

Guidance

Interpretation

Approach

Information

Decision



Effective Date: [TBD]

Identifier: No. FP0002APP

Proposed Financial Professionals Title Protection – Supervisory Framework (updated)

Purpose and scope

This guidance sets out how the Financial Services Regulatory Authority of Ontario (FSRA) will:

- Approach supervision under the *Financial Professionals Title Protection Act, 2019* (FPTPA) and the provisions of Rule 2020-001 – Financial Professionals Title Protection (“FPTP Rule”) under the FPTPA (Title Protection Framework).
- Interpret titles that could reasonably be confused with financial planner (FP) and financial advisor (FA).

This guidance applies to the following individuals and entities:

- Approved credentialing bodies (CBs).

- Individuals who use the FP/FA titles without an approved credential.
- Entities that are or appear to be representing themselves to the public to be a CB without FSRA approval.
- Entities that are or appear to be purporting to offer an approved credential without FSRA approval of the credential.

Rationale

One of the goals of the FPTPA is to mitigate confusion regarding the wide array of titles and credentials used by individuals in the financial services marketplace. The intent of the title protection framework is to instill confidence in consumers and investors that the FP or FA with whom they are dealing with meets minimum standards of knowledge and expertise when providing financial planning or advisory services. Consumers and investors will be protected by ensuring that title users have appropriate credentials and education. FSRA's Monitoring and Supervision framework will act as a deterrent for non-compliance and promote proper marketplace conduct.

The title protection framework requires entities who wish to offer an FP/FA credential to obtain approval from FSRA to become a CB. The framework also requires individuals who wish to use the FP or FA titles to obtain an approved credential from a FSRA-approved CB.

FSRA will enforce these requirements as outlined under Monitoring and Supervision, below. FSRA will adopt a principle-based supervision approach and work closely with credential bodies for this purpose.

In the administration of the title protection framework, FSRA is not overseeing the conduct or activities of individual title users. Rather, the approved CBs are responsible for overseeing the conduct of their credential holders.

FSRA's overall administration of the title protection framework, including its oversight and approval of CBs, is intended to ensure that only qualified individuals can use the FP/FA titles.

Approach

General framework of the supervisory approach

FSRA recognizes existing licensing and professional designation frameworks administered by CBs approved by FSRA. Individuals holding approved credentials from approved designation bodies, licensing organizations and/or statutory regulators will have the right to use the FP or FA titles, subject to their primary regulators' statutory rules.

Principles

FSRA's supervisory approach to the FPTPA framework is based on the following principles:

- Promote high standards of conduct by approved CBs.
- Promote public education and consumer understanding about the sector.
- Flexible and responsive to a constantly changing industry landscape.
- Transparent and simple to understand for industry and consumers.
- Contribute to public confidence by collecting information and appropriately sanctioning those who are using the FA/FP titles without an approved credential.
- Co-operate and collaborate with other regulators and approved CBs with respect to the FPTPA framework.

Monitoring and supervision

Approved credentialing bodies

FSRA's regulatory oversight with respect to approved CBs consists of a supervision program based on monitoring and compliance. The program is designed to monitor approved CBs to ensure they remain in compliance with the FPTP Rule, the FPTPA, and the terms and conditions of FSRA's approval.

Annual information return

As part of the supervision program, FSRA will require approved CBs to complete an Annual Information Return (AIR). The information collected from the AIR will allow FSRA to assess whether the approved CBs meet the minimum standards outlined in the FPTP Rule and the terms and conditions of FSRA's approval. CBs will also be required to provide FSRA with reports with respect to complaints against credential holders and any compliance or enforcement activity.

The information will also provide FSRA with insight into title usage, sector trends and other relevant areas.

The AIR must be submitted by March 31 of each year. The reporting period will cover the previous calendar year.

Examinations

FSRA will adopt a risk-based approach to conducting examinations of approved CBs.

Each year, approved CBs will be rated against risk factors, such as:

- Any complaints received by FSRA against the CB.
- Instances of non-compliance with the FPTPA, FPTP Rule, terms of CB approval or FSRA guidance by such CB or by any credential holder approved by such CB.
- Inaccurate AIR filing.
- Poor/declining financial position of the approved CB.
- The number of approved credential holders.

CBs with a higher risk rating may be selected for an examination at any time. All approved CBs will be examined within the first two years the framework is operational.

The results from the examinations will continue to support FSRA's risk-based approach to supervision and its promotion of higher standards of practise in the FP/FA sector to facilitate more effective consumer protection in Ontario.

Examinations will focus on the approved CB's requirements under the FPTPA and FPTP Rule and the terms and conditions of FSRA's approval, as outlined in the Terms of Approval document between FSRA and the approved CB such as:

- An organizational structure with clearly defined roles and responsibilities for its management and effective governance and controls for an appropriate risk oversight system.
- The necessary expertise, resources, policies, procedures and governance to effectively administer and maintain a credentialing program.
- A code of ethics and professional standards for its officers, directors and employees.
- The necessary expertise, resources, policies, procedures and administrative practices to effectively oversee the conduct of individuals holding approved credentials it has issued.

Thematic reviews

FSRA may also conduct thematic reviews, which will involve the use of surveys and questionnaires to gather information from approved CBs based on specific market conduct practices and/or emerging risks relating to specific industry practices, products or services.

FSRA will use the findings from these reviews to inform the planning of future supervisory efforts.

FSRA will make public, where appropriate, its supervision plan for the sector and the findings of its supervisory activities.

Individuals using the FP/FA titles without an approved credential

The FPTPA grants FSRA enforcement authority over individuals who use the FP/FA titles without an approved credential. FSRA will accept consumer and industry complaints about individuals who use the FP/FA titles without an approved credential. FSRA will review and investigate

complaints in a timely manner and take appropriate action, if warranted. Such action could include FSRA issuing a compliance order with respect to the matter.

Approved CBs are expected to report to FSRA, as soon as practicable, circumstances where an approved CB has determined that an individual is using the FP/FA title without an approved credential.

Complaints

FSRA's supervisory approach will include complaints-based monitoring.

The FPTPA provides FSRA authority to investigate complaints relating to:

- Approved CBs (e.g., oversight of credential holders, compliance with terms and conditions of approval, etc.).
- Individuals who use the FP/FA titles without an approved credential.
- Titles that could reasonably be confused with FP/FA.
- Misrepresentation by organizations holding themselves out as an approved CB without having the required FSRA approval.
- Misrepresentation by organizations purporting to offer an approved FP/FA credential without having the required FSRA approval.

The FPTPA regulates title usage. It does not give FSRA authority to oversee the conduct of individual credential holders. Complaint handling in relation to title users who hold an approved credential is the responsibility of the approved CBs.

Complaints which fall within FSRA's authority will be reviewed in accordance with FSRA's service standards.

Where complaints of non-compliance with the FPTPA, the FPTPA Rule or any terms and conditions of any approval granted by FSRA are substantiated, FSRA will follow its normal escalation procedures and may, where appropriate, initiate enforcement proceedings.

Complaints can be made by submitting the [Complaint Form](#).

Public registry

To effectively administer and enforce the FPTPA, FSRA intends to establish a public registry as part of the FP/FA title protection framework.

The registry will contain a list of individuals who hold an approved FP or FA credential in Ontario and the granter(s) of such credential(s). The registry will assist consumers in verifying if the financial advisor or planner they are considering or already working with, holds an approved credential, the credentialing body from where the credential was obtained and could also include links to additional information on credential holders that will be maintained by approved CBs.

Enforcement

FSRA has authority to take enforcement action for contraventions of the FPTPA in various circumstances, including:

- If an approved CB fails to comply with the FPTPA, the FPTP Rule or any terms and conditions associated with FSRA's approval.
- If an individual uses the FP/FA title without an approved credential.
- If an entity is or appears to be representing as an approved CB without valid approval.
- If an entity is or appears to be representing that it can offer an approved FP/FA credential without FSRA approval of the credential.
- Utilizing a title that could reasonably be confused with FP/FA.

FSRA's supervisory processes for approved CBs may include warning and caution letters, remediation plans, or compliance orders. If warranted, and if efforts of remediation fail, FSRA has the authority to revoke a CB's approval.

FSRA has authority to issue a compliance order against individuals who use the FP/FA title without an approved credential, or persons or entities who misrepresent themselves as an approved CB or offer an approved credential without FSRA approval.

Where FSRA proposes to issue a compliance order, a notice of proposal will be issued which grants a right to hearing before the Financial Services Tribunal and to contest the proposal.

FSRA will post enforcement action against approved CBs Notices of proposal are published on the FSRA website. Publishing this information creates awareness for consumers, CBs and other regulatory participants regarding FSRA's actions with respect to non-compliance with the FPTPA.

Interpretation

Titles that could reasonably be confused with FP/FA

The title restrictions under sections 2 and 3 of the FPTPA extend to the use of the FP and FA titles in another language, an abbreviation, or a title that “could reasonably be confused with” the FP or FA title.

Appendix 1 of this guidance identifies a list of illustrative examples of titles that in FSRA’s view could reasonably be confused with the FP or FA titles.

FSRA will review any concerns or complaints about the use of titles that could reasonably be confused with the FP or FA titles. In making a determination of any non-compliance, and subject to the specific facts and circumstances of such use on a case-by-case basis, FSRA will consider the need to maintain consumer confidence in individuals who provide financial planning and advising services and ensuring that only qualified individuals are permitted to use the FP/FA titles.

Outcomes

For consumers – FSRA’s supervision approach and interpretation of titles that could reasonably be confused with FP/FA will provide consumers assurance that:

- Only qualified individuals can use the FP/FA titles, and that they will act in accordance with minimum standards and be subject to ongoing conduct review including complaints and disciplinary processes.
- Only FSRA-approved CBs operate under the FPTPA.
- FSRA-approved CBs have effective governance structures, and policies and procedures to manage conflicts.
- FSRA-approved CBs have adequate resources to oversee their credentialed individuals and also ensure that minimum standards are adhered to.

- FSRA's FP/FA public registry will confirm the credentials of FP/FA title users.

For industry – FSRA's supervision approach and interpretation of titles that could reasonably be confused with FP/FA will:

- Encourage high standards of conduct to be followed by approved CBs.
- Ensure minimum standards related to education both upon entry and through continuing educational requirements that include suitability, ethics and financial services competencies.
- Mitigate burden by relying on the oversight practices of existing regulatory bodies.
- Leverage the discipline regimes of other approved CBs.

Effective date and future review

This guidance became effective on **[date FPTP Rule comes into effect]** and will be reviewed no later than **[three years]**.

About this guidance

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.

Interpretation guidance sets out FSRA's view of requirements under its legislative mandate (i.e., legislation, regulations and rules) so that non-compliance can lead to enforcement or supervisory action.

Visit [FSRA's Guidance Framework](#) to learn more.

Appendix 1 – Titles that could reasonably be confused with Financial Planner (FP) and Financial Advisor (FA)

The following table provides examples of titles that in FSRA’s view could reasonably be confused with the FP or FA titles.

In making a determination, FSRA will consider the goal of increasing consumer confidence in individuals who provide financial planning and advising services and ensuring that only qualified individuals use the FP/FA titles.

Examples of titles that could reasonably be confused with the FP title

- Any variation in spelling or abbreviation of Financial Planner (e.g. FP)
- _____ Financial Planner (e.g. Senior Financial Planner, Qualified Financial Planner, etc.)
- Financial _____ Planner (e.g. Financial Wealth Planner, Financial Investments Planner, etc.)
- Financial Planner _____ (e.g. Financial Planner Investments)
- Financial Planning _____ (Advisor, Adviser, Coach, Consultant, Counsellor, Guru, Manager, etc.)
- Any variation of the above titles in another language

Examples of titles that could reasonably be confused with the FA title

- Any variation of spelling or abbreviation of Financial Advisor (e.g. Financial Adviser, FA)
- _____ Financial Advisor (e.g. Senior Financial Advisor, Qualified Financial Advisor, etc.)
- Financial _____ Advisor/Adviser (e.g. Financial Wealth Advisor/Adviser, Financial Investments Advisor/Adviser, etc.)
- Financial Advisor _____ (e.g. Financial Advisor Investments)
- Financial Advising _____ (Coach, Consultant, Counsellor, Guru, Manager, etc.)
- Any variation of the above titles in another language