

September 22, 2022

Financial and Consumer Affairs Authority of Saskatchewan
Suite 601, 1919 Saskatchewan Drive
Regina, SK S4P 4H2

Sent via email to: finplannerconsult@gov.sk.ca

Dear Sirs/Mesdames,

**Re: Notice of Proposed Changes and Request for Further Comment
Proposed Regulations [2022-001]
The Financial Planners and Financial Advisors Regulations**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments to the Financial and Consumer Affairs Authority of Saskatchewan (“FCAA”) in regard to its Notice of Proposed Regulations and Request for Comment, Proposed Regulations [2022-001] The Financial Planners and Financial Advisors Regulations (the “Consultation”).

1. ABOUT ADVOCIS

Advocis is the association of choice for financial advisors and planners. With over 17,000 member-clients across the country, we are the definitive voice of the profession. Advocis champions professionalism, consumer protection, and the value of financial advice. We advocate for an environment where all Canadians have access to the professional advice they need.

Advocis members advise consumers on wealth management; risk management; estate, retirement and tax planning; employee benefits; and life, accident and sickness, critical illness and disability insurance. In doing so, Advocis members help consumers make sound financial decisions, ultimately leading to greater financial stability and independence. In all that they do, our members are driven by Advocis’ motto: *non solis nobis* – not for ourselves alone.

2. OUR COMMENTS

Advocis supports the ongoing work of the FCAA towards restricting the titles of Financial Advisor (“FA”) and Financial Planner (“FP”) to qualified individuals. Regulating these ubiquitous titles will enhance consumer protection. Furthermore, most consumers erroneously believe



these titles are already regulated,¹ signalling a level of professional skill and conduct that is not grounded in reality. Regulating these titles will address this untenable situation and protect Saskatchewanians.

Like the FCAA, we believe that consumer protection needs to be placed at the centre of the title protection framework. For this reason, we commend the FCAA for the proposals and questions raised in the Consultation.

We believe that the FCAA can protect the public if a credentialing body ceases to be active, while also treating credential holders fairly. In the short-term, another credentialing body would be appointed by the FCAA to supervise the defunct entity's credential holders and act as caretaker. As a longer-term fix, all remaining credentialing bodies would be invited to propose transition plans to bring the defunct entity's credential holders into their respective bodies.

We support the FCAA's proposal to raise the bar for the FA basic competency profile ("BCP"). By implementing the product-agnostic Comprehensive Approach, the FCAA would better align the FA title to client expectations and ensure a higher level of technical competence and enhance consumer protection by removing implicit product bias.

Although we support harmonization generally, we do not believe that consumer protection should be sacrificed to achieve greater harmonization. Here, we believe that the improvement to consumer protection gained by holding FAs to a higher standard outweighs the costs from reduced harmonization. In fact, Saskatchewan could take the role of flag bearer and encourage other jurisdictions to "harmonize up" as title protection frameworks mature across the country in the coming years.

The Comprehensive Approach eliminates the need for additional disclosure. However, even if a product-centred FA BCP is ultimately chosen, we believe the inclusion of a product listing may cause additional confusion, undermining the benefits of title protection.

Similarly, when considering implementation periods and transition dates, we support an approach that will be easily understood by consumers and stakeholders.

¹ In September 2019, Advocis asked 800 Saskatchewanians about their thoughts on the regulation of Financial Advisors. Abacus Data carried out the poll, yielding the following eye-opening results:

- 51% of respondents believed the title of "Financial Advisor" was already regulated, with the misperception being even greater amongst lower-income residents;
- 82% believed that a professional code of conduct for Financial Advisors should be mandatory; and
- 87% supported legislation to regulate the title of Financial Advisor.

Advocis commissioned similar polling in other provinces, and the results were similar.



Finally, we support the efforts of the FCAA to keep fees reasonable. To the extent possible, the FCAA should leverage the work done by other regulators to reduce the costs that it incurs.

We have provided our specific responses to the Consultation questions below.

I. Credentialing Bodies – Process when Approval Revoked or Operations Cease

The FCAA is seeking feedback on how to transition credential holders from a credentialing body that is no longer active or approved for some reason, such as its approval was revoked or it is winding down operations. For title users that obtained a credential from an inactive or unapproved credentialing body, please provide feedback as to whether those individuals should be able to continue using the FP or FA title in the absence of oversight by a credentialing body for a period of time and, if yes, how long that period of time should be.

We believe that consumer protection can be achieved while treating credential holders fairly in the event that a credentialing body ceases operations or loses its approval from the FCAA (the “Default Event”). In the short-term, supervisory responsibility over the credential holders of the credentialing body suffering the Default Event (the “Defunct CB”) should be transferred to another credentialing body that is continuing to operate within the framework (each, a “Remaining CB”). In the long run, the Remaining CBs would have an incentive to create transition plan(s) to bring credential holders of the Defunct CB under their jurisdictions. We explain further below.

a. Short-term Supervision:

In the short-term, the focus must be ensuring that consumer protection is not compromised because of the Default Event.

To achieve this, the FCAA and the remaining credentialing bodies should meet expeditiously (within 30 days of the Default Event). The purpose of that meeting should be for the FCAA to determine which of the Remaining CBs shall be appointed to oversee the credential holders of the Defunct CB in the immediate term (the “Appointed CB”). In making this determination, the FCAA should be guided by a consideration of which Remaining CB has the desire and capacity to be appointed to this role, and the FCAA’s views on the performance of the Remaining CBs as a quasi-regulator under the framework to that point.

For an interim period (up to one year), the Appointed CB will oversee the credential holders of the Defunct CB. The Remaining CBs and the FCAA will communicate with credential holders and the broader public that complaints regarding credential holders of the Defunct CB should be directed to the Appointed CB. To support the additional obligations of the Appointed CB during the interim period, the FCAA may wish to reallocate some funding from the fees paid by the



Defunct CB to the Appointed CB. These resources can be used to retain temporary staff and other supports required for the increased investigative and other demands.

Provided that they maintain themselves in good standing, the credential holders of the Defunct CB should be permitted to continue using the protected title(s) under the supervision of the Appointed CB during the interim period (one year). During the interim period, these credential holders would continue to disclose the credential they earned from the Defunct CB, notwithstanding the fact that the conferring entity is defunct, until they earn a new credential that confers the right to a title.

This proposal will maintain consumer protection and credential holder supervision through the interim period.

b. Long-term Solution:

We commend the FCAA's focus on achieving consumer protection and fairness for credential holders.

Below, we propose a fair long-term solution based on two key considerations. First, the Remaining CBs have an incentive to bring the credential holders of the Defunct CB into their membership. Second, the credentials are fundamentally similar given that they each satisfy the applicable FA or FP BCPs.

Thus, within three months of the Default Event, the Remaining CBs may voluntarily develop and submit *ad hoc* transition plans (the "Credential Transition Plans") to grant their credential to the credential holders from the Defunct CB. These Credential Transition Plans will explain what actions or additional courses (if any) are required to transition to the Remaining CB. Such transitional requirements should take no longer than six months to complete. The FCAA can then review and approve these Credential Transition Plans on an expedited basis.

After those Credential Transition Plans are approved, the credential holder from the Defunct CB would have six months to complete the requirements. Once all requirements are completed, the Remaining CB would grant its credential to the credential holder, with that credential holder now becoming a full member of that Remaining CB. From that point on (even if there is time remaining in the interim period), the credential holder's "new" credentialing body will take over supervision from the Appointed CB (assuming the Appointed CB is different than the credential holder's new CB). Regarding credential disclosure, the credential holder would immediately cease disclosing the credential of the Defunct CB in favour of the new credential just earned.



Any credential holders who fail to complete a Credential Transition Plan within one year of the Default Event, or fail to earn another recognized credential in some other manner, will lose the right to use the protected title.

We believe that this approach will maintain consumer protection and credential holder supervision throughout. It also treats credential holders fairly, minimizes barriers to their continued participation in the industry, and ensures that the transition from the Defunct CB is orderly and transparent.

II. Approval Criteria for FA Credentials

We are seeking feedback as to whether the FA BCP should be revised to take a broader approach to proficiency in technical areas and bring it closer to that of an FP. The technical knowledge requirement will include knowledge and competency in all of the same core financial technical areas as the FP BCP (i.e. estate planning, tax planning, retirement planning, investment planning, finance management, and insurance and risk management). The key difference between the FP BCP and the FA BCP would be that an FP will require knowledge and competency in respect of developing and presenting an integrated financial plan for the client; whereas an FA will require knowledge and competency in respect of providing suitable recommendations to a client with respect to broad-based financial and investment strategies. In considering this approach, please comment on the potential advantages of the Comprehensive Approach identified above, namely better alignment with client expectations and better alignment with other existing financial sector regulatory frameworks. Also please comment on whether there are any other advantages the Comprehensive Approach has over the Product-Focused Approach not identified in this paper.

Advocis strongly supports the Comprehensive Approach proposed for the FA BCP. This higher bar would align with modern consumers' expectations of FAs. There was a time when FAs were seen primarily as transactional conduits to purchasing product. But their role has evolved, with the client relationship now taking centre stage. On the technical front, this means requiring that FA credential holders demonstrate proficiency in multiple substantive areas—not just one or two narrow fields—so they are equipped to provide holistic advice. On the client relationship front, this means having a “client-first” mindset.

We agree wholeheartedly with the FCAA's analysis that the Comprehensive Approach to the FA BCP better aligns with both client expectations and other financial sector regulatory frameworks.

Clients expect their financial advisor to provide broad-based, comprehensive financial advice. If FAs' knowledge is limited to specific products, they will be unable to provide this advice, leading to worse client outcomes. In addition, most consumers are unable to distinguish between FPs



and FAs.² We believe that the title protection provides a unique opportunity to ensure that the knowledge and skills of all financial professionals meet the expectations of their clients, and it is the client's reasonable expectations that should drive the FCAA's decisions on the FA BCP.

We also agree that the FA requirements should not simply duplicate existing product-focused licensing regimes. Duplication of existing licensing requirements misses the opportunity to improve consumer protection within the industry. Instead, the value of title protection comes from raising the standards and professionalism within the financial advice sector.³

In contrast, a product-centric approach is regressive and runs counter to the modern, professional vision of financial advice that puts the client relationship at its core and makes ancillary any transaction in product. Entrenching product bias in the FA BCP would undermine the FCAA's expectations that the credential holder act ethically in identifying or managing conflicts of interest. A credential curriculum that is, at its core, predicated on transacting in a product represents a source of conflict and bias that will necessarily harm the quality of client recommendation.

By rejecting a two-tiered approach, the Comprehensive Approach would fulfill the goals of the title protection framework: to establish minimum standards for use of the FP and FA titles so that consumers and investors can have confidence that the persons using these titles conduct themselves appropriately when providing financial planning or financial advisory services.

² FSRA conducted consumer research in advance of its second consultation. It found that only 31% of consumers are confident that they can explain the difference between FPs and FAs, and only 6% are completely confident. The research also found that the type of services that FP clients and FA clients expect from their professionals is also very similar. See *Appendix C - Consumer research for the FP/FA Title Protection Framework of Notice of changes and request for further comment on FPTP Rule* (May 11, 2021) at: <http://fsrao.ca/industry/financial-planners-andadvisors-sector/notice-changes-and-request-further-comment-fftp-rule>.

³ After all, the purpose of creating this new framework is not to ensure so-called financial advisors and planners have skills in regard to product sales, which the FCAA rightly acknowledges falls under existing product licensing regimes. Instead, the framework is intended to address client-centric advice and planning skills, which is where the regulatory gap exists.



III. Decrease in Harmonization

Note that taking the above approach to require additional knowledge and competency for FAs would result in decreased harmonization between the FCAA framework and FSRA's framework. This may result in different standards to meet and may mean that credentialing bodies would need to develop different education programs. Furthermore, individuals who have a credential in Ontario may need additional qualifications to satisfy the criteria for Saskatchewan. While taking this alternate approach may decrease harmonization with Ontario's framework, it would also potentially improve the FA BCP alignment with client expectations and with other existing financial regulatory frameworks. As such, we ask that you also address in your comments whether the benefits of increasing the proficiency required to hold the FA credential outweighs the decreased harmonization. Also please provide comments regarding any other potential disadvantages of the Comprehensive Approach not identified in this paper. If an increase in qualifications required to obtain the FA credential results in a need for consequential amendments to other aspects of the Proposed Regulations, please identify those amendments. One potential revision we have identified and would like comments on concerns whether the transition period for an FA's compliance with the FPFAA set out in section 9(3) of the Proposed Regulations should be lengthened to match that of an FP?

Although Advocis supports harmonization generally, this goal must not put consumers at risk and should not be put above the more important objective of increasing consumer protection. As we discussed above, the Comprehensive Approach better protects consumers and meets client expectations. In our view, the consumer protection benefits from raising the bar on professionalism within the financial advice sector outweigh any costs associated with decreased harmonization between Ontario and Saskatchewan.

Employing the Comprehensive Approach may cause some confusion in the short term, because credentials that qualify for the FA title in Ontario may not qualify in Saskatchewan. However, these sorts of bumps are to be expected when adopting a new framework.⁴

We believe that the title protection frameworks across Canada will gradually harmonize up in the years following initial implementation, as financial advice and planning increasingly becomes a recognized profession.

By adopting the Comprehensive Approach now, Saskatchewan can lead the way in establishing high consumer protection standards across Canada. Ontario will review its own framework in the coming years. Saskatchewan's leadership will encourage other jurisdictions to increase their

⁴ Note that even if the FCAA "falls back" to the lower FA BC, there would still be a lack of harmonization with Quebec's approach to title protection for its financial professionals. Harmonization is desirable *all else equal* but it cannot come at the expense of consumer protection.



expectations to meet the Saskatchewan standard. Harmonization which raises the bar will benefit consumers across Canada.

Although we hope that title protection can be fully implemented as soon as possible, we recognize that the Comprehensive Approach requires FA-qualifying credentials to be more rigorous than those that would qualify under a product-focused approach, bringing them substantially into line with the standard set for FP-qualifying credentials. Therefore, we would support a transition period for the FA title of the same length as that for the FP title. Setting the same deadlines for both protected titles would also simplify the title protection transition, to the benefit of consumers and industry stakeholders.

IV. Mandatory disclosure of credentials

We are seeking further feedback specifically on an enhanced disclosure requirement for FAs that would require FAs to disclose the product, if any, that they are authorized to sell. Please comment on whether this additional disclosure requirement is preferred and the form that it should take. Also please comment on whether this additional disclosure is warranted if the Comprehensive Approach to the FA BCP, as described under the Approval criteria for credentials heading, is adopted.

As a benefit of the Comprehensive Approach to the FA BCP, additional FA-specific disclosure related to product sales licenses is not required. Since the Comprehensive Approach is product-agnostic and broad, there is no need to identify product-specific limits in the protected title. In fact, this issue exemplifies why the Comprehensive Approach makes sense: title protection is not about moving product; it is about quality financial advice.

While we support the Comprehensive Approach, even if the FA BCP proposed in the 2021 draft (or the FA BCP adopted by FSRA) is implemented, we do not believe that a listing of products in the protected title would necessarily help the consumer. The financial professional is already required to disclose the credential that enables them to use the protected title, allowing their clients to understand their advisor's education *bona fides* and the credentialing body responsible for their oversight. Even under the non-comprehensive approach, we believe many FAs will choose to qualify to advise on multiple products. Providing this laundry list of products could easily overwhelm the consumer, reducing the utility of the disclosure and the wider title protection regime.

Furthermore, we believe that including a product listing in the protected title risks conflating the product licensing regime with the title protection framework. A licence is the minimum regulatory requirement to transact in a particular product, requiring certain technical knowledge. In contrast, the protected title indicates that the financial professional has developed the skills and knowledge required to provide financial advice to clients. Although many advisors maintain relevant licenses to transact in the products, this is not always the case.



As a result, including a product listing in the protected title may increase consumer confusion by implying that the financial professional is actively licensed to sell the product. We urge the FCAA to avoid the public confusion which could result from blurring the distinction between product licence and protected title.

V. Transition Date and Implementation Period

Whether you support an implementation period and provide a suggested length of time for said period.

We do not support an implementation period.

We believe that adding an implementation period will make implementation unnecessarily confusing for consumers and industry stakeholders. The framework already has a transition date, two different transition periods, and an in-force date.

Instead, we suggest that the FCAA consider taking an approach similar to FSRA. The FCAA should identify and work with key prospective credentialing bodies (such as those already approved under the Ontario title protection regime). The FCAA can pre-vet these credentialing bodies and their credentials before the in-force date. Then the FCAA will be able to announce these credentialing bodies and credentials on the launch date of the Saskatchewan title protection framework.

Whether the transition date should be adjusted to a later date from July 3, 2020, such as the date that the Act and Regulations come into force. In addition, please include in your comments why you think the date you have chosen is the right approach for the framework and any positive or negative effects that an alternate date may have on the protections afforded by the legislation as well as the implementation process.

We believe that two criteria must be met for the transition date to be effective:

- i) It must be clear for all stakeholders; and
- ii) It must be in the past, to prevent individuals from “gaming the system” to gain access to the transition period.

We note that FSRA chose a transition date of “before January 1, 2020”. Since the FCAA’s framework is rolling out about one year after FSRA’s, perhaps the FCAA could simply make the Saskatchewan transition date “before January 1, 2021”. This date will be easy for consumers and industry stakeholders to understand and will prevent unscrupulous actors from gaming the system.



VI. Fees and Fee Structure

Please provide your feedback regarding the proposed fee structure and amounts.

We appreciate the efforts the FCAA is making to ensure that the costs of the title protection framework are reasonable. Since many financial professionals serve clients in multiple jurisdictions, harmonization (where it does not harm consumer protection) and the reduction of unnecessary duplication is beneficial.

With respect to the initial application to become a credentialing body and for approval of the credential(s), we urge the FCAA to consider whether it can leverage the work undertaken by other jurisdictions operating largely similar title protection frameworks. For instance, FSRA conducted a review of the resources, operational processes and disciplinary structure of the credentialing bodies that it approved. Can the FCAA leverage the work done by FSRA to allow for an expedited review? This would help reduce the costs incurred by the FCAA and passed on to industry participants (and ultimately consumers).

In the case of credentials, we recognize that where the BCPs differ substantially—such as for the Comprehensive Approach to the FA BCP—the FCAA needs to conduct its own fresh review. However, if the BCPs are very similar—as is the case for the FP BCP—we urge the FCAA to consider leveraging the work of other regulators (such as FSRA).

With respect to the annual fee, we wish to clarify one point. Where a credential qualifies the holder to use both the FA and FP title, does the fee remain \$50 per credential holder? Or, like FSRA, would the fee be per credential holder *and* per title, effectively doubling the fee incurred for a single credential that is approved for both titles?

We note that in Ontario no credential has thus far been approved to use both protected titles. We believe that several approved credentials would meet the Ontario BCPs for both titles; however, we believe this “double fee” issue has discouraged some credentialing bodies from seeking approval to use both protected titles for a given single credential. We urge the FCAA to charge a single fee per credential, regardless of the number of protected titles it qualifies for, to provide greater flexibility to Saskatchewan market participants who meet the standards required to use the protected titles.

3. CONCLUSION

We commend the FCAA for its work to improve consumer protection through this Consultation on its proposed title protection framework. We support the FCAA in these efforts.



If a credentialing body becomes defunct, we believe that the FCAA can protect the public, while also treating credential holders fairly. In the short-term, another credentialing body should supervise the credential holders on an interim basis. Other credentialing bodies can then propose and implement transition plans for these credential holders to obtain new credentials.

We support the FCAA's proposal to raise standards for the FA BCP. By implementing the Comprehensive Approach, the FCAA would better align the FA title to client expectations, thereby ensuring a higher level of technical competence and consumer protection.

Although we support harmonization generally, we believe that the improvement to consumer protection gained by holding FAs to a higher standard outweighs the costs from reduced harmonization. We believe that other jurisdictions will follow Saskatchewan's lead and require a higher standard for FAs in the coming years.

The Comprehensive Approach eliminates the need for additional disclosure. However, even if a product-centred FA BCP is chosen, we believe the inclusion of a product listing may cause additional confusion, undermining the benefits of disclosure.

Similarly, when considering implementation periods and transition dates, we support an approach that will be easily understood by consumers and stakeholders.

Finally, we support the efforts of the FCAA to keep fees reasonable. In particular, we urge the FCAA to leverage the work of other regulators to reduce costs.

We would welcome the opportunity to further discuss this initiative with you. Should you have any questions, please do not hesitate to contact the undersigned, or James Ryu, Vice-President, Advocacy and General Counsel at jryu@advocis.ca.

Sincerely,

Original signed by

Greg Pollock, M.Ed., LL.M., C.Dir., CFP
President and CEO

Original signed by

Catherine Wood, CFP, CLU, TEP, CHS, MBA, MIST, ICD.D.
Chair, National Board of Directors