



FP Canada TM
*Advancing Professional
Financial Planning*

FP CANADA RESPONSE TO PROPOSED REGULATIONS [2021-001] – *THE FINANCIAL PLANNERS AND FINANCIAL ADVISORS REGULATIONS*

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INTRODUCTION

FP Canada is pleased to respond to Financial and Consumer Affairs Authority of Saskatchewan (FCAA) Proposed Regulations [2021-001] – *The Financial Planners and Financial Advisors Regulations* (the Proposed Regulations) under *The Financial Planners and Financial Advisors Act* (FPFAA).

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, over 700 of whom are in Saskatchewan, who meet FP Canada's rigorous professional and ethical standards.

We commend the FCAA and the Government of Saskatchewan for undertaking this important consultation, and for the significant work that has been done to date on developing the FPFAA.

We are strongly supportive of the FPFAA and its consumer protection intent. We firmly believe that this legislation, supported by rigorous regulations, will serve the best interests of consumers in Saskatchewan. Now more than ever, we believe this level of consumer protection is essential to ensure that when Saskatchewan families seek financial advice, they can be confident in the professional they are working with.

RESPONSE TO CONSULTATION QUESTIONS

FP and FA Credentials

- 1. The FCAA is seeking feedback on the above approach and whether the Proposed Regulations 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.**

FP Canada is supportive of the approach the FCAA has taken to the Proposed Regulations and the Financial Planner and Financial Advisor baseline competency profiles (BCPs), which are modelled after those previously published by the Financial Services Regulatory Authority of Ontario (FSRA) for consultation. Not only are they themselves appropriate, but the decision to harmonize with Ontario, thus creating regulatory consistency across jurisdictions, will provide clarity and portability to consumers, practitioners, and firms.

The consultation includes copies of the Financial Planner and Financial Advisor BCPs proposed by FSRA in its first consultation on Proposed Rule 2020-001 – *Financial Professionals Title Protection*

(the Proposed Rule).¹ In its second consultation, FSRA expanded on the BCP concept, outlining a detailed proposed approach to assessing the curriculum of Financial Planner and Financial Advisor credentials.²

Importantly, the approach to assessing curriculum outlined in Ontario provides for more differentiation between Financial Planner and Financial Advisor credentials than the BCPs alone. The need for clear differentiation between Financial Planner and Financial Advisor credentials has been repeatedly raised by stakeholders throughout FSRA's consultation process, and it remains an important point. Most consumers today do not understand the differences between Financial Planners and Financial Advisors, despite clear differences in knowledge, skills, and abilities. For consumers to find the type of advice that is appropriate for their circumstances, in keeping with the FPFAA's aim to create clarity, it is important that they understand this distinction.

We would specifically commend the FCAA's proposed standard of care for credential holders. Specifically, under s.6(1) (a) (ii,iii) and s.7(1) (a) (ii,iii) of the Proposed Regulations, as set out in the Appendix, the FCAA has proposed a high standard of care for credential holders in Saskatchewan, one that specifically includes requirements to address material conflicts of interest in the best interests of clients, and put the clients' interests first when making a suitability determination.

FP Canada applauds the FCAA for the decision to include these client interest first requirements. Such requirements serve the public interest and are entirely consistent with current standards of the financial planning profession. FP Canada believes all jurisdictions with title protection frameworks should adopt the FCAA's proposed standard of care.

Disclosure

- 2. The FCAA 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 the FP or FA title. The FCAA is seeking feedback on the form that this disclosure could take and the overall consumer benefits it could achieve.**

We believe a credential disclosure requirement could benefit consumers by enhancing transparency and supporting the complaint and enforcement process.

In terms of the form disclosure could take, disclosure of credentials through business cards, email signatures, and/or websites is simple and efficient, and most credential holders already do this.

While we are supportive of a credential disclosure requirement, we would note the ability of credentialing bodies (CBs) to actively monitor compliance with such a requirement for all their credential holders in all client engagements is limited. Therefore, if the FCAA moves forward with adoption of credential disclosure requirements, we recommend the FCAA accept an attestation-based

¹ Proposed Rule 2020-001 – *Financial Professionals Title Protection*: <https://www.fsrao.ca/media/2051/download>

² Proposed Approach Guidance – *Financial Professionals Title Protection* – Administration of Applications: <https://www.fsrao.ca/industry/financial-planners-and-advisors-sector/proposed-financial-professionals-title-protection-administration-applications>

approach to CB enforcement, whereby, as part of their annual certification renewal with their CB, credential holders would be required to annually attest that they will disclose their credential to clients in a manner approved by the FCAA, with failure to do so constituting grounds for enforcement action.

Transition Date

- 3. The FCAA is seeking feedback on whether the proposed transition date of July 3, 2020 is appropriate or, if you wish to propose another date, the benefits of the proposed date.**

We do not have concerns with the proposed transition date. However, we are concerned that the transition period for use of the Financial Planner title, as currently set out in the Proposed Regulations, is too long.

While we are mindful of the FCAA's intent to harmonize with Ontario, and to provide sufficient time for individuals currently using the Financial Planner title to obtain an approved credential, given the consumer protection intent behind the FPFAA, in our view, four years is too long to allow individuals without a credential to use the Financial Planner title.

We recommend the transition period be shortened to a maximum of three years after the Proposed Regulations come into force, which is more than sufficient time to obtain a Financial Planner credential.

Exemptions and Challenging Exams

- 4. The FCAA is seeking comments on whether the framework should allow for any exemptions. In particular, the FCAA 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.**

In the interest of consumer protection and clarity, we do not support exemptions. We strongly agree with the concerns the FCAA has identified in its own consideration of exemptions, specifically, "that granting exemptions will undermine the objective of the FPFAA, namely that consumers and investors should have confidence that persons who use the FP or FA title have met the requirements and standards set out in the FPFAA and by a FCAA-approved credentialing body to provide financial planning or financial advisory services."

- 5. The FCAA is also seeking comments on whether the framework should allow for certain qualified individuals to challenge the required FP and FA examinations. Similar to the issue of exemptions, the FCAA is interested in comments on the principles governing when challenges should be permitted, the extent to which challenges may be required, to whom they should be made available (if at all) and the benefits and drawbacks of permitting exemptions.**

FP Canada appreciates the importance of ensuring existing practitioners with relevant qualifications and experience have appropriate pathways to obtaining a credential that will allow them to use the Financial Planner or Financial Advisor title under the new framework.

For its part, FP Canada provides alternative pathways and education exemptions for certification candidates who hold certain relevant professional qualifications, designations, or licenses. These alternative pathways and education exemptions can range from allowing candidates to bypass a specific course on the pathway to an FP Canada certification, all the way to allowing them to proceed directly to challenging the QAFP or CFP examinations.

These alternative pathways and education exemptions are well-founded, and are based on careful consideration of the knowledge, skills, and abilities encompassed by other common professional qualifications, designations, and licenses. They are designed to minimize duplication in certification requirements while still ensuring the certificant has the requisite knowledge, and has demonstrated the competencies, skills, and abilities that consumers expect when working with an FP Canada certificant.

We believe this approach – which recognizes individuals’ demonstrated knowledge, skills, and abilities while balancing consumer protection – would also make sense in Saskatchewan.

Ultimately, whether through challenge exams, alternative pathways, or exemptions, it must be the CBs themselves that develop and administer these requirements in order to maintain the standards of their certifications.

We would welcome the opportunity to speak with FCAA staff about how qualifications and experience can be formally recognized within the new framework, and the role of CBs in this regard.

Titles

6. The FCAA is seeking suggestions as to examples of titles that could reasonably be confused with the FP or FA titles and comments regarding whether a guidance document or other regulatory approach is necessary at this time.

The restriction of other titles that could be confused with Financial Planner or Financial Advisor is critical to the effectiveness of the FPFAA.

Without the appropriate restriction of other titles, there is a real risk that individuals will simply continue to use similar or misleading titles that are indistinguishable to the consumer, thus perpetuating confusion and undermining the intent of the framework.

At this time, in implementing the *Financial Professionals Title Protection Act*, Ontario has proposed to take a “permissive” approach to title restriction, and to its interpretation of what titles might be “reasonably confused” with the regulated Financial Planner and Financial Advisor titles. Under its

currently proposed approach, FSRA has interpreted reasonably confusing titles as mainly those which are a direct variation of Financial Planner or Financial Advisor, as follows³:

Table 1

Examples of titles that could reasonably be confused with Financial Planner	Examples of titles that could reasonably be confused with Financial Advisor
<ul style="list-style-type: none"> • _____ 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 	<ul style="list-style-type: none"> • 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

Under this approach, credential holders have virtually no restrictions on the titles they are permitted to use. They can use the regulated Financial Planner or Financial Advisor titles (in accordance with their credential), one of the titles above (also in accordance with their credential), or virtually any other title that is not regulated in Ontario. Non-credentialed individuals are prohibited from using the regulated Financial Planner and Financial Advisor titles, and the titles above, but are permitted to use any other title that is not regulated.

In our view, this interpretation of reasonably confusing titles does not go far enough. It leaves unregulated many titles that are likely to confuse consumers on the basis that they imply the knowledge and skills, or legal criteria, of a Financial Planner or Financial Advisor. For example, we believe all the following titles could be reasonably confused with Financial Planner:

³ Proposed Approach Guidance – *Financial Professionals Title Protection* – Supervisory Framework:
<https://www.fsrao.ca/industry/financial-planners-and-advisors-sector/proposed-financial-professionals-title-protection-supervisory-framework>

Table 2

Additional examples of titles that are likely to be confusing to consumers		
<ul style="list-style-type: none">• Wealth Planner• Money Planner• Retirement Planner	<ul style="list-style-type: none">• Wealth Manager• Money Manager• Financial Manager	<ul style="list-style-type: none">• Wealth Consultant• Money Consultant• Financial Consultant

We believe there is an opportunity for the FCAA to take an approach to restricting other titles that is consistent with, while building upon, Ontario's. To achieve this, we recommend the FCAA start by mirroring the titles proposed for restriction in Ontario, as outlined in Table 1 above. We recommend the FCAA build on this by further restricting the titles outlined in Table 2 above, as well as any other titles identified by other consultation respondents that are likely to confuse consumers.

To this end, it would also be helpful if the FCAA could undertake a structured, consumer-based approach to determining what consumers find to be confusing with the Financial Planner and Financial Advisor titles. Empirical research could help determine what types of titles consumers tend to confuse with them. Data from qualitative and quantitative research with consumers would help provide an objective basis for identifying titles that could reasonably be viewed as confusing.

Other Issues Not Addressed in the Consultation Paper

Consumer Education

Consumer education is important to the efficacy of the new framework. It is important not only that consumers are aware of the new framework and know what to look for in choosing a Financial Planner or Financial Advisor, but also that they understand what the titles mean, and what to expect from their Financial Planner or Financial Advisor.

We would welcome the opportunity to work with the FCAA, the Government of Saskatchewan, and other stakeholders on a coordinated strategy and approach to consumer education around the FPFAA.

Fees

We recognize that fees for the new framework will ultimately be set by the government, rather than the FCAA. We anticipate there will be future opportunities to provide more detailed counsel on framework fee issues. For now, we would raise two points, which will be relevant to the government as it begins to consider implementation:

1. Fee Harmonization – We anticipate that most, if not all CBs seeking approval in Saskatchewan will also seek approval in Ontario (and other provinces that may follow suit in the future). As such, in the interest of efficiency, we encourage the FCAA to consider harmonization in terms of things like fee amounts, formulas, and assessment timing.
2. Fee timing – Given the legal and governance constraints that can affect when and how CBs (particularly not-for-profit bodies) can set and collect fees, it will be important for the

government and FCAA to maintain open communication with prospective CBs as to when fees may start to be collected.

By way of example, FP Canada's fiscal year begins in April. FP Canada's Board of Directors sets certification fees for each fiscal year the previous December. This means to inform Board decision-making in December, the government and FCAA would need to communicate intention on fees in November at the latest.

Leveraging Decisions in Other Jurisdictions

The FPFPA provides the FCAA with the ability to enter agreements with, and recognize decisions made by, extra-provincial authorities in other jurisdictions. We are supportive of this power with respect to the approval process for CBs and credentials, enforcement decisions, and ongoing supervision of CBs. This will create efficiency and reduce burden on framework participants, without compromising consumer protection.

CONCLUSION

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

We would once again reiterate our support for the FCAA and the Government of Saskatchewan's work on this important issue. We are confident that this legislation, once in effect, will bring much needed clarity and confidence to Saskatchewan consumers.



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