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Mr. Tim Miflin
Senior Manager, Market Conduct Policy Division
Financial Services Regulatory Authority (FSRA)
5160 Yonge Street, 16th Floor
Toronto, Ontario
M2N 6L9

Dear Mr. Miflin:

RE: PROPOSED RULE (2020-001) – FINANCIAL PROFESSIONALS TITLE PROTECTION: CIFP RESPONSE TO REQUEST FOR COMMENT

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.

On behalf of its over 10,000 members, The Canadian Institute of Financial Planners (CIFPs) is pleased to provide you with this submission commenting on the above-noted issue, which is of great importance to its members. Further, our affiliate educational organization, The Canadian Institute of Financial Planning (CIFP) is pleased to represent the views of its more than 7,000 students.

Thank you for taking our comments into consideration. Please contact **Keith Costello, President and Chief Executive Officer** of CIFPs at (647) 723-6447 or 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 the government, 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.

The perspective and constructive recommendations of CIFP as it pertains to the Financial Services Regulatory Authority of Ontario request for comment on the Proposed Rule (2020-001) – Financial Professionals Title Protection are detailed in the pages that follow.

QUESTION #1: FP AND FA CREDENTIALS

FSRA is seeking feedback on the above approach and whether the Proposed Rule and FP and FA baseline competency profile adequately reflect the technical knowledge, professional skills and competencies that should be included in a credentialing body’s education program to establish the minimum standard for FP and FA title users.

SUPPORT FOR A PRINCIPLE-BASED APPROACH

CIFP applauds 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 also commends and is 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.’

It is the view of CIFP that stakeholders who are proponents of a more rigid, prescriptive-based system are not fully appreciative of the diversity in mandates, viewpoints and approaches of industry participants or, the broad range of services required by Canadian consumers. Invariably, inflexible, rules-based solutions offer fixes for the moment and have a limited shelf-life. They are unable to keep pace with the constant and fast-paced change that characterizes the financial services sector. Inevitably, and on a recurring basis, we will find ourselves back in the same situation we are in today if we settle for a prescriptive approach: looking at an industry that requires a costly and time consuming overhaul.

APPROACH RELATING TO THE SUBSTANCE AND PURPOSE OF THE RULE

CIFP endorses FSRA on the general approach it has taken relating to the substance and purpose of the Proposed Rule:

- establishing approval criteria for credentialing bodies that intend to offer a credential in order to ensure the effective administration of a credentialing program and that only qualified individuals are issued a credential
- establishing approval criteria for a credentialing body to issue FP and FA credentials in order to establish a consistent, minimum standard for title users
- establishing the application process and
- establishing a transition period for individuals already using the FP and FA titles

CIFP also supports the pragmatic and balanced approach of FRSA in meeting the primary objectives of the framework:

- creating minimum standards for title usage:
 - the implementation of new minimum standards helps to offset consumer confusion as to the qualifications and services provided by individuals using the FP and FA titles, protects the public interest and promotes consumer confidence
 - importantly, the public interest is also well-served through the oversight of not just the FP and FA title users but, of the credentialing bodies themselves
- minimizing the potential for an unnecessary and unwanted regulatory burden for title users by:
 - recognizing existing licensing and professional designation regimes administered by approved credentialing bodies, as opposed to creating a new licensing regime for individual title users, as it pertains to the right to use the FP and FA titles

- leveraging existing standards and regimes for granting and supervising financial planning and advising designations and licences to:
 - implement a fair and flexible framework that is efficient and effective
 - mitigate any unnecessary burden on market participants and costs to consumers
 - enable certain individuals to continue to conduct business using the FP and FA titles without significant disruption or additional cost
- leaving financial planning and advising activities that are subject to regulation to continue to be overseen and regulated by the relevant regulatory bodies in Ontario in addition to oversight by the credentialing body with respect to the appropriate use of the FP and FA titles

ESTABLISHING APPROVAL CRITERIA FOR CREDENTIALING BODIES

CIFP is in full agreement with FSRA's stance that 'a key element of the implementation of the title protection framework is the establishment of approval criteria for credentialing bodies, to ensure effective oversight of a credentialing program so that only individuals meeting minimum standards are able to obtain and maintain a credential by virtue of holding a designation or licence.'

The strength and credibility of a designation can only be as good as the entity that sanctions the credential therefore, it is the opinion of CIFP that FSRA must set a high barrier to entry, defined in prescribed rules (in this specific application, prescribed rules are fitting and necessary) for an entity to be approved as a credentialing body. Setting a high standard discourages entities seeking to hawk educational programs and credentials of dubious quality that only serve to obfuscate the unsuspecting Canadian investing public from entering the stage.

To this end, drawing on the approval criteria from international standard setting bodies for accreditation, such as the International Organization for Standardization (ISO) and the National Commission for Certifying Agencies, makes sense as it relates to governance, managing impartiality, the safety and security of records and examination administration.

CIFP also supports the feedback offered by stakeholders during FSRA consultation sessions that recommends the minimum criteria for entities wishing to obtain approval as a credentialing body should include:

- a requirement for credential holders to adhere to a code of conduct
- having a public interest mandate in place and
- having internal processes and controls to effectively identify and mitigate real or perceived conflicts of interest

In addition, CIFP would like to see FSRA further stipulate that an approved credentialing body should demonstrate:

- the capacity to ensure it can live up to its obligations (i.e. workflow, policies and procedures, resources, best practices, etc.)
- a proven track record of sponsoring—either directly or, working with partners—educational programs (core curriculum and continuing education) and/or designations and certifications that meet the highest standards of quality and proficiency and that espouse and promote:
 - a commitment by title users to the highest standard of professional ethics and
 - placing the interests of the client above all other interests
- these attributes should be reflected and reinforced in the target learning outcomes of its educational offerings
- a mandate to serve the public interest

Regular, periodic audits of credentialing bodies

Periodic audits conducted by FSRA (or an appointed agency of FSRA) should be incorporated into the approval criteria for credentialing bodies. The purpose of this ongoing monitoring is to confirm the programs of credentialing bodies continue to be properly administered subsequent to their initial approval and is necessary to weed out credentialing bodies whose interests are not aligned with—or, over time, have drifted from—a mandate to protect and serve the best interests of Canadian investors.

ESTABLISHING APPROVAL CRITERIA FOR CREDENTIALS

‘Another key element of the title protection framework is the establishment of 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.’

CIFP is in line with those stakeholders who feel the ‘FP and FA titles are distinct and have different education and competency requirements.’ CIFP also agrees with the FSRA findings that a delineation exists between the levels of proficiency required to use the FP and FA titles.

Therefore, in principle, CIFP supports the key elements of the FP and FA baseline competency profiles drafted by FSRA that aim to set a ‘benchmark for the technical knowledge, professional skills and competencies that would reasonably be expected of FP and FA title users.’ At this particular juncture, a high level approach to the baseline competency profiles would appear to be prudent based on the position of FSRA 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.’

In principle, this approach can work—if done in the right way, minimum standards need not equate to setting the bar at its lowest possible 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 leading to a net result of progress being 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 is hopeful FSRA will 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 baseline competency profiles. 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 baseline competency profiles is the best way to proceed provided the minimum standards are set at a reasonable level. 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 is room for flexibility such that they stop short of being prescriptive.

QUESTION #2: DISCLOSURE

FSRA is seeking comments on whether FP and FA title users should be required to disclose to their clients the credential they hold that affords them the right to use an FP or FA title. FSRA is seeking feedback on the form that this disclosure could take and the overall consumer benefits it could achieve.

Attaining a professional designation requires considerable effort on the part of a financial planner or a financial advisor. Therefore, one would presume an individual who holds an approved credential would naturally want to disclose their achievement to their existing and prospective clients. Similarly, if employed by a firm, one would think the firm would not hesitate to promote the fact a representative of the organization possesses an approved credential at every possible opportunity (e.g. business cards, letter head and marketing material).

Rightly or wrongly, credentials are often used as a marketing tool, as an indicator of prestige and as a mark of distinction from the general population of planners and advisors. It is not surprising then that individuals are typically keen to feature the full name of the designation they have attained. One would imagine this trend will only be amplified with the implementation of the Proposed Rule under the *Financial Professionals Title Protection Act*. Under a new regime where the use of the once ubiquitous terms ‘Financial Planner’ and ‘Financial Advisor’ are now stringently restricted, individuals who have gained access to these exclusive ‘clubs’ are unlikely to conceal their membership status. While some may choose to simply go with the term ‘Financial Planner’ or ‘Financial Advisor’ as applicable, most individuals would be inclined to accompany these terms with the full name of the actual credential they hold for the reasons cited above.

From this perspective, CIFP does not believe the vast majority of individuals will need much encouragement to disclose the actual credential that affords them the right to use the FP or FA title. Where an FP or FA title user chooses not to disclose their specific designation, CIFP does not believe he or she should be required to do so—it should be left to the discretion of the FP or FA title user. However, the exception would be if information about the underlying credential is specifically requested from a client or prospective client. In this instance, the FP or FA title user must disclose the name of the designation.

FSRA DISCLOSURE

For CIFP, of far greater significance than requiring an FP or FA title user to disclose the specific credential they hold is that any disclosure—in whatever form is determined to be appropriate—emanate from FSRA rather than from the planner or advisor or from the credentialing body.

When working with a financial planner or financial advisor, the vast majority of consumers simply seek peace of mind and confidence. They want to be assured the individual has met standards of proficiency, he or she abides by a professional code of conduct and he or she is subject to regulatory oversight such that their best interests as a consumer are protected and at the forefront. Disclosure from FSRA that an individual has been approved to use the term Financial Planner or Financial Advisor effectively provides this comfort to consumers (competency, adherence to a code of conduct and regulatory oversight are integral components of being able to use the FP and FA titles regardless of whether FSRA has a direct or indirect involvement in the administration of each component). A seal of approval coming from FSRA—an independent and impartial regulatory agency—carries significantly greater weight and credibility than if that information were delivered by a credentialing body.

With this said, it is important that consumers understand the role of FSRA in the context of the financial services sector and that FSRA is the go-to source to find out whether an individual is authorized to use the FP or FA title. Equally important, the consumer has to have an understanding of what the titles do and do not mean (i.e. the individual has met minimum standards of proficiency but, authorization to use a title is not tantamount to endorsing the services of the FP or FA, etc.). Clearly, a consumer awareness program is an important next step as part of the implementation of the framework.

CIFP agrees with the approach by FSRA to limit disclosure to the underlying credential that permits an individual to use the FP or FA title rather than expanding the disclosure to include the scope of services provided by the title user.

QUESTION #3: EXEMPTIONS

FSRA is seeking comments on whether the framework should allow for any exemptions. In particular, FSRA is requesting comments on the principles governing an exemption regime, the extent to which exemptions may be required, to whom they should be made available (if at all), and the benefits and drawbacks of permitting exemptions.

On the topic of grandfathering, exemptions and transition period provisions, CIFP is generally aligned with the conclusions drawn by FSRA based on stakeholder comments from the targeted consultation meetings in the fall of 2019.

GRANDFATHERING

CIFP does not favour grandfathering for either the FP or FA title and is in agreement with FSRA that ‘a grandfathering provision would not be consistent with the intent of the title protection framework—to establish a common minimum standard across title users so that consumers can reasonably rely on the person with whom they are dealing to be qualified to use the title.’

The length of time an individual has been using the FP or FA title without a license or designation from an entity that is likely to be approved as a credentialing body under the new system, in and of itself, is not an indicator of proficiency nor does it contribute to instilling and promoting consumer confidence. For individuals who seek to remain in the financial services sector and to continue to be an FP or FA title user, ample opportunities exist to earn an approved credential or license rather than seeking an exemption through grandfathering.

EXEMPTIONS

As CIFP has indicated in a previous submission, it is not supportive of granting exemptions to individuals or classes of individuals who wish to hold out as a Financial Planner or as a Financial Advisor. As much as FSRA has authority under the *Financial Professionals Title Protection Act, 2019* to construct rules granting exemptions, CIFP is pleased to see the Proposed Rule does not include provisions in this regard and it is hoped that this will remain the case under the framework going forward.

Along the same lines as grandfathering, CIFP has concerns that granting exemptions could be construed as a dilution of standards—be it real or perceived.

Moreover, exemptions do not serve the public interest. The entire FPTPA framework is designed to mitigate consumer confusion in large part, by whittling down the multitude of financial planning designations that are currently on offer—many of which are of questionable legitimacy—to a select group of *bona fide* credentials. Canadian consumers will be advised that holders of these approved designations—and these designations only—will be afforded the privilege of using the FP title. However, in the next breath, consumers will also learn that as much as the credentials on the approved list have been carefully vetted and represent the best in class for the industry and for consumers, allowances may be made such that an individual who holds a designation—although, not one from the approved list—that pre-dates the FPTPA may nonetheless still be able to hold out as a Financial Planner under the new system.

If the key policy principle to be used by FSRA is that an exemption should only be permitted if the ‘benefits outweigh any potential harm to the public’, as this example illustrates, it is not apparent how granting exemptions would pass this test.

The biggest beneficiaries of an exemption policy are not consumers. It is quite clearly, individuals seeking to use the title of Financial Planner on the strength of a previously obtained designation that falls outside of the approved list. CIFP does not see the sense of adding an unnecessary layer of cost, administration and inefficiency simply to cater to a group of individuals for whom viable options to bring their status up to par exist under the transition period provisions prescribed in the Proposed Rule.

TRANSITION PERIOD PROVISIONS

Under the Proposed Rule, individuals who used the FP title while actively engaged in the business of providing services related to financial planning or advising prior to January 1, 2020 and who continue to conduct such business up to the date the Proposed Rule comes into force, will be permitted to continue using the title before having to obtain an approved credential within five years after the Proposed Rule comes into force. For FA title users, the timeline is three years after the Proposed Rule comes into force.

Once the applicable timelines have lapsed or, for individuals who do not qualify for the transition provisions prescribed in the Proposed Rule, it will be mandatory for individuals to obtain an approved credential in order to use the FP or FA title.

CIFP sees these transition period provisions as detailed in section 7 of the Proposed Rule as fair and reasonable.

Some stakeholders have suggested that the three-year and five-year timeline for financial advisors and financial planners respectively is far too generous and bestows an unfair and unnecessary advantage to certain individuals despite the fact they have not met the approved credential requirement. It is argued that it will effectively be business as usual for these individuals for the next several years even in the face of a new title protection framework.

CIFP agrees the three- and five-year timelines are generous but, as stated in a previous submission, they are also appropriate when put into the proper context of the financial services industry as a whole. Certainly, from the perspective of an individual financial planner or individual financial advisor, these long runways of time are more than fair and, if the individual is serious about his or her profession, he or she should have an abundance of time to attain an approved credential before the transition period expires.

However, the financial services industry is not comprised exclusively of independent financial planners and independent financial advisors—far from it in fact. For large financial institutions such as the chartered banks, credit unions, insurance firms and wealth management firms, that have a sizeable distribution channel, in many cases, numbering in the thousands, it is not a straightforward task to bring their would be FP and FA title users up-to-speed. There are numerous logistical issues and inevitable complications that have to be overcome and in deference to these challenges, these firms need additional time to satisfy the transition period requirements.

CIFP believes the Proposed Rule addresses the transition period issue in a prudent and thoughtful manner and as currently stated, will facilitate a smooth transition to the new system for all participants within the financial services sector. As such, this section of the Rule is not in need of any amendments.

QUESTION #4: FEES AND ASSESSMENTS

The FPTPA requires credentialing bodies to collect from approved credential holders any fees FSRA requires those individuals to pay, and to remit those fees to FSRA. FSRA has the authority to make rules regarding the collection, holding and remittance of such fees. FSRA is seeking comment on this fee structure, including whether it allows for fair cost recovery, or if there are any operational challenges that credentialing bodies may experience with such a fee structure.

In principle, CIFP views the proposed fee structure as reasonable and acknowledges the premise that fees are necessary to ‘support FSRA’s operation as an independent, self-funded agency on a cost recovery basis.’

CIFP also supports the approach undertaken by FSRA to base fees on the principles of:

- simplicity
- consistency
- fairness
- effectiveness and efficiency

CIFP would like to see transparency included as one of the guiding principles for any proposed fee structure. For example, if the responsibility of collecting and remitting fees payable by credential holders to FSRA is to be placed on credentialing bodies, those fees should be clearly delineated as ‘FSRA charges’ (or, something to that effect), so that credential holders are not mistakenly left with the impression they are being assessed additional fees by the credentialing body.

QUESTION #5: CONSUMER EDUCATION

FSRA is seeking input on options for consumer education campaigns to support and follow implementation. As mentioned above, FSRA is also seeking feedback from stakeholders on how government, regulators, credentialing bodies and industry can educate consumers on financial planning and financial advising services in Ontario and on FP and FA title use.

The introduction of the title protection framework signals a sea change for the financial services industry. Accordingly, industry participants will have to be brought up-to-speed on the operation of the system. This will prove to be a significant undertaking. Most importantly, education

campaigns, with Canadian consumers as the target audience, will also need to be designed and effectively delivered. After all it is the investing public, for whom the program is designed to provide the greatest benefit.

Harmonization and consistency between the various participants in the financial services industry is integral to the effective education of consumers. CIFP endorses the use of standardized documentation that promotes FSRA and the title usage program by all participants. This will reduce the dissemination of misinformation to the public from credentialing bodies as well as mitigate the furtherance of their particular biases and agendas. On their respective Web sites, credentialing bodies should make it clear that FSRA is the regulatory authority that oversees title protection and should actively direct consumers to FSRA for access to more information on the framework and what it means to Canadian consumers.

Much of the information that could form the basis of supporting education campaigns for consumers is readily available. The key is designing, packaging and delivering this information in a manner that resonates with consumers. Unfortunately, many of the previous attempts by government agencies to educate the Canadian public on various aspects of the financial services industry have been less than effective—financial literacy campaigns notably come to mind.

Education for Canadian consumers on the FPTPA framework, at a minimum, should address:

- the purpose and mandate of FSRA within the financial services sector
- the importance of Canadians working with a financial planner or a financial advisor who possesses a recognized professional credential (as one measure of proficiency), who abides by professional standards and rules of conduct and who is subject to applicable regulatory oversight
- understanding what holding a credential and/or a financial services license means and does not mean (i.e. what they do and do not say about the professional status of the individual and what conclusions consumers can and cannot draw as to the services he or she provides)
- the current issues in the financial services industry (i.e. pre-FPTPA) with respect to title usage and how it has created confusion for the Canadian consumer
- how the FPTPA framework will help mitigate some of the current issues regarding title usage
- understanding what use of the FP or FA title does and does not mean (i.e. what FSRA approval for title usage does and does not say about the professional status of the individual and what conclusions consumers can and cannot draw as to the services he or she provides)
- how and where consumers can get more information on approved credentials
- what designations give holders specialized knowledge—as opposed to just general knowledge—in particular spheres of financial planning [e.g. Registered Retirement Consultant (RRC), Trust and Estate Practitioner (TEP), Chartered Financial Analyst (CFA)]
- how and where consumers can find out what individuals are authorized to use the FP and FA title

- basic questions consumers should be asking of their current or prospective financial planner or financial advisor

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.