.

We view the credential holder variable as a proxy for participation within the framework. In other words, the more broadly the credential holder variable applies, the more individuals will be subject to oversight. Broad oversight means consumers can be more confident navigating the professional advice marketplace, and more readily able to find a financial advice professional who has the prescribed training, skills, and ethical standards to help them with their financial well-being.

Accordingly, we are supportive of using a combination of criteria to calculate the "credential holder" variable. **We recommend using the following criteria to assess the "credential holder" variable:**

- **The individual holds an approved credential administered by the Credentialing Body (CB)**

- **The individual is renewed and in good standing with the CB**
- **The individual resides in Ontario**
- **The individual may reside outside of Ontario, but conducts business in Ontario**

Clarity to the consumer however must start at the regulator level so that it can be echoed through the CBs through to credential holders. So that CBs are applying the “credential holder” variable consistently, **we recommend that FSRA provide to CBs a clear assessment formula, consistent definitions, and the process each CB will be expected to follow to determine the variable portion of their fees.**

As noted above, we support including in the “credential holder” variable assessment those individuals who reside outside Ontario but “conduct business in Ontario.” To achieve this, it must be clearly understood what constitutes “conducting business in Ontario.” **We recommend that FSRA define what is meant by “conducting business in Ontario”** (should this criterion be adopted by FSRA), so that in administering it, CBs and credential holders understand how to be in compliance with the request for information, and so CBs understand how they will be expected to enforce against it.

For example, to illustrate the need for a clear understanding of what constitutes “conducting business in Ontario,” we anticipate that there will be some credential holders who may be providing advice to clients who reside outside of Ontario about their assets in Ontario. Likewise, there may be instances where a Financial Planner (FP) or Financial Advisor (FA) resides outside of Ontario but provides advice in support of an FP or FA on their team who provides advice directly to a client in Ontario. These types of clarifications will ultimately be necessary so that CBs can accurately identify the credential holders to be included within the framework, thereby allowing the CB to accurately assess the variable portion of the fee and ensure FPs and FAs providing services to consumers in Ontario are subject to the necessary oversight and the appropriate enforcement in line with FSRA Rule(s).

Given that potential CBs have certificant populations that are national in scope, and that the intent of the framework is to provide consumer protection for Ontarians, the criteria should also clearly indicate that the framework only apply to those credential holders who reside in or “conduct business in Ontario” (however ultimately defined by FSRA).

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

We do not support the concept of sub-designations. We view sub-designations as another way of creating exemptions to get around the oversight regime, which ultimately undermines the efficacy of the framework.

From the perspective of consumers, we believe sub-designations will only serve to create confusion and we question whether consumers will realistically be able to distinguish between credentials that have sub-designations applied to them for “business reasons” and those that do not.

More broadly though, we disagree with the premise of the question: that CBs could create sub-designations that “best suit their business needs and operations.” We see this as a fundamental shift away from using the “public interest” as the guiding principle for framework decisions. This lack of focus on the public interest was a key reason why we opposed exemptions, and why we also now oppose sub-designations.

To support the goals of the legislation, **we recommend FSRA not consider sub-designations/exemptions. We recommend that FSRA adopt a rigorous stance that if a CB is putting forward a credential for consideration under the regime, that the “credential holder” variable be assessed in accordance with our recommended advice above, and not through a sub-designation approach.** We believe this approach better serves the goals of consumer clarity and confidence and aligns to public interest considerations.

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

As indicated in our response to Question 1, **we recommend that the variable criteria and expectations of CBs be clearly articulated and terms such as “conduct business in Ontario” be clearly defined and uniformly applied across both the FP and FA credentials.** Clarity must be provided by FSRA so that CBs can undertake the necessary data collection, oversight, and enforcement in accordance with FSRA’s expectations.

CBs will need sufficient lead time to accurately gather the necessary data from credential holders so as to appropriately support the application of the framework. For example, the opportunity to collect data that would be necessary to provide FSRA with an accurate “credential holder” variable count (or any other information that is needed for compliance purposes) from credential holders is primarily centered around the annual certification renewal process and as qualified candidates apply for certification for the first time.

We recommend FSRA work closely with CBs to ensure that logistically, each can transition properly to be in compliance with the final expectations contained in the oversight framework.

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

In FSRA’s consumer research survey, commissioned in fall 2020, 86% of consumers agreed that there is a need for minimum standards for the use of the FP and FA titles. This indicates to us that the work FSRA is doing around FPTPA Rule(s) and implementation of the legislation is valued by the consumer; that they are looking for clarity and confidence in the financial advice that they are receiving.

With that said, while consumer interest is at the heart of the new framework, we are also mindful of the potential impacts of the new framework on individual credential holders.

We remain confident that there is significant value to credential holders associated with the title protection framework that far outweighs the estimated cost proposed by FSRA to maintain the framework. And, we believe this value will be further amplified through FSRA's planned 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 Ontarians. We look forward to collaborating with FSRA and supporting the campaign.

We recognize that some credential holders hold multiple credentials that are likely to be put forward for approval under the new framework, and that per the consultation document, *“the proposed financial professionals fee structure does not allow individuals to be exempt from paying a fee if they hold more than one approved credential, or if they are already overseen by an SRO.”*

We believe this proposed approach makes sense. The per credential fee is intended to convey confidence in the credential, and to support its ongoing oversight by FSRA. Each CB and its approved credential(s) are overseen individually by FSRA, and we believe the proposed fee approach reflects this.

However, while consumer protection is at the heart of the framework, it is important that fees be kept to a reasonable level and the costs of operating the framework be carefully monitored, controlled, and fully transparent. To ensure the framework achieves its desired outcomes in a cost-effective manner there should be a transparent and consultative approach to the development of FSRA's annual workplan and related budget.

Further to this point, the Fee Rule under S 2.1 (2), Preparations of Budget by Authority, says that, *“[t]he Authority shall post the draft budget on the website of the Authority on a date to be determined by the Authority and may undertake consultation with the regulated sector as determined appropriate by the Authority to assist it in finalizing such budget.”*¹ Given that FSRA has already accumulated approximately \$3 million in costs to design and implement the title protection framework, **we recommend that FSRA convey to the FP and FA sector that they “will” undertake consultations with the regulated sectors to assist in finalizing their work plan and budget, instead of favouring the existing language that articulates FSRA “may” undertake consultations.**

CONCLUSION

FP Canada would like to thank FSRA for the opportunity to provide comment. We would welcome the opportunity to meet with FSRA staff to discuss our submission comments in greater detail.

We would once again reiterate our support for the title protection framework, and for the work done to date by FSRA and the Government of Ontario on this important issue. We are confident that this legislation, once in effect, will bring much needed clarity and confidence to Ontario consumers.

¹ FSRA Fee Rule: <https://www.fsrao.ca/sites/default/files/2019-06/fee-rule-2019-001-en.pdf>



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