

# Approach



**Effective Date:** [TBD]

**Identifier:** No. FPFA0001APP

## Financial Professionals Title Protection – Administration of Applications

### Purpose and Scope

This guidance sets out how the Financial Services Regulatory Authority of Ontario (FSRA) will approach the administration of applications under the *Financial Professionals Title Protection Act, 2019* (FPTPA) and the provisions of Rule [2020-001] (“FPTP Rule”) – Financial Professionals Title Protection under the FPTPA (Title Protection Framework).

The FPTP Rule sets out the requirements and standards that persons or entities must meet in order to obtain FSRA approval as a credentialing body and to obtain FSRA approval of a “financial planner” (FP) or “financial advisor” (FA) credential. The FPTP Rule also sets out ongoing requirements to maintain such approvals.

FSRA administers and enforces the Title Protection Framework pursuant to section 3.1 of the *Financial Services Regulatory Authority of Ontario Act, 2016* and the FPTPA.

This guidance affects the following:

- entities applying to FSRA for approval as a credentialing body and to offer an approved FP or FA credential under the FPTPA; and
- approved credentialing bodies subject to ongoing requirements under the FPTPA and the FPTP Rule.

This guidance affects the following stakeholders and functional aspects:

- financial services education providers;
- designation and professional bodies; and
- individual FP and FA title users.

## Rationale and Background

Concerns have been raised by consumer and investor advocates about the wide array of titles and credentials currently used by individuals operating in Ontario's financial services marketplace, and how it has contributed to confusion over title usage. The absence of a regulatory framework governing the use of titles has also led to questions about the expertise and knowledge of individuals providing financial planning and financial advisory services.

The primary objective of the framework is to create minimum standards for title usage, without creating unnecessary regulatory burden for title users. The title protection framework does not create a new licensing regime for individual title users, but will recognize existing licensing and professional designation regimes administered by approved credentialing bodies, and will grant the individuals holding such licences or designations the right to use the FP or FA titles. Individual title users will be required to hold an approved credential from a FSRA-approved credentialing body, and will be required to meet conduct requirements and professional standards as set out by their respective credentialing body.

Financial planning and advising activities that are subject to regulation will, in addition to oversight by the credentialing body with respect to the appropriate use of title, continue to be overseen and regulated by the relevant existing regulatory bodies in Ontario.

The requirements included in the FPTP Rule aim to establish minimum standards for use of the FP and FA titles so that consumers can have confidence in the quality of the services they receive from individuals using these titles. The FPTP Rule also establishes approval criteria for a credentialing body to permit the use of FP and FA credentials, to ensure that only individuals meeting minimum standards use the FP or FA title. Individuals wishing to use the FP or FA title must have a credential that has been approved by FSRA and issued by an approved credentialing body.

## Principles

The Title Protection Framework is designed to align with FSRA's statutory objects under the FSRA Act with respect to the FPTPA and the following key principles:

### ***Consumer Confidence***

The Title Protection Framework is intended to protect the public interest through the implementation of new minimum standards that credentialing bodies and individual title holders must meet.

The Title Protection Framework is also intended to protect the public interest through the oversight of approved credentialing bodies and individuals using the FP and FA titles. FSRA has authority under the FPTPA to take enforcement action against persons or entities who issue, or purport to issue, approved credentials or who use the FP or FA titles without an approved credential, subject to transition provisions.

### ***Regulatory Effectiveness and Efficiency***

The introduction of the Title Protection Framework represents new requirements for those using FP and FA titles. FSRA seeks to efficiently and effectively implement a fair and flexible framework by leveraging existing regimes for granting and supervising financial planning and advising designations and licenses to ensure that individuals using the FP or FA titles meet minimum standards.

FSRA designed this framework to leverage existing standards and regimes already in the marketplace as a means to mitigate unnecessary burden on market participants and costs to consumers. This allows for existing standards, practices and licences/designations to be

recognized as meeting minimum standards for title usage, and to enable certain individuals to continue to conduct business using the FP and FA titles without significant disruption or additional cost.

In its Annual Business Plan, FSRA outlined its strategic direction to further its mandate and objects under the FSRA Act, which include serving the public interest by delivering a principles-based and outcomes-focused regulatory regime, to appropriately respond to the dynamic nature of the financial services sector. FSRA's approach to the design, implementation and administration of the title protection framework has been consistent with this direction. The prescribed standards outlined in the Proposed Rule seek to minimize prescriptive requirements, where appropriate, and provide for flexibility in achieving compliance. This approach is intended to accommodate 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.

## Processes and Practices

### ***Credentialing Bodies – Application***

In order to obtain FSRA approval as a credentialing body, a person or entity must submit an application to FSRA. FSRA will review the submission against the prescribed standards in subsection 4(1) of the FFTP Rule and the guidance outlined in this document.

An application for approval of a credentialing body must include:

- the legal name of the applicant, a description of its mandate and objects, organizational structure (including names and addresses of management and directors), and constating documents (e.g., articles, charter, by-laws);
- the name and contact information of the individual who will respond on behalf of the applicant to any requests for information by FSRA for the purposes of reviewing the application;
- the type of credential the applicant is seeking to get approved under the FFTP;
- an overview of the applicant's experience as a credentialing body and/or offering a financial services licences/designations;
- a self-assessment against the credentialing body requirements in the FFTP Rule (in particular subsection 4(1));

- a summary of, and a copy of, policies and procedures relating to the administration and operation of its proposed credentialing program;
- a summary of, and a copy of, policies and procedures relating to the granting of credentials, including an outline of the processes for acceptance into the credentialing program and granting / recertification of credentials;
- explanation of any exemptions / advanced standing that may be granted by the credentialing body;
- an overview of the complaints process;
- an outline of the disciplinary review process, including staff accountabilities and the scope of issues to be adjudicated;
- inventory and description of historical disciplinary actions;
- a summary of the credentialing body's approach to investigation and enforcement;
- a summary of, and a copy of, written policies and procedures relating to the monitoring and supervision of credential holders; and
- a summary of, and a copy of, the code of ethics and professional standards and an explanation of how it would be communicated and enforced.

### Delivery of documents

Applications can be submitted electronically to the e-mail address identified on the FSRA website. FSRA will accept alternative methods of application if an applicant requires accommodation under the *Accessibility for Ontarians with Disabilities Act, 2005*.

### Timeline for Approval

FSRA will communicate its decision to the applicant within 30 calendar days after receipt of all required documentation.

### Terms and conditions

Subsection 4(3) of the FPTPA provides the Chief Executive Officer of FSRA (CEO) with the authority to impose terms and conditions on the approval of a credentialing body at any time, including at the time of approval or at any point in time during which a person or entity is acting as an approved credentialing body.

For example, in reviewing an application, FSRA could identify that a potential credentialing body's enforcement framework may not be sufficiently robust to meet its operational needs in the future. In this instance, FSRA may approve the application with a condition that the credentialing body must make amendments to its enforcement framework, provide regular progress reports for a specified period of time, and meet specified performance measures.

When a credentialing body is approved, FSRA may impose terms and conditions on a credentialing body as necessary to give effect to the Title Protection Framework. These could include, for example, requiring a compliance or governance review, implementation of a control framework, and/or restrictions or a temporary prohibition on the issuance of new credentials.

### Terms of Approval

Upon approval, the credentialing body will enter into Terms of Approval with FSRA, which will, in addition to the FPTPA and Proposed Rule requirements, outline FSRA's terms of approval, the credentialing body's ongoing requirements, and any conditions for the approval, if applicable.

### **Approved credentialing bodies and credentials**

A list of FSRA-approved credentialing bodies and credentials will be posted on the FSRA website. The list will be updated as credentialing bodies and their relevant credentials are approved.

### **FP and FA Credentials – Application**

An application for approval of an FP or FA credential must be submitted to FSRA, and must demonstrate compliance with the requirements in subsection 5(1) and/or subsection 6(1) of the FPTP Rule and the guidance outlined in this document.

The application must include a self-assessment against such requirements.

Applications for the approval of an FP or FA credential can be submitted at the same time as an application for approval of a credentialing body. Should an applicant wish to apply for approval of more than one credential, only one application for approval of a credentialing body is required to be submitted but must include separate assessments for each credential approval being sought.

Applications can be submitted electronically to the e-mail address identified on the FSRA website. FSRA will accept alternative methods of application if an applicant requires accommodation under the *Accessibility for Ontarians with Disabilities Act, 2005*.

### ***Revocation of credentialing body approval***

The FPTPA and the FPTP Rule permit the CEO to revoke a credentialing body's approval if it is not in compliance with the terms and conditions of its approval, the FPTPA or the FPTP Rule.

FSRA will post credentialing body approval revocations on its website.

### ***Credentialing Bodies – Criteria and Duties***

Section 4 of the FPTP Rule sets out the prescribed standards for entities to obtain approval as a credentialing body under the FPTPA, as well as the ongoing requirements with which a credentialing body must comply.

#### **Governance and administration**

Credentialing bodies must demonstrate an effective governance structure, administrative policies and procedures, and how they serve the public interest. FSRA will evaluate whether the applicant can protect its certification process from undue or improper influence, and sustain the integrity of its credentialing program, so that only qualified individuals are granted a credential.

A credentialing body's application should describe its systems, policies and procedures in place to achieve compliance with the Title Protection Framework. For example:

- how the credentialing body will ensure ongoing compliance with the Title Protection Framework including, without limitation, any terms and conditions of approval; and
- how the credentialing body will adapt its credentialing program, should there be any future amendments to the Title Protection Framework, relevant FSRA guidance on such framework, or additional terms, conditions or other requirements from FSRA.

To demonstrate effective governance and administration that serves the public interest, a credentialing body's application should describe:

- how it is overseen by a board of directors or other appropriate governance body that is accountable for setting expectations for the operation of the credentialing program and overseeing senior leadership and the execution of such program;
- its financial resources necessary to operate its credentialing program;
- its arrangements in place to manage liability risk (for example, by maintaining insurance for professional liabilities);
- its records retention policy and how it will maintain records accessible to FSRA in relation to the operation of its credentialing program in accordance with applicable legislation, or as required by other contractual arrangements or legal requirements;
- its safety and security measures, which ensure that information technology systems and electronic data are protected; and
- its processes and procedures in place to mitigate any disruption to the operation.

### Personnel and Resources

Credentialing bodies must demonstrate in their application the necessary expertise and resources to effectively administer and maintain a credentialing program, including that they have an adequate number of individuals delivering curriculum content and examinations, conducting oversight and supervision, investigating and resolving complaints and conducting disciplinary proceedings, all of whom are qualified, competent subject matter experts with the skills and experience to discharge such responsibilities, or under the management of those who have such qualifications, skills and experience.

### Professional standards for credentialing body employees

A credentialing body's application must describe its code of ethics and professional standards for its officers, directors and employees that serves the public interest.

### Ensuring only qualified individuals are granted a credential

A credentialing body's application must demonstrate robust controls to ensure that only qualified and competent individuals are granted and allowed to hold a credential.



The application should show that an applicant’s credentialing process is fair and is not designed or applied in a manner that would inhibit or prevent any individual, or any group or class of individuals, from seeking admittance into the credentialing program, other than on the basis of competence and the ability to serve the public interest.

### Conduct oversight of credential holders

A credentialing body’s application should demonstrate that it has policies, procedures and administrative practices to effectively oversee the conduct of and otherwise supervise individuals holding approved credentials it has issued, and to investigate any consumer complaints or allegations of potential or actual non-compliance with its code of ethics or professional standards.

### Course content

A credentialing body’s application should describe how it will keep its course content up to date to address key changes and developments in the financial services sector and any regulatory requirements or legislative changes, where applicable.

### Process for review and adjudication of complaints

A credentialing body’s application should show how it will effectively respond to complaints from the public related to individuals holding approved credentials it has issued and how it will maintain effective processes to transparently and fairly adjudicate and publicly report on complaints, including:

- defined service standards for reviewing and adjudicating complaints;
- a demonstrated, risk-based approach to escalate complaints as required;
- a demonstrated procedure to triage its review of complaints (e.g., by volume, cause and potential public harm) and to communicate outcomes for each complaint; and
- a documented, publicly accessible complaints process.

### Publicly available information

A credentialing body’s application should explain how it will maintain a current, publicly accessible list of individuals holding approved credentials, as well as to make information available to the public regarding disciplinary action taken against current and former credential holders.

### Outsourcing arrangements

If a credentialing body outsources a component of its credentialing program, its application should describe the legally enforceable agreement in place with the third party, the roles and responsibilities of each party, as well as procedures for the identification and management of any conflicts of interest, should they arise, and the applicant's processes to ensure the competence and performance of any third party retained.

### **Approval Criteria for a Financial Planning or Advising Credential**

Sections 5 and 6 of the FPTP Rule sets out the prescribed standards that approved credentialing bodies must demonstrate in order to obtain approval of an FP or FA credential.

### Credentialing program

A credentialing body's application for approval of a financial planning/advising credential must include:

- an overview of the various competencies the credential will instill and test;
- a description of the professional expectations for a credential holder;
- a detailed explanation of how applicants will be educated and tested on a standard of care for dealing with retail clients;
- a description of educational requirements related to financial planning, advising, investments, or associated matters to provide the technical knowledge, professional skills and competencies required to hold each credential;
- a copy of the course curriculum for the relevant credential;
- a detailed explanation of how the design and administration of the curriculum will satisfy the standards set out in subsections 5(1) or 6(1) of the FPTP Rule;
- a template/sample examination;
- the nature, content, format and frequency of the continuing education requirements to be imposed by the approved credentialing body;
- a description of how it intends to ensure compliance with its code of ethics and continuing education requirements; and
- a description of the requirements to maintain "good standing", as well as how standing will be monitored, supervised and enforced by the approved credentialing body.

## Effective Date and Future Review

This guidance became effective on [TBD] and will be reviewed no later than three years following such date.

## About this Guidance

This Guidance is an Approach. Approach Guidance describes FSRA's internal principles, processes and practices for supervisory action and application of Chief Executive Officer discretion. Approach Guidance may refer to compliance obligations but does not in and of itself create a compliance obligation. Visit [FSRA's Guidance Framework](#) to learn more.