



September 21, 2015

Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives

Attention: Mr. Malcolm Heins, Chair

c/o Frost Building North, Room 458

4th Floor, 95 Grosvenor Street

Toronto, Ontario

M7A 1Z1

Dear Mr. Heins,

Financial Planning Standards Council (FPSC) congratulates the Ontario government for undertaking this important consumer protection initiative to review policy alternatives related to financial planners and financial advisors. Ensuring the professional competence and ethics of financial planners has been the core of our organization's existence for 20 years. We therefore welcome the opportunity to present our recommendations as part of the Committee's consultations.

Incorporated in 1995, Financial Planning Standards Council is a not-for-profit standards-setting and certification body that develops, promotes and enforces professional standards in financial planning through CERTIFIED FINANCIAL PLANNER® certification. Our purpose is to instill confidence in the financial planning profession, for without sound advice from qualified and trusted financial planning professionals, Canadians' futures are at risk.

For the past two decades, Financial Planning Standards Council has demonstrated a history of excellence in setting standards, establishing education, examination, and other certification requirements, and creating rigorous disciplinary and enforcement processes (in cooperation with existing regulators and licensing systems) to protect all Canadians.

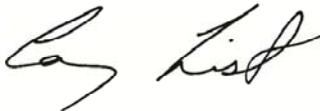
Along the way, we have taken numerous measured steps to elevate financial planning in Canada and to enhance the professional performance of financial planners through CERTIFIED FINANCIAL PLANNER certification. Among many other standards, we enforce a strict Code of Ethics and Rules of Conduct that require that all CERTIFIED FINANCIAL PLANNER professionals (and FPSC Level 1® Certificants in Financial Planning) act in their clients' best interest, and that they are competent to do so.

Financial Planning Standards Council has oversight of over 19,000 professionals who have voluntarily stepped up to CERTIFIED FINANCIAL PLANNER or FPSC Level 1 certification in Canada, 10,000 of whom live and work in Ontario. However, for every CERTIFIED FINANCIAL PLANNER, there are many more advisors holding themselves out as financial planners without meeting any required qualifications, and who are not accountable for their conduct as financial planners. The fact that certification is strictly voluntary poses too great a risk to the financial well-being of Canadians.

As your consultation paper notes, “currently in Ontario, no general legal framework exists to regulate the activities of individuals who offer financial planning, advice and services.” We have been working together with our partners in the Financial Planning Coalition (“the Coalition”, whose members include the Canadian Institute of Financial Planners, the Institute of Advanced Financial Planners, Institut Québécois de planification financière and Financial Planning Standards Council) to address this consumer protection concern. As set out in our “Matter of Trust” document, the Coalition proposes that the government of Ontario should codify in law the professional certification structures, governance and oversight mechanisms that already exist in practice, but that are currently voluntary, and make them a requirement for all who wish to claim, either through title or advertising, to be financial planners or to offer financial planning as a core service.

Financial Planning Standards Council is pleased to expand on these recommendations in our submission, and we look forward to working with the Committee, government, regulators and other stakeholders towards a solution to this critical consumer protection issue.

Yours truly,

A handwritten signature in black ink, appearing to read "Cary List". The signature is fluid and cursive, with the first name "Cary" written in a larger, more prominent script than the last name "List".

Cary List, CPA, CA, CFP  
President & CEO  
Financial Planning Standards Council



**FPSC** FINANCIAL  
PLANNING  
STANDARDS  
COUNCIL®

**20** 1995-2015

**Financial Planning Standards Council**  
**Response to the Ontario Expert**  
**Committee's Consultation on Financial**  
**Advisory and Financial Planning Policy**  
**Alternatives**

**September 2015**

# TABLE OF CONTENTS

EXECUTIVE SUMMARY .....	1
<b>QUESTION #1:</b> What activities are within the scope of financial planning? Is the provision of financial advice different from financial planning? .....	3
<b>QUESTION #2:</b> Is the current regulatory scheme governing those who engage in financial planning and/or the giving of financial advice adequate? .....	5
<b>QUESTION #3:</b> What legal standard(s) should govern conflicts of interest and potential conflicts of interest that may arise in financial planning and the giving of advice? .....	7
<b>QUESTION #4:</b> To what extent, if at all, should the activities of those who engage in financial planning and/or giving financial advice be further regulated? .....	8
<b>QUESTION #5:</b> What harm(s) and/or benefit(s) do consumers experience in the current environment? .....	10
<b>QUESTION #6:</b> Should consumers have access to a central registry of information regarding individuals and entities that engage in financial planning and the giving of financial advice including their complaint or discipline history? .....	11
APPENDICES .....	12
Appendix 1: FPSC History and Accomplishments .....	13
Appendix 2: Characteristics of a Profession (Ryan and Cooper) .....	14
Appendix 3: Enforcement of Conduct of CERTIFIED FINANCIAL PLANNER® Professionals and Statistics on FPSC Enforcement Activities .....	16
Appendix 4: CERTIFIED FINANCIAL PLANNER Professionals – Other Licenses .....	19

## EXECUTIVE SUMMARY

Almost half of Canadians erroneously believe that there are current regulatory standards specifically for financial planners in this country.<sup>1</sup> Yet, the current absence of title restrictions and corresponding professional oversight has left Ontarians at risk of receiving financial planning from individuals not qualified to provide it, not bound to a code of conduct specific to the profession, and who are not accountable for the financial planning they provide.

There is no question that choosing the appropriate type of financial services provider remains a daunting task for many Ontarians. There is a pervasive lack of consumer understanding of what to expect from a financial plan and/or planner. The absence of regulatory distinction between various forms of financial advice leaves many consumers confusing an “asset allocation plan”, an “investment plan” or a “retirement projection” with a financial plan. This has resulted in consumers receiving limited advice on singular issues without the context of their full financial picture, yet thinking they have a financial plan. This misconception, coupled with the risk of receiving financial planning from persons who are unqualified and unaccountable for the financial planning they provide, has left Ontarians in danger of seeking the wrong advice from the wrong people.

While the licenses issued for mutual funds, securities and insurance are under the authority of the Ontario Securities Commission (OSC) and Financial Services Commission of Ontario (FSCO) in Ontario, and delegated in part to the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association (MFDA), the current regulatory environment does not explicitly recognize the fundamentally vital service of financial planning or its impact on the well-being of consumers. Financial planning is a distinct service, and outside the scope and expertise of existing regulatory systems.

We recognize and respect the authority and work of the existing regulators and self-regulatory organizations; however, our concerns lie in the gap that currently exists as a result of the absence of a single set of mandated standards and common oversight for those who claim, either through title or advertising, to be financial planners or to offer financial planning as a core service.

Much of the consumer and marketplace confusion is rooted in the interchangeable use of “financial planner” and “financial advisor”. The terms “financial planning”, “financial planner” and “financial plan” are generally well-defined and specific in nature, while the terms “financial advice” and “financial advisor” are broadly-used, generic and non-specific.

“Financial planner” is one of the most commonly misused titles in the financial services industry. The title projects a professional image that may lead a consumer to believe that the person using it is qualified to provide financial planning when in fact they may not be.<sup>2</sup>

---

1. Leger, conducted on behalf of Financial Planning Coalition, *Awareness and Perceptions of Financial Planners in Canada*, January 2014 sample of 1,501 English or French-speaking Canadians, 18 years of age or older.

2. <http://www.innovativewealth.com/wall-street-wisdom/top-8-titles-used-by-financial-advisors/>

To garner trust and increase consumer protection and well-being, Ontarians must be able to count on self-explanatory titles that clearly describe the services being offered, and be assured that the title corresponds with the appropriate qualifications, competencies and services of that particular role.

While there may be several appropriate, distinct titles and services within the broader “financial advisor” space, we propose that the Ontario government start with the most discrete identifiable group—financial planners. The most effective, practical and least cumbersome solution to addressing financial planner regulation (or ultimately that of other financial advisors) lies in professional certification.

Specifically, we and our partners in the Financial Planning Coalition (“the Coalition”, whose members include the Canadian Institute of Financial Planners, the Institute of Advanced Financial Planners, Institut Québécois de planification financière and Financial Planning Standards Council) recommend that the Ontario government:

1. Adopt a single, harmonized set of standards for financial planners as already established for CERTIFIED FINANCIAL PLANNER certification;
2. Recognize and adopt the *Canadian Financial Planning Definitions, Standards & Competencies*, a joint publication of Financial Planning Standards Council and Institut québécois de planification financière;
3. Create title and holding out restrictions so that only those who have demonstrated their competence by meeting unified standards and who have committed to professional ethics and continuing education are permitted to use the title or hold out as a “financial planner”; and
4. Make all financial planners in Ontario accountable to a professional oversight body that understands financial planning and professional obligations, and that represents the public interest.

Such a model would remain self-funded by professional financial planners and would establish no additional regulatory burden.

Question #1: What activities are within the scope of financial planning? Is the provision of financial advice different from financial planning? If so, please explain the difference.

The terms “financial planning”, “financial planner” and “financial plan” are generally well-defined and specific in nature, while the terms “financial advice” and “financial advisor” are broadly-used, generic and non-specific. Consumer and marketplace confusion are rooted in the interchangeable use of these terms.

### Financial Planning is a Distinct Profession

Due to a lack of specific regulation, “financial planner” is one of the most commonly misused titles in the financial services industry. The title projects a professional image that may lead a consumer to believe that the person using it is qualified to provide financial planning when in fact they may not be.<sup>3</sup> Notwithstanding the marketplace confusion, “financial planning” and “financial planner” are well-defined, well-established and widely-accepted terms in the financial services industry. They embody all of the prescribed attributes of a distinct profession.<sup>4</sup>

Financial planning is a disciplined, multi-step process of assessing an individual’s current financial and personal circumstances against their future desired state, and then developing strategies that will help meet their personal goals, needs and priorities in a way that aims to optimize their financial position. It takes into account the inter-relationships among relevant financial planning areas in formulating appropriate strategies. These areas include financial management, insurance and risk management, investment planning, retirement planning, tax planning, estate planning and legal aspects. Further, financial planning is not a one-time event. It is an ongoing process that includes regular review and monitoring of an individual's progress towards achieving their goals.<sup>5</sup>

A financial planner, by definition, is an individual who possesses the requisite knowledge, skills, abilities and professional judgement to capably provide objective financial planning at the highest level of complexity required of the profession.

*“As a professional in an advisory role, a financial planner has to be a good communicator, acting as a sounding board for the client and discussing various aspects [many of which are quite sensitive] of the client’s personal, family and professional life. A [qualified financial planner] has the skills needed to conduct a detailed analysis of every aspect that affects the sound management of personal finances. Drawing on broad financial expertise, [they] play an important role in key moments of their clients’ lives.”<sup>6</sup>*

The advice provided in response to critical questions (such as *“How can I best protect my disabled child in the event of my death or unexpected health issues?”*, *“How can I best structure my assets to enable me to leave a legacy to my family?”*, or *“Should I take the commuted value of my pension or a deferred*

---

3. <http://www.innovativewealth.com/wall-street-wisdom/top-8-titles-used-by-financial-advisors/>

4. See Appendix 2: *Characteristics of a Profession*.

5. For more information, please see *Canadian Financial Planning Definitions, Standards & Competencies*, available at [www.fpssc.ca/canadian-financial-planning-definitions](http://www.fpssc.ca/canadian-financial-planning-definitions).

6. “Becoming a Financial Planner”, IQPF, <http://www.iqpf.org/futuretudiant.en.html>

*pension?*") can have a significant impact on one's future financial well-being and is broader in scope than advice related specifically to investment or insurance decisions, for example.

While a duly-qualified financial planner is capable of addressing an individual's financial situation holistically and delivering a comprehensive, integrated financial plan, they may also provide more limited financial planning services or advice, depending on a client's priority needs at the time. In all cases, however, qualified financial planners are expected to consider the impact of recommendations provided in any one area has on all other areas of a client's life, based on a holistic perspective.

### **Financial Advisor is a Ubiquitous Term**

The term "financial advice" and the title "financial advisor", on the other hand, are general terms that do not describe any single practice or set of proficiencies. In today's environment, the title "financial advisor" is applied to a diverse range of financial service providers who offer a wide variety of separate and, in many cases, unrelated services. The skills and competencies of those referred to under the universal moniker of "financial advisor" are as varied as the services they offer. For example, mortgage brokers, investment advisors, insurance agents, financial planners, lawyers and accountants could all be referred to as "financial advisors", yet each has its own, often unique competencies and/or qualifications based on the nature of the financial guidance or assistance they offer. While all "financial planners" would fall under the general umbrella term "financial advisor", the other occupations that may fall under the generic term "financial advisor" do not include the totality of the skills, competencies and training required of the financial planning profession.

### **Consumer Confusion**

To apply a single label to all occupations that may fall under the ubiquitous term "financial advisor" would be akin to labelling all allied health providers with the same title—for example, "health advisor" or "health practitioner"—without regard for the fact that the services offered, and thus the requisite knowledge, skills and abilities of doctors, physiotherapists, massage therapists, nurses, dieticians, dentists, etc., are obviously and significantly different. Labelling all "health practitioners" with the same title and universally applying the same competency requirements would cause greater harm and confusion to society by perpetuating a race to the lowest common denominator of the various distinct practices that lie within the broader "health practitioner" title.

Similar logic can be applied to the formal adoption of a generic term for all providers of various forms of financial advice. Therefore, it is critical that formally recognized titles are made to reflect the specific expected competencies and services of the particular type of advisor.

Question #2: Is the current regulatory scheme governing those who engage in financial planning and/or the giving of financial advice adequate?

The short answer is “partially”.

### **Existing Regulation**

While the licenses issued for mutual funds, securities and insurance are under the authority of the Ontario Securities Commission (OSC) and Financial Services Commission of Ontario (FSCO) in Ontario, and delegated in part to the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association (MFDA), the current regulatory environment does not explicitly recognize the fundamentally vital service of financial planning or its impact on the well-being of consumers. Financial planning is a distinct service, and outside the scope and expertise of existing regulatory systems. While we recognize and respect the authority and work of the existing regulators and self-regulatory organizations, our concerns lie in the absence of professional regulation specific to financial planners.

Today’s unregulated financial planning environment leaves consumers vulnerable and at risk of receiving advice from individuals holding themselves out as financial planners, but who have not had to meet any qualifications based on accepted standards of ethics, competence or practice. Anyone outside of Quebec may market themselves as a financial planner without any requisite knowledge, skills or abilities—and without accountability to any professional governing body.

Choosing the appropriate type of financial services provider remains a daunting task for many Ontarians. They remain confused and at risk when seeking out financial guidance because titles used often do not reflect the competencies expected, or the primary function of the role.

### **Financial Planning Standards Council’s Current Oversight of Financial Planners**

As a professional oversight organization for financial planning, Financial Planning Standards Council’s mandate is to establish and enforce appropriate standards for the financial planning profession in Canada. Individuals who have obtained the CERTIFIED FINANCIAL PLANNER certification must adhere to the highest standards of competence and ethical behaviour expected of the profession. Through association with the international Financial Planning Standards Board, representing the certification of over 150,000 financial planners around the world, the Canadian standards currently in place are consistent with the highest professional standards for the financial planning profession worldwide.

For greater clarity, FPSC’s certification program (accredited to ISO international standards for certification programs) requires the successful completion of a specialized and rigorous program of study, two standardized national examinations established and administered by FPSC, and a minimum of three years’ financial planning work experience. Once successful, CERTIFIED FINANCIAL PLANNER professionals must demonstrate completion of a minimum of 25 hours of qualifying continuing education annually (which includes a minimum of one hour in ethics).

All CERTIFIED FINANCIAL PLANNER professionals must also abide by the *Standards of Professional Responsibility*, which includes practice standards; competency requirements; fitness standards that define the character expectations for becoming and remaining certified; and a code of ethics and rules of conduct that include, at the forefront, an obligation to always place the client's interests before all others.

As the governing professional body for financial planning, Financial Planning Standards Council enforces its standards in the public interest by means of an open, transparent, robust and consistent complaint, investigation and disciplinary process.<sup>7</sup>

Almost half of Canadians erroneously believe that there are current regulatory standards for financial planners<sup>8</sup>. While Financial Planning Standards Council's certification and professional oversight is rigorous, it only applies to those who have voluntarily stepped up to CERTIFIED FINANCIAL PLANNER certification, leaving consumers vulnerable to those who are not qualified or accountable. We provide a solution to this consumer protection gap in our response to question #4.

---

7. See Appendix 3: *Enforcement of Conduct of CERTIFIED FINANCIAL PLANNER® Professionals and Statistics of FPSC Enforcement Activities*

8. Leger, conducted on behalf of Financial Planning Coalition, *Awareness and Perceptions of Financial Planners in Canada*, January 2014 sample of 1,501 English or French-speaking Canadians, 18 years of age or older.

Question #3: What legal standard(s) should govern conflicts of interest and potential conflicts of interest that may arise in financial planning and the giving of advice?

The question of what legal standards of care or loyalty an advisor owes to their client cannot be separated from the question of qualifications or expected expertise without causing harm to all participants in the system. Any legal duty of care or loyalty must be commensurate with the expected services of the advisor, and with the requisite skills and competencies for the provider of the advice.

The standard of conduct debate taking place around the world has also arisen in Canada, particularly on the question of whether Canada should impose a statutory fiduciary duty on financial advisors. While a fiduciary duty is the duty of a person to act in another person's best interests, it has other legal connotations regarding the nature of the relationship between the client and the professional. The question of whether a fiduciary relationship exists is best determined by the courts in any given situation. We therefore prefer the plain-language term "client best interest", which, in the case of duly-qualified financial planners, incorporates the following principles:

- Put the client's interest before all others;
- Act with the skill, care, diligence and good judgement of a professional;
- Provide full and fair disclosure of all important facts; and
- Fully disclose, and fairly manage, unavoidable conflicts of interest.

For greater clarity, and again aligned with the requirements of a fiduciary as it relates to conflicts of interest, disclosure should not suffice for qualified financial planners. Rather, if faced with a conflict of interest, a duly-qualified financial planner should not be permitted to provide services to a client unless there is full transparency regarding the existing conflict of interest, allowing the client to make an informed decision to engage the financial planner notwithstanding the conflict.

In today's world, the standards of conduct and conflict of interest obligations for financial services providers vary depending on the regulatory regime under which they are governed and the nature of their activities, sometimes ranging from a "suitability" standard to a "best interest" or "fiduciary" standard. The key is in ensuring a standard that aligns with client understanding and expectations, including the expected proficiencies and scope of service provided, the vulnerability of the client, the level of trust required of the advisor, the amount of reliance on the provider of advice and the discretion that the advisor has relative to their clients.

Question #4: To what extent, if at all, should the activities of those who engage in financial planning and/or giving financial advice be further regulated?

The financial services industry is in transition, moving from an historical product focus to one of a more holistic relationship and professional-advice focus. This is occurring at the same time as national regulatory structural reforms such as the introduction of a National Cooperative Securities Regulator, review of the mandates of FSCO and the Deposit Insurance Corporation of Ontario (DICO), and attempts to increase transparency to consumers through initiatives related to CRM2. Given this evolution, coupled with the complexities around differing levels of standards required for various groups who fall under the financial advisor umbrella, attempts to tackle the broader question of who should be permitted to call themselves by which title is a complex and lengthy issue that will need sizable consideration and time. As such, we are recommending a phased approach to this question.

### **Financial Planning Professionalization**

While there may be several appropriate, distinct titles and services within the broader “financial advisor” space, we propose that the Ontario government start with the most discrete identifiable group—financial planners. The most effective, practical and least cumbersome solution to addressing financial planner regulation (or ultimately that of other financial advisors) lies in professional certification.

Specifically, we and our Coalition partners recommend that the Ontario government:

1. Adopt a single, harmonized set of standards for financial planners as already established for CERTIFIED FINANCIAL PLANNER certification;
2. Recognize and adopt the *Canadian Financial Planning Definitions, Standards & Competencies*, a joint publication of Financial Planning Standards Council and Institut québécois de planification financière;
3. Create title and holding out restrictions so that only those who have demonstrated their competence by meeting unified standards and who have committed to professional ethics and continuing education are permitted to use the title or hold out as a “financial planner”; and
4. Make all financial planners in Ontario accountable to a professional oversight body that understands financial planning and professional obligations, and that represents the public interest.

Such a model would remain self-funded by professional financial planners and would establish no additional regulatory burden.

The proposals we have outlined would have a profound impact on consumer protection.

What we are NOT talking about	What we ARE talking about
Regulating every advisor out there	Creating a professional model for financial planners only
Regulating activity	Restricting the use of the title “financial planner”
Creating another SRO	Codify in law the professional certification structure, governance and oversight mechanisms that already exist in practice, but that are currently voluntary, and make them a requirement for all who wish to claim financial planning as their own
Further fracturing the financial services industry by perpetuating more opportunities for regulatory arbitrage	Ensuring consistent professional oversight of financial planners regardless of regulatory sector
Designating existing regulators as standard-setters for financial planning	Establishing in statute the unified standards that already exist through voluntary certification
Establishing jurisdiction over current IIROC or MFDA firms and/or auditing their practices	Respecting current SRO oversight of firms

It should be noted that our proposed regulatory structure is not without precedent in Ontario, or across Canada. For example, the College of Physicians and Surgeons of Ontario, the Ontario College of Teachers and the Law Society of Upper Canada are all organizations that represent the public interest, establish and enforce standards of practice and ethics, and certify and license the professionals within their mandate. In fact, this is the most accepted model for professional regulation across Canada.<sup>9</sup>

### Other Titles and Professional Services

Having created title restriction through the establishment of standards for financial planners, we would suggest that the government review the use of other titles within the financial services industry. Establishing consistent use of other titles with existing licensing requirements (for example, “mutual fund advisor” for those licensed in mutual funds, etc.) would go a long way to ending consumer confusion regarding qualifications and services across the industry. It is important to note in this context that some titles are already effectively restricted through regulation (for example, “insurance agent” and “portfolio manager”).

9. We wish to acknowledge the fact that there are other examples of regulatory models from around the world that are attempting to deal with this same challenge, but caution that each one has raised its own set of issues. We look forward to sharing our thoughts regarding other international models at the appropriate time, and why we feel the “made in Canada” solution we recommend is best suited to protect the interests of Ontarians and all Canadians.

Question #5: What harm(s) and/or benefit(s) do consumers experience in the current environment?

Financial challenges are having a significant impact on individual and family health and well-being. A fall 2014 survey conducted on behalf of Financial Planning Standards Council revealed that money is the leading source of stress for Canadians—significantly more than work, personal health or relationships. Further, financial stress is driving Canadians to lose sleep, reconsider past financial decisions, argue with partners, and lie to family and friends about their personal finances.<sup>10</sup>

That survey showed that 87% of Canadians wish they had made better financial decisions earlier in life and 45% report being embarrassed by their lack of control over their finances. This level of stress and its impact on society (marital breakdown, inadequate housing, poor nutrition and mental health) are costing our citizens and our governments considerably.

A separate study<sup>11</sup> conducted on behalf of the Financial Planning Coalition notes that 92% of Canadians have heard of the profession of financial planner and, as mentioned above, almost 50% of them falsely believe that there are current regulatory standards already in place for financial planners. Of concern is the fact that 59% of Canadians feel they do not have the necessary knowledge to adequately plan their financial future and admit they need help.

Consumers remain confused and at risk. They expect, and have a right to expect, that anyone holding themselves out as a financial planner is qualified, competent, ethical and accountable for the advice that he or she is providing.

However, not all of the news is bad. We know that financial planning with a qualified professional matters. The results of a three-year, longitudinal study that included close to 15,000 Canadians provide important insight into the potentially life-changing impact of financial planning. *The Value of Financial Planning*<sup>12</sup>, commissioned by Financial Planning Standards Council, with the support of the Financial Planning Foundation, provides a comprehensive evaluation of the financial planning activities of Canadians by measuring its correlation with emotional and financial well-being. The study revealed that Canadians who engage in comprehensive financial planning report significantly higher levels of financial and emotional well-being than those who do limited or no planning.

Those with comprehensive plans:

- feel more on track with their financial goals and retirement plans;
- have improved their ability to save in the past five years;
- are more confident that they can deal with financial challenges in life; and
- feel better able to indulge in their discretionary spending goals.

For more insight into the value of financial planning, and the need for this vital service, please see <http://www.fpssc.ca/value-financial-planning>.

---

10. Survey conducted on behalf of Financial Planning Standards Council by Leger in the fall of 2014; included more than 1,000 Canadians (excluding Quebec); margin of error of +/- 2.5%, 19 times out of 20.

11. Leger, *Awareness and Perceptions of Financial Planners in Canada*, January 2014.

12. Financial Planning Standards Council, *The Strategic Counsel: Value of Financial Planning – Year 3 Report* (2012).

Question #6: Should consumers have access to a central registry of information regarding individuals and entities that engage in financial planning and the giving of financial advice including their complaint or discipline history?

Ontarians already have access to a central registry for those certified by the Financial Planning Standards Council. Should the Ontario government restrict the use of titles for those holding themselves out as financial planners, this registry would apply to all financial planners in Ontario. The Financial Planning Standards Council registry allows consumers to see the certification status of the individual and any disciplinary actions that have been imposed by Financial Planning Standards Council. In addition to the mandatory information regarding certification status, many professionals have included expanded information regarding their areas of speciality, languages used, and other relevant data that may assist consumers in determining the suitability of the financial planner based on their specific needs.

Other registries currently exist in the financial services industry. For example, life insurance regulators make information about agents publicly available in two different registries that allow consumers to verify the status of the agents' licence. In addition, the Canadian Insurance Regulators Disciplinary Actions (CIRDA) is a national electronic database that allows the public to look for disciplinary decisions about insurance agents.

We caution, however, that the adoption of additional registries, in isolation of the use of plain-language titles, will have limited impact on consumer protection. Consumers not only need access to the disciplinary history and current licensure, but they also need to understand the scope of regulation and the services that the person is licensed and qualified to provide.

## Appendices

## Appendix 1: FPSC History and Accomplishments

Accomplishments in Financial Planning Standards Council's twenty-year history include the following:

- In 2004, Financial Planning Standards Council (FPSC) launched the first set of financial planning practice standards in Canada, which were universally accepted as the standards of practice for CERTIFIED FINANCIAL PLANNER® professionals around the world.
- In 2004, FPSC began working in cooperation with the Quebec Institute of Financial Planners (Institut québécois de planification financière, or IQPF) to unify expectations and corresponding standards related to the provision of financial planning services across Canada.
- In 2006, FPSC introduced the *CFP Professional Competency Profile*, outlining the knowledge, skills and abilities necessary for CERTIFIED FINANCIAL PLANNER professionals to serve the financial planning needs of clients—a document that has been adopted as the framework for the international standards of competence for financial planners worldwide.
- In 2009, IQPF joined FPSC through direct representation on the FPSC Board of Directors, and the following year, the two organizations created a unified Code of Ethics.
- In 2010, FPSC became one of the first certification bodies in Canada to receive ISO 17024 accreditation from the Standards Council of Canada for meeting globally-recognized standards for certification bodies, in addition to earning a “Tier One” rating from the global Financial Planning Standards Board.
- In 2010, FPSC implemented enhanced requirements to the CFP certification program, including the transition to a two-stage exam and the addition of an FPSC-Approved Capstone Course requirement to ensure CFP professionals meet the highest level of competence expected of the profession.
- In 2011, FPSC released the *Standards of Professional Responsibility for CFP Professionals*, which updated and consolidated its *Code of Ethics*, *Financial Planning Practice Standards*, *Fitness Standards* and *Rules of Conduct*. Further, the announcement of common principles for *Codes of Ethics* between FPSC and IQPF marked the beginning of national harmonization of financial planning standards.
- Enhancements were made to the path to CFP certification in 2014, including the introduction of the FPSC Level 1® Certification in financial planning.
- In 2015, FPSC and IQPF celebrated another milestone in standards-setting: the publication of *Canadian Financial Planning Definitions, Standards & Competencies*—the first unified set of definitions, standards and competencies in financial planning. This cooperation and unification sets the stage for future growth of a unified profession across Canada.

## Appendix 2: Characteristics of a Profession (Ryan and Cooper)

Financial planning holds all of the attributes of a distinct profession. Ryan and Cooper describe eight characteristics that are common to all recognized professions<sup>13</sup>:

#1	<p><i>A profession renders a unique, definite and essential service to society—only people in the particular profession render the service and the service rendered must be considered so important that it is available to all people in a society. For example, only lawyers practice law, medical doctors practice medicine, and accountants practice accounting.</i></p> <ul style="list-style-type: none"><li>• There is an established, accepted definition of financial planning; an established and adopted competency profile; and there are ethical obligations and standards of professional practice that are unique to the financial planning profession.</li><li>• There is a clear societal need and benefit to integrated financial advice that is, specifically, financial planning. Please refer to our response to the Committee’s Question 5 (above) regarding the vital nature of this service.</li></ul>
#2	<p><i>Relies on intellectual skills in the performance of its service.</i></p> <ul style="list-style-type: none"><li>• The competency profile for a financial planner is extensive. Financial planners must undergo rigorous, intellectually-demanding and extensive study prior to the achievement of the financial planning credential.</li></ul>
#3	<p><i>Has a long period of specialized training.</i></p> <ul style="list-style-type: none"><li>• To achieve certification in the profession, candidates with a post-secondary or equivalent education must complete a Financial Planning Standards Council-approved Core Curriculum education program, offered primarily through college and university degree, diploma and post-graduate certificate programs or national online programs, typically over a minimum two-year, and more often four-year, period; pass a rigorous, four-hour national, standardized Level 1 examination administered by Financial Planning Standards Council; successfully complete a second-level education requirement focused on the integration and practical application of the Core Curriculum learning, professional skills and ethical judgement; write the final, six-hour national, standardized examination administered by Financial Planning Standards Council; and accumulate a minimum of three years’ relevant work experience prior to becoming “a member of the profession” through CERTIFIED FINANCIAL PLANNER certification.</li><li>• Once successful, individuals who have stepped up to the profession through CERTIFIED FINANCIAL PLANNER certification are then obligated to complete a minimum of 25 hours of qualifying continuing education annually.</li></ul>
#4	<p><i>Both individual members of the profession and the professional group enjoy a considerable degree of autonomy and decision-making authority. Professional groups regulate their activities rather than having outsiders set policies and enforce adherence to standards.</i></p> <ul style="list-style-type: none"><li>• Financial planners operate as trusted advisors to their clients. While they may be acting “on behalf of their organization”, the financial planning and corresponding relationship is generally between the client and the planner. Further, while there may (or should) be oversight of the financial planners’ work, the financial planner is acting in his/her own professional capacity, not simply as an “agent” for the firm.</li></ul>

13. Adapted from Kevin Ryan and John Cooper, *Those who can, teach* (13<sup>th</sup> Edition, 2012, Chapter 15).

	<ul style="list-style-type: none"> <li>For 20 years, the financial planning profession, through Financial Planning Standards Council, and a governance structure that includes both financial planners and consumers of financial planning services, has established appropriately-high standards of ethics, practice and competent performance to meet the needs of Canadians.</li> </ul>
#5	<p><i>A profession requires its members to accept personal responsibility for their actions and decisions.</i></p> <ul style="list-style-type: none"> <li>More than 9,000 financial planners in Ontario, and 17,000 across Canada, attest annually to their acceptance of the standards of professional responsibility established by Financial Planning Standards Council and IQPF. In Ontario, and other provinces outside Quebec, Financial Planning Standards Council holds each of these individuals fully accountable to a “best interest” standard for their actions and decisions.</li> </ul>
#6	<p><i>A profession emphasizes the services rendered by its partners more than their financial rewards.</i></p> <ul style="list-style-type: none"> <li>Certified members of the profession all adhere to a Code of Ethics obligating them to put their clients’ interest ahead of all other interests. Members of the profession are obligated to uphold the eight principles of a professional. These standards for professional conduct clearly set out financial planners’ duties to their clients. Financial Planners must<sup>14</sup>: <ol style="list-style-type: none"> <li>Always place the client’s interests first;</li> <li>Act with integrity;</li> <li>Be objective when providing advice or services to clients;</li> <li>Develop and maintain the abilities, skills and knowledge necessary to competently provide advice or services to clients;</li> <li>Be fair and open in all professional relationships;</li> <li>Maintain confidentiality of all client information;</li> <li>Act diligently when providing advice or services to clients;</li> <li>Act in a manner that reflects positively upon the profession.</li> </ol> </li> <li>Members of the profession are expected to hold their peers accountable to these same professional obligations, which are part and parcel of the Rules of Conduct of CERTIFIED FINANCIAL PLANNER professionals.</li> </ul>
#7	<p><i>Disciplinary actions are imposed by financial planning associations, and include admonishment to permanent expulsion of membership. These bodies work with other accrediting, licensing and law enforcement agencies to enforce proper conduct when appropriate.</i></p> <ul style="list-style-type: none"> <li>Disciplinary actions are imposed by the professional oversight and certification body (Financial Planning Standards Council), overseen by committees of volunteers made up of representatives of the profession and Canadian citizens. Disciplinary actions range based on the severity of the infraction, and include the permanent revocation of certification (that is, expulsion from membership in the profession).</li> </ul>
#8	<p><i>A profession has a code of ethics that sets out the acceptable standards of conduct for its members.</i></p> <ul style="list-style-type: none"> <li>Certified members of the financial planning profession are all bound by a Code of Ethics and Rules of Conduct, which require the financial planner to act in the best interest of the client.</li> </ul>

14. *Canadian Financial Planning Definitions, Standards & Competencies*, FPSC and IQPF, p. 19.

## Appendix 3: Enforcement of Conduct of CERTIFIED FINANCIAL PLANNER® Professionals and Statistics on FPSC Enforcement Activities

### **Mandate**

The *Standards of Professional Responsibility* define the ethical and professional responsibilities of CERTIFIED FINANCIAL PLANNER professionals and FPSC Level 1 certificants and include: *FPSC Code of Ethics*, *FPSC Rules of Conduct*, *FPSC Fitness Standards* and *FPSC Financial Planning Practice Standards*.

### **Background**

In 2013, the Financial Planning Standards Council engaged external experts to undertake a review of enforcement processes and to assist the Financial Planning Standards Council in ensuring that it meets best practice standards relevant to professional oversight.

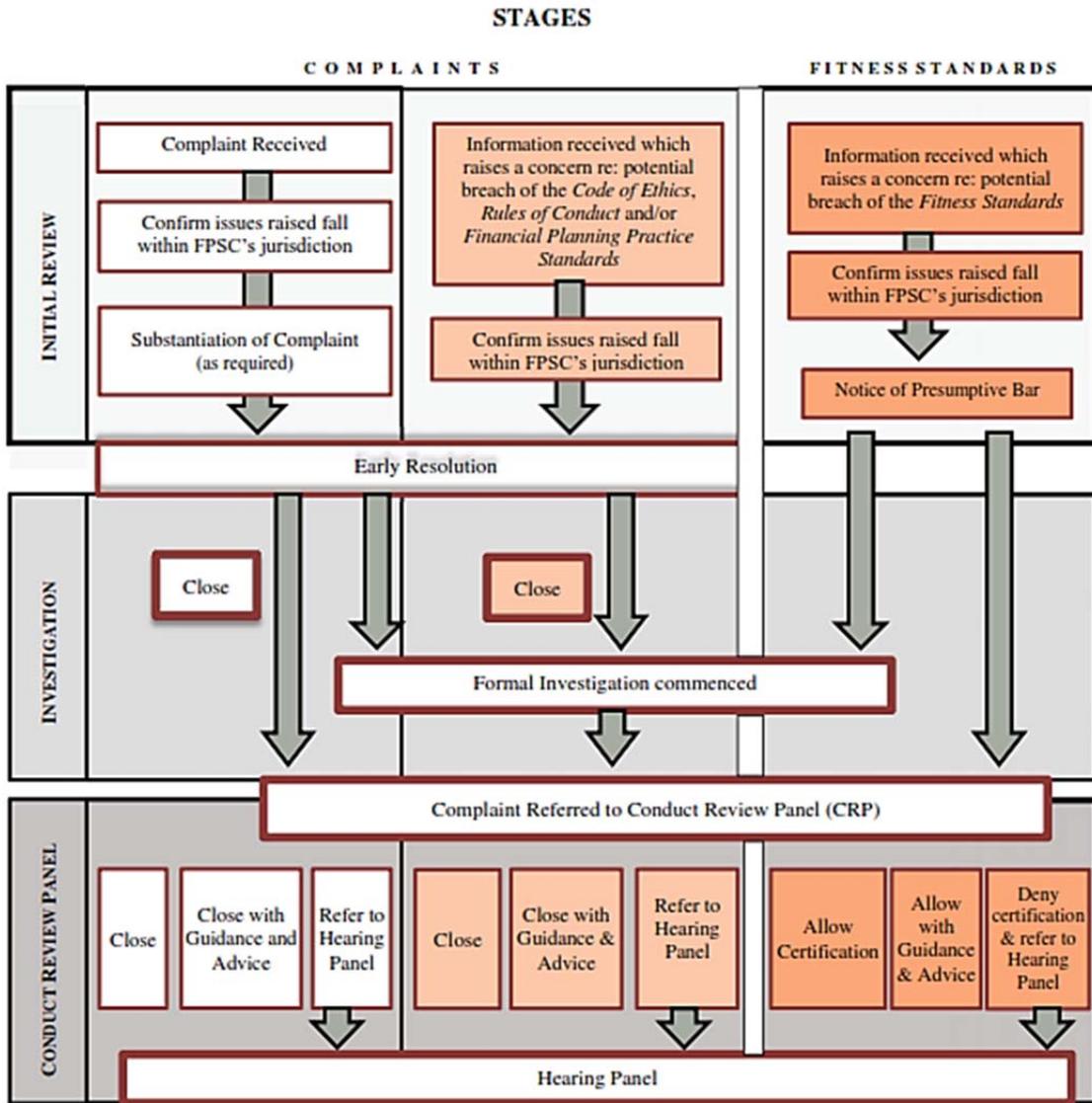
Commencing in October 2013, Financial Planning Standards Council made significant changes to its complaints, investigation and enforcement processes, including the creation of the Conduct Review Panel. The Conduct Review Panel is an arms' length standing committee of the Enforcement Policy Committee comprised of CFP professionals and members of the public. The Conduct Review Panel is tasked with reviewing Staff Investigation Reports and determining the appropriate remedial outcome (i.e., dismissal, dismissal with a letter of Guidance and Advice, referral to a Hearing Panel).

### **Further Enhancements**

Since September 2014, the Financial Planning Standards Council has made a number of additional and significant changes to its complaints intake and enforcement processes, including:

- Amendments to the Financial Planning Standard Council's website, such as:
  - The creation of an online Complaint Form that is easily accessible by consumers. The form provides information to potential complainants about the type of complaints the Financial Planning Standard Council reviews, the complainant's role in the complaint process and the steps involved.
  - Amendments to ensure that the public is aware of all relevant sources of information, including discipline history, when researching a CFP professional and using the "Find a Planner or Certificant" tool.
  - Enhancing consumer awareness of the *Standards of Professional Responsibility*.
- The creation of a Hearing Panel Roster comprised of volunteer CFP professionals with diverse expertise from across Canada. Hearing Panel Roster members serve as Panel Members on Discipline Hearing Panels.
- Engaging recognized experts in the field of professional regulation to conduct training sessions for the Conduct Review Panel and Hearing Panel Members.

# Enforcement Process



### Enforcement Statistics

Since January 2013, Financial Planning Standards Council has handled 86 individual complaints, with 76 of those complaints made by the client of the CFP professional or by another CFP professional on behalf of the former client.

<b>Complaints since January 2013</b>			
Total Complaints	Initiated by Client	Initiated by FPSC	Stemming from IIROC or MFDA
86	76	10	3

Beginning in November 2014, Financial Planning Standards Council began asking complainants to advise if they reported their complaint to any other entity. During the eleven-month period between November 2014 and September 8, 2015, the vast majority of complaints to FPSC have been independent of complaints made to police, a financial regulator or an ombudsman.

<b>November 2014 - September 8, 2015</b>			
Total Complaints	Complaints Made by the Public	FPSC-initiated	Complainant also made complaint to police, financial regulator or internal ombudsman
28	18	10	4

## Appendix 4: CERTIFIED FINANCIAL PLANNER Professionals – Other Licenses

According to data collected and extrapolated from 2015/2016 certification renewal, approximately 86% of CERTIFIED FINANCIAL PLANNER professionals hold some form of product license in addition to their CFP certification. Further, 14% percent of CFP professionals are not licensed to sell any products; and of those who are licenced to sell products, over 25% hold multiple licenses.

Product Licence*	Percentage
Insurance Only	17%
Mutual Funds Only	33%
Securities Only	11%
Insurance + Mutual Funds	19%
Insurance + Securities	6%
Not product licensed	14%
<i>*Voluntary disclosure. Extrapolated from FPSC's 2015/2016 CFP certification renewal information.</i>	

### Other Designations held by CFP Professionals

CFP professionals hold a variety of other designations. The following is an estimate based on information extrapolated from our 2015/2016 certification renewal of the approximately 17,000 CFP professionals in Canada:

Designation*	Estimated Number
Chartered Life Underwriter (CLU)	1,600+
Chartered Investment Manager (CIM)	1,450+
Chartered Professional Accountant (CPA)	1,000+
Registered Retirement Consultant (RRC)	650+
Elder Planning Counselor (EPC)	600+
Personal Financial Planner (PFP)	500+
Registered Financial Planner (RFP)	350+
CERTIFIED FINANCIAL PLANNER (other country)	100+
Planificateur financière (Pl. Fin.)	50+
Other (Certified Divorce Analyst, Certified Health Insurance Specialist, Tax and Estate Planner, Fellow of Canadian Institute of Actuaries, Chartered Financial Analyst, LLB)	1,100+ (aggregate)
<i>*Voluntary disclosure. Extrapolated from FPSC's 2015/2016 CFP certification renewal information.</i>	