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Financial Planning Standards Council

Response to the Preliminary Policy Recommendations of the Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives

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EXECUTIVE SUMMARY

Financial Planning Standards Council (FPSC) is pleased to comment on the preliminary recommendations of the Ontario government-appointed Expert Committee to Consider Financial Advisory and Financial Planning Policy Alternatives (the Committee). The Committee has been given an important mandate to address a number of longstanding and significant consumer protection issues.

In our comments we are mindful of the specific problems and regulatory gaps the Committee has attempted to address. We also support the important core principles enumerated by the Committee, and have endeavoured to ensure all these principles are efficiently upheld.

We agree with many of the gaps identified by the Committee in the current regulatory landscape. We are also supportive of several of the Committee's initial policy recommendations, including:

- Regulating those who hold out as Financial Planners under a harmonized set of standards;
- Restricting use of the Financial Planner title and prohibiting the use of misleading and non-descriptive titles;
- Creating a central registry; and
- Increasing support for financial literacy.

We do also have some specific concerns with a number of the Committee's recommendations. In particular, we are concerned about:

- Susceptibility to continued duplicative and inconsistent regulation by ultimately assigning responsibility for Financial Planning to four separate Regulators, none of which are experts in Financial Planning;
- A focus on broadly-defined Financial Planning activity;
- Tasking Regulators with developing unified standards for Financial Planning when well-accepted and universally adopted national Financial Planning standards already exist; and
- Lack of clarity on what is meant by a Statutory Best Interest Duty (SBID) and its impact in practice, and the related issue of advisor proficiency that must be addressed as part of any best interest standard.

In light of a comprehensive review of the issues and options, FPSC is confident that modifications can be made to the Committee's recommendations, based on the adoption of a Professional Body approach to regulation and corresponding title restriction, to better achieve the espoused core principles.

Under our suggested modifications to the Committee's recommendations, the proposed new Financial Services Regulatory Authority (FSRA) would assume authority for accrediting a Financial Planning Professional Body (or Bodies, if deemed necessary). That Body would then be responsible for granting the authority to use the Financial Planner title and for oversight of individuals authorized to use the title and corresponding designation or certification. This accredited Professional Body would undertake standard-setting, policy- and rule-making, enforcement and oversight related to the use of the Financial Planner title.

FSRA would be responsible for holding the Professional Body accountable for compliance with its obligations to ensure consumers are appropriately protected. This model of accreditation of Professional Bodies could in fact be expanded to include other title restrictions and corresponding approved financial services professions as appropriate.

Further, whether or not an individual is authorized to use the Financial Planner title, existing Regulators would continue to regulate those persons licensed through them, as well as any corresponding Financial Planning activity that is currently within the scope of the Regulator's mandate.

Our proposed adjustments to the Expert Committee's recommendations are consistent with the intent of the Expert Advisory Panel appointed to review the mandates of the Financial Services Commission of Ontario (FSCO), the Financial Services Tribunal (FST), and the Deposit Insurance Corporation of Ontario (DICO) (the Expert Panel), in their 2015 consultation paper that proposed the establishment of the FSRA.

At that time, the Expert Panel recommended that "FSRA be given authority over, and responsibility for, oversight of any self-regulatory body operating within the financial services sector in Ontario (not otherwise overseen by another statutory body)." This recommendation followed from the Auditor General's 2014 review of FSCO, wherein she suggested FSCO should "explore opportunities to transfer more responsibility for protecting the public interest and enhancing public confidence to new or established self-governing industry associations, with oversight by FSCO."

These adjustments to the Expert Committee's recommendations also address the majority of our concerns with the recommendations – specifically those related to the desired outcomes of regulatory efficiency; enhancing regulatory cohesion and consistency; and most importantly, alleviating consumer confusion, while increasing consumer protection.

We would be pleased to discuss our proposed amendments with the members of the Committee at your convenience.

PREAMBLE

FPSC was incorporated in 1995 – then as the Financial Planners Standards Council of Canada – specifically for the purposes of resolving many of the problems identified in the Committee’s interim report – namely, the lack of consistency in qualifications and competence of Financial Planners, and consumer confusion arising from the multitude of Financial Planning-related designations being used in Canada at the time. FPSC was founded by allied and competing organizations from virtually all sectors of the financial services industry, including accounting, banking, insurance, securities, credit unions and financial planning. Through FPSC, these organizations worked together to bring the internationally renowned CFP® designation to Canada, to serve as *the* designation representing Financial Planning competence and professionalism in Canada.

Today FPSC oversees nearly 17,000 CFP professionals and 2,000 FPSC Level 1® Certificants in Financial Planning across Canada, including nearly 10,000 in Ontario alone. With FPSC’s formal and direct partnership with the Institut québécois de planification financière (IQPF), which is the only organization authorized to certify Financial Planners in Québec, there are more than 23,500 Financial Planners in Canada who have met, and continue to meet, FPSC’s standards.

DETAILED ANALYSIS

In arriving at our proposed solution, we undertook a thorough analysis of the Committee’s recommendations.

In **Part A**, we provide our perspective on the Committee’s observations regarding the regulation of Financial Planning and Financial Product Sales and Advice.

In **Part B**, we analyze the Committee’s specific policy recommendations.

Finally, in **Part C**, we explore specific alternative approaches to the Committee’s recommendations.

PART A – THE COMMITTEE’S OBSERVATIONS

1. There is a lack of regulatory oversight for providers of Financial Planning who do not sell Financial Products (and thus are not overseen by a regulator or self-regulatory organization).

It is true that Financial Planners who are not licensed to sell Financial Products are not regulated by a statutory regulator or recognized SRO (Regulators). However, those individuals providing Financial Planning and who are subject to FPSC’s professional oversight (i.e. CFP professionals and FPSC Level 1 Certificants in Financial Planning), or who are members of other allied professions such as Chartered Professional Accountants (CPA) or lawyers for example, are already overseen by their appropriate Professional Body for their professional responsibilities, regardless of whether or not they hold a license. The perceived oversight gap is therefore overstated. With the implementation of title restrictions as we propose, any residual gaps would be addressed, ensuring consumer protection.

2. Even providers of Financial Planning who are regulated for the sale of Financial Products are only regulated for certain aspects of Financial Planning

We agree. However, the Committee’s recommended approach to solving this problem does not address its core principles of enhancing regulatory cohesion and consistency and regulatory efficiency.

3. There are varying degrees of proficiency among the providers of Financial Planning and no consistency in accreditation

It is true that there are varying degrees of proficiency among Financial Planners. In fact, there are many individuals holding themselves out as Financial Planners who have no proficiency whatsoever. This is a serious problem that needs to be addressed.

That said, there is much more consistency in the qualifications or certification of Financial Planners than has been espoused in the Committee’s interim report, and the recommendation that the Regulators work together to create new standards for Financial Planning risks undermining the significant amount of important work that has been done over the past 20 years in raising and unifying Financial Planning standards for the benefit of consumers.

4. There is an absence of an explicit obligation for providers of Financial Planning or Financial Product Sales and Advice to act in their clients’ best interest. This is detrimental both to consumers who rely on these services to achieve their financial goals and to confidence in the financial services industry.

There is indeed a lack of a codified best interest duty for providers of Financial Planning or Financial Product Sales and Advice, which is detrimental to consumers. However, imposing a Statutory Best Interest Duty (SBID) without spelling this duty out, and without also raising the proficiency standards of those subject to it, will not have the effect intended by the Committee.

5. The plethora of titles and designations utilized in the financial services industry may cause consumer confusion, making it difficult for consumers to be certain of the qualifications and expertise of their financial advisory or Financial Planning service providers.

We agree this represents a significant problem within the financial services industry. Restricting titles to individuals who have met appropriate standards for use of the particular title will greatly reduce consumer confusion.

6. There is a stark asymmetry in financial knowledge between providers of Financial Planning or Financial Product Sales and Advice on the one hand and consumers on the other.

This is true, as it is with most professional services. This knowledge imbalance has the potential to cause significant harm to consumers.

7. Given the fragmented regulatory framework for financial services in Ontario, it is difficult for consumers to find relevant information required to make important decisions relating to their financial affairs.

It is indeed difficult for consumers to find relevant information to make important financial decisions. It is important that this problem be addressed in any solution.

8. While there is consensus that regulatory reform is required, there is no clear consensus as to a particular regulatory approach.

While there may not be unanimity regarding the appropriate regulatory approach to take, there is consensus in a number of areas that should not be ignored. In particular, many commentators at the public consultation sessions highlighted the perils of tasking the Regulators with an expanded mandate and scope, and instead urged the Committee to consider a Professional Body approach for the regulation of Financial Planners.

9. Regulatory duplication could be disadvantageous to both industry and consumers.

This is indeed true; however, the Committee's recommendation of tasking four Regulators with regulating the same activity perpetuates this duplication.

PART B – THE EXPERT COMMITTEE’S RECOMMENDATIONS

Recommendation 1: Regulation of Financial Planning in Ontario

FPSC agrees that some form of regulation is required for Holding Out as a Financial Planner by way of titles or described services. We do, however, have a number of concerns with the Committee’s proposed solution, which focuses on all Financial Planning activity, and involves four Regulators all regulating that same activity.

Our specific concerns with the Committee’s recommendations are as follows.

1. Duplicative and inconsistent regulation

- Broadening the mandate of the Regulators to capture all Financial Planning activity adds yet another layer of regulatory duplication. This is inconsistent with the Committee’s principle of regulatory efficiency.
- Assigning four Regulators responsibility for the regulation of all Financial Planning activity opens the door for inconsistent application and enforcement of standards. This is inconsistent with the Committee’s principle of enhancing regulatory cohesion and consistency.

2. Delegation of oversight to organizations that are not experts in Financial Planning

- As was highlighted by the Ontario Pension Board at the June 2, 2016 public consultation in Toronto, the Regulators “are experts in their respective areas of oversight and do an excellent job of regulating the specific transactions and the interactions in those areas; these bodies are not, however, experienced in overseeing the profession that is Financial Planning, and do not have an understanding of the knowledge, skills or abilities required of Financial Planners.”

To close this knowledge and expertise gap, in practice each of the Regulators would need to invest resources into hiring experts in Financial Planning (presumably CFP professionals themselves) and establishing the internal infrastructure needed to regulate Financial Planning effectively. This would be a costly and time consuming process, and would not be in keeping with the Committee’s principle of regulatory efficiency.

- Delegating responsibility for the oversight of professional Financial Planning advice to organizations that are not experts in this area risks forever tying the provision of Financial Planning advice exclusively to transactions and accounts, thereby depriving consumers of the holistic professional service of Financial Planning that they so badly need. As asserted by John Gaskell and John Ashton in their academic paper of 2008, “the philosophical underpinnings and practical design of the prevailing regulatory model may impede, rather than support, the emergency of a professionally conceived body of knowledge and accessible expertise.”⁷

As the authors further note, “within this system the purpose of financial advice revolves around the retailing of financial products. The literature of the regulator defines the advice process in terms of ‘regulated sales’ activities. The relationship between advisor and advisee

⁷ Gaskell, John and John Ashton. “Developing a Financial Planning profession in the UK – An examination of past and present developments”, Journal of Financial Regulation and Compliance Vol.16 No.2, 2008, pp.159-172.

is perceived in terms of a sales relationship, with financial health defined not in terms of generic needs and strategic solutions but in terms of a prescriptively defined transactional model... it is hardly surprising that the emergent profession perceives the regulatory environment as impeding the delivery of professional advice-driven relationships.”

3. Focusing regulation on all Financial Planning activity is problematic

- Financial Planning activity not covered within the current scope of the Regulators’ respective mandates is already captured within the mandate of Professional Bodies, including FPSC for CFP professionals and FPSC Level 1 Certificants in Financial Planning, CPA Ontario for Chartered Professional Accountants and the Law Society of Upper Canada for lawyers.
- Further restricting and regulating all activity based on the Committee’s definition will capture all Financial Planning activity performed by anyone, including for example, tax advisors, credit counsellors and loan officers. It would untenable and of questionable added consumer protection to expect that all of these individuals would be registered and licensed and that all their activity would be regulated.

This is akin to prohibiting a personal trainer from engaging in health-related activities such as developing a nutritional or fitness plan, or a bookkeeper from engaging in accounting-related activities, without them being licensed and having all those activities strictly regulated.

- The Committee’s focus on activity-based regulation has also created a need for exemptions to the proposed SBID, since professionals already held to an existing SBID would otherwise be subject to two different SBIDs for the same activity.

Recommendation 2: Harmonization of Standards

FPSC supports the Committee's recommendation for the harmonization of Financial Planning standards. This is something FPSC, the Financial Planning Coalition⁸ and many other stakeholders have long called for. We do not agree however, with the Committee's recommendation that the Regulators "develop a harmonized set of regulatory standards", for the following reasons:

1. The recommendation ignores the fact that national Financial Planning standards already exist
 - Developed jointly by FPSC and IQPF, the *Canadian Financial Planning Definitions, Standards & Competencies* covers all relevant aspects of Financial Planning, and is based on decades of learning and investment. To augment these high-level standards, FPSC through its community of professional experts has established an extensive Body of Knowledge, projection assumption guidelines (which are being used throughout the industry), and additional guidance to the Rules of Conduct and Practice Standards for CFP professionals.⁹ FPSC continues to build out and enhance Financial Planning standards in the public interest.
 - The Canadian Life and Health Insurance Association, in their formal response to the Committee's interim report, stated "if the Expert Committee believes there are shortcomings in these standards, the discussion could have been usefully advanced by identifying these weaknesses and proposing specific enhancements."¹⁰ We agree.
2. Tasking the Regulators with developing Financial Planning standards is the wrong approach
 - FPSC is already a well-established national standards-setter for Financial Planning and has spent the last twenty years developing such standards. In fact, through our association with the international Financial Planning Standards Board, the standards that FPSC has developed form the basis of the international standards for Financial Planning used by other Financial Planning Professional Bodies in 26 territories worldwide.
 - As previously explained, the Regulators are not experts in Financial Planning. As such, in order for the Regulators to be able to develop Financial Planning standards, they would first need to hire Financial Planning experts (qualified on the basis of the existing standards). This is duplicative, inefficient and unnecessary, and is already part of the regular and ongoing standards-setting and oversight work of FPSC.
 - There is no precedent for this level of coordination among the Regulators.

⁸ The Financial Planning Coalition, whose members include the Canadian Institute of Financial Planners, Financial Planning Standards Council, the Institute of Advanced Financial Planners, and the Institut québécois de planification financière, was formed in 2009 to establish a framework for a profession for those holding themselves out as Financial Planners in Canada. The Coalition advocates for the official recognition of Financial Planning as a distinct profession that will best serve the interest of Canadians. For more information, visit www.financialplanningcoalition.ca.

⁹ See Appendix C: Standards of the Profession.

¹⁰ Canadian Life and Health Insurance Association. "Comments on the Preliminary Policy Recommendations of the Expert Committee." Available online at [https://www.clhia.ca/domino/html/clhia/CLHIA_LP4W_LND_Webstation.nsf/page/E1A8EC8F40A8F6DD85257FCA00556CF1/\\$file/fin%20plan%20clhia%20comments.pdf](https://www.clhia.ca/domino/html/clhia/CLHIA_LP4W_LND_Webstation.nsf/page/E1A8EC8F40A8F6DD85257FCA00556CF1/$file/fin%20plan%20clhia%20comments.pdf)

Recommendation 3: Statutory Best Interest Duty

FPSC supports the principles behind the Committee's proposed SBID. Ontarians deserve to receive financial advice from someone who is acting in their best interest. As a Professional Body, FPSC has long held those it certifies and oversees to strict best interest requirements.

We do though have a number of concerns with the Committee's specific recommendation.

1. It is unclear what the Committee means exactly by an SBID and how this would apply in practice.
2. The issue of proficiency is a serious one that needs to be grappled with before implementing an SBID. To meet a best interest duty, one must have an understanding of a client's needs. There are many individuals who are currently providing Financial Product Sales and Advice who would need significant additional knowledge, skills and abilities to be qualified to know what is in the client's best interest. The recently released CSA Consultation Paper 33-404, *Proposals to Enhance the Obligations of Advisers, Dealers, and Representatives Toward Their Clients*, notes this same concern.
3. In the absence of plain-language titles that clearly describe the service or imply a specific set of knowledge, skills and abilities of the particular advisor, and without associated proficiency requirements for use of those titles, an SBID will not have the intended public-protection effect.
4. Given that the Committee's desire to be sensitive to existing policy initiatives, and that the Canadian Securities Administrators (CSA) is currently grappling with this issue, it would be prudent for the Committee to defer to the CSA on this matter.

Recommendation 4: Exemptions

We agree that exemptions to the duty of care are appropriate for "order takers" as defined by the Committee, although we question the other proposed exemptions.

1. The need to exempt specific professionals from what would otherwise be duplicative best interest duties highlights the issues with an activity-based approach to regulating Financial Planning; the need for such exemptions would be eliminated with our proposed solution, as allied professionals would not fall under a new regulatory authority under our proposed amendments.

Recommendation 5: Referral Arrangements

While FPSC supports the Committee's call for full disclosure and transparency around referral arrangements and fees, we have identified a potential issue with this recommendation as it is written.

1. The focus should be on the referral itself, not the fee. While we do not believe it to be the Committee's intent, the way this recommendation is written allows individuals to get around their best interest duty by not taking a referral fee.

Any regulatory framework should clearly provide that a best interest duty extends to referral arrangements. To meet this duty, when referring a client to another service provider, the advisor should be expected to make reasonable inquiries regarding the individual's character, qualifications and competence to provide the service for which the client is being referred. Advisors should be accountable only to the extent that they have made referrals that would not be considered reasonable, fair or appropriate to the circumstances.

Recommendation 6: Titles and Holding Out

FPSC supports the Committee's recommendation that the title Financial Planner should be restricted to those who are qualified and subject to professional oversight. We further support the Committee's goal of clarifying titles more generally. We believe that the financial services industry should use plain-language titles that clearly communicate to consumers what the advisor is actually qualified to do. By prescribing the use of titles by individuals and firms engaged in the provision of Financial Product Sales and Advice and/or Financial Planning, consumer confusion will be significantly reduced.

Recommendation 7: Central Registry

FPSC supports the idea of a central registry containing information on the licensing and registration status, credentials and disciplinary history of Financial Planners and other advisors in Ontario.

Recommendation 8: Financial Literacy and Investor Education

FPSC supports this recommendation. FPSC has long been involved in efforts to raise awareness about financial literacy, including forming the Financial Literacy Action Group (FLAG), participating in the National Steering Committee on Financial Literacy and helping to bring Financial Literacy Month to Canada. We suggest that the focus of financial literacy efforts should be on effecting behavioural change, and should start with children and youth, as early as possible.

PART C – THE WAY FORWARD

Given our analysis of the interim report and in consideration of the numerous comments made to the Committee throughout its public consultation process, we propose a number of amendments to the Committee’s recommendations, together with an alternative approach to regulation.

Regulation of Financial Planning and Harmonization of Standards

With regard to the regulation of Financial Planning and the development of Financial Planning standards, we have identified two possible alternatives to the Committee’s proposed approach to these issues, each of which would better achieve the Committee’s desired outcomes:

1. Delegate responsibility for the regulation of all aspects of Financial Planning, including the determination of standards, to one statutory Regulator (specifically the FSRA); or
2. Delegate responsibility for the accreditation of a Financial Planning Professional Body to the FSRA, leaving responsibility for standards-setting and oversight of the professionals to the accredited Professional Body.

Alternative 1 – FSRA as Regulator of All Financial Planning in Ontario

Under the first alternative, FSRA would be solely responsible for all aspects of standards-setting, policy- and rule-making, and oversight of Financial Planners in Ontario, irrespective of other licensure (IIROC, MFDA, etc.) or professional qualifications (CFP, CPA, etc.).

This approach has a number of advantages and disadvantages vis-à-vis the Committee’s preliminary recommendations:

Advantages

- Enhances regulatory cohesion and consistency by housing all Financial Planning regulation under one statutory regulator.
- Avoids the pitfalls of duplicative regulatory oversight by four separate bodies.
- Eliminates the challenge of trying to establish harmonized standards across four independent organizations.
- Eliminates the need to broaden the mandate of the current SROs beyond their scope of expertise.
- Creates no additional burden or additional infrastructure requirements on existing SROs.
- Provides a direct line of accountability to the government.

Disadvantages

- FSRA does not exist yet, although this responsibility could potentially be assigned to the OSC.
- FSRA would lack the necessary Financial Planning expertise to fulfill this mandate. At the very least it would take time for them to acquire the necessary internal infrastructure.
- Inefficient, costly and potentially disruptive, with questionable added value. It would require recreating Financial Planning standards, panels and tribunals staffed with experts, and infrastructure that already exists within current Professional Bodies.
- Creates another layer of regulation and costs for IIROC- and MFDA-member firms.

- Standards and oversight would be provincial. While we recognize the provincial mandate of the Committee, it is not prudent to cut off the possibility of national harmonization.
- Mirrors the Québec model, which has proven to be ineffective with respect to regulatory oversight.

Alternative 2 – FSRA as the Accrediting Agency for Professional Bodies

Another approach is to leverage the extensive expertise and infrastructure that resides within existing Professional Bodies and impose appropriate checks and balances through a formal accreditation and review process of those Bodies by FSRA.

Under this model, FSRA would be granted authority for accrediting Professional Bodies, including a Financial Planning Professional Body (or Bodies, if deemed appropriate and/or necessary). The Professional Body would then be responsible for oversight of individuals authorized to use the Financial Planner title, and for granting the corresponding Financial Planner designation. The accredited Professional Body would undertake standards-setting, policy- and rule-making, enforcement and oversight of all those using the Financial Planner title.

Individuals would then only be permitted to use the title Financial Planner, or Hold Out as a Financial Planner if they are:

- members in good standing of the Accredited Professional Body for Financial Planning; or
- members in good standing of an allied statutory profession (e.g. Chartered Professional Accountants and lawyers), provided that body holds its members accountable for the elements of financial planning its members undertake as part of their statutory profession.

Further, whether or not an individual is authorized to use the Financial Planner title, existing Regulators would continue to regulate those persons licensed through them, as well as any corresponding Financial Planning activity that is currently within the scope of the Regulator’s mandate.

Professional Bodies accredited by FSRA would be required to demonstrate compliance with FSRA’s standards and criteria for Professional Bodies, by for example, providing an annual report with key measures and by participating in a 5-year audit cycle to ensure a transparent process.

Such an accreditation process would be founded on well-established, objective criteria. In our view, at a minimum, a Professional Body should:

- a. Be a not-for profit corporation;
- b. Have a public interest mandate;
- c. Have the necessary resources and infrastructure to carry out its work;
- d. Have a governance structure that includes public representation on Board, Standards Panels and Tribunals;
- e. Have demonstrated expertise within its sphere of responsibility;
- f. Demonstrate that it holds members of the profession accountable through a rigorous disciplinary review process; and
- g. Require continuous professional development of its members.

Advantages

- This approach is consistent with the proposed mandate of FSRA. In fact, the Expert Panel that envisioned the creation of FSRA suggested that “FSRA should be given authority over, and

responsibility for, the oversight of any self-regulatory body operating within the financial services sector in Ontario (not otherwise overseen by another statutory body).¹² In this case, the notion of a “self-regulatory” body would be replaced with a “Professional Body”.

- This approach is also consistent with the Auditor General’s 2014 review of the Financial Services Commission of Ontario (FSCO), wherein the Auditor General recommended that FSCO “explore opportunities to transfer more responsibility for protecting the public interest and enhancing public confidence to new or established self-governing industry associations, with oversight by FSCO.”¹³ In this case, the notion of “industry associations” would once again be replaced with “Professional Bodies”, which better describes the nature of the Body or Bodies that would or should be granted recognition through an explicit accreditation process.
- In consultation with other Regulators, the role of FSRA as an accrediting agency could be extended to additional financial advisory titles and/or designations as deemed necessary in order to reduce consumer confusion and ensure that titles are subject to regulatory constraint and standardization. This enables the development and recognition of multiple, distinct professional services within the broader industry, as appropriate, and allows consumers an opportunity to better identify professionals with the specific knowledge, skills and abilities they need to help them meet their financial advice needs.
- Enhances regulatory cohesion and consistency by housing responsibility for oversight of Financial Planners under one Regulator (FSRA, through an accredited Professional Body).
- Avoids the pitfall of duplicative regulatory oversight by four separate Regulators.
- Eliminates the challenge of trying to establish harmonized standards across four Regulators by delegating that authority to a Professional Body.
- Eliminates the need to broaden the mandate of the current SROs beyond the scope of their expertise.
- Creates no additional burden or additional infrastructure requirements on existing SROs.
- Puts no new burden on financial services industry firms, as they are already familiar and comfortable with a Professional Body model.
- Provides accountability to the government, through FSRA.
- Standards would continue to be created by experts in the profession, overseen by expert tribunals.
- Can be easily and expeditiously implemented once FSRA is established.
- Supports the ongoing professionalization of the financial services industry and establishment of other related financial services professions and corresponding descriptive titles as appropriate.
- Provides a framework on which to build a nationally harmonized solution. Although outside of the Committee’s mandate, the CSA and CCIR (effectively the Joint Forum) of all securities and insurance regulators in Canada could also adopt the same Professional Body accreditation process through a joint National Instrument, which would ensure consistency across the country.

¹² Review of the Mandates of the Financial Services Commission of Ontario, Financial Services Tribunal, and the Deposit Insurance Corporation of Ontario. “Preliminary Position Paper – Recommendation #9,” p.10, 2015.

¹³ Office of the Auditor General. “2014 Annual Report,” pp.151-152, 2014. Available online at http://www.auditor.on.ca/en/content/annualreports/arreports/en14/2014AR_en_web.pdf.

Disadvantages

- FSRA does not exist yet, although this responsibility could potentially be assigned to the OSC.
- The model could allow for accreditation of multiple Professional Bodies for the same professional services, which could perpetuate inconsistency of standards. This concern can be eliminated by accrediting only one Professional Body in each professional space.

The above model addresses the concerns raised in Part A and Part B, addresses the disadvantages of Alternative 1, and encourages the professionalization of the entire industry.

We therefore urge the Committee to seriously consider this approach.

Other Recommendations

Statutory Best Interest Duty

Because the CSA's consultation on a best interest standard is looking at ways to address the concerns we have identified, we recommend the Committee work with or defer to the CSA on this matter.

In any case, we recommend that any best interest duty requirement be clearly set out, and the Committee explain how the proficiency of those subject to it will meet consumer needs and expectations. Further, we urge the Committee or other policymakers to create an unambiguous description of what is meant by "best interest", and consider adopting the Financial Planning Coalition's five principles as a way of describing a best interest duty:

- Put their clients' interests ahead of their own;
- Act with the skill, care, diligence and good judgment of a professional;
- Disclose all material facts including conflicts of interest;
- Avoid conflicts of interest; and
- Fully disclose and fairly manage, in the client's favour, unavoidable conflicts of interest.

Exemptions

We recommend that the only exemptions to the best interest duty be for "order takers" as defined by the Committee. The need for other exemptions can be eliminated by adopting a Professional Body model of regulation as proposed above.

Referral Arrangements

We recommend that in addition to requiring full disclosure and transparency around referral arrangements and fees, any regulatory or professional oversight framework clearly provide that the client-first duty owed by the Financial Planner or advisor extends to referrals.

Titles and Holding Out

In developing a list of circumscribed titles that are descriptive of the regulated activities, we recommend that consideration should be given to the following principles. The title:

- a) Clearly describes a distinct service;
- b) Has a clearly defined body of knowledge and set of competencies; and
- c) Describes a service that is considered sufficiently relevant and where restriction of the title is critical to protecting the public good.

Central Registry

We recommend that the Committee assign a single Regulator the responsibility for creation and maintenance of a central registry. Under this scenario, the remaining Regulators and accredited Professional Bodies would share relevant and timely information with the designated Regulator. This registry should be scalable to a national platform.

Appendices

APPENDIX A: DEFINITIONS

Accreditation – A third-party attestation related to an organization, conveying formal demonstration of its competence to carry out specific duties. For example, authority for certifying products as organic can be delegated to an organization (such as an organic farm) that has been accredited by a third-party as meeting the requirements to provide such certification. This definition has been adapted from ISO/IEC 17011 Conformity Assessment-General Requirements for Accreditation Bodies Accrediting Conformity Assessment Bodies.

Certification – A third-party attestation related to persons, products, processes or systems as meeting certain specified expectations. For example, a product can be certified as organic by a body accredited to assess whether that product meets the specific requirements for certification. This definition has been adapted from ISO/IEC 17000 Conformity Assessment-Vocabulary and General Principles.

Financial Planning – As defined by the Committee, Financial Planning is “any review and analysis of a person’s: current financial and personal circumstances, present and future financial needs, priorities and objectives, the risks associated with his or her current circumstances, future needs, objectives and priorities which can but need not include the establishment of strategies to address and mitigate these matters whether or not a formal financial plan is prepared.”

Financial Product – As defined by the Committee, a Financial Product “includes a “security” as defined in the Securities Act (Ontario); a contract of insurance, as defined in the Insurance Act (Ontario); and any investment in a mortgage or any mortgage type product, including syndicated mortgages.”

Financial Product Sales and Advice – As defined by the Committee, Financial Product Sales and Advice is “an interaction or process involving a consumer and a person or company wherein the person or company, engaging in the business of providing advice, provides an opinion, suggestion, or recommendation to the consumer regarding a decision or course of conduct relating to the consumer’s financial affairs, including an opinion, suggestion, or recommendation to buy or sell or hold a Financial Product or provide general financial management or investment advice.”

Holding Out – As defined by the Committee, Holding Out is “to represent or give the impression to the general public or a particular person of being qualified or entitled to engage in Financial Product Sales and Advice or Financial Planning, whether explicitly or implicitly by title or action.”

Professional Body – A not-for-profit organization governed by both members of the profession and members of the public. The purpose of a Professional Body is to serve the public interest by establishing and enforcing the standards of the profession and certifying or licensing its members to those standards.

Regulators – As defined by the Committee, Regulators are “regulatory agencies that have authority by legislation or by a recognition order to regulate Financial Product Sales and Advice and Financial Planning in the province of Ontario.”

APPENDIX B: ABOUT FPSC

Financial Planning Standards Council is a not-for-profit organization that develops, promotes and enforces professional standards in financial planning through CERTIFIED FINANCIAL PLANNER® certification.

FPSC's purpose is to drive value and instill confidence in financial planning. As a standards-setting and certification body, FPSC ensures CFP® professionals and FPSC Level 1® Certificants in Financial Planning meet appropriate standards of competence and professionalism through rigorous requirements of education, examination, experience and ethics.

Governance

FPSC's Board of Directors is accountable for the organization's success. It is responsible for the organization's purpose and mandate, and to ensure the organization is governed appropriately.

The Board is composed of 10 individuals with varied backgrounds that are relevant to FPSC's purpose and diverse stakeholder interests. A majority of the Board members are comprised of CFP professionals or licensed financial planners in the province of Québec. In accordance with FPSC's public interest mandate, a minimum of three members of the Board are "public directors" who are not CFP professionals.

Key Milestones Over the Last 10 Years

2006 – Launch of *CFP Professional Competency Profile*, outlining the knowledge, skills and abilities required for CFP professionals to serve the financial planning needs of consumers. This document was subsequently adopted as the framework for the international standard of competence for CFP professionals worldwide.

2007 – FPSC launches inaugural Financial Planner Educator Conference, designed to give those who teach financial planning students in Canada the opportunity to share their ideas and knowledge on preparing future members of the profession.

2008 – FPSC incorporates its public interest mandate directly into its governance structure, appointing its first "public director" to represent the interests of the public who rely on financial planning services.

2009 – FPSC and IQPF sign landmark Memorandum of Understanding, simplifying the process for CFP professionals to practice in Quebec and for Pl. Fin. holders to practice in the rest of Canada.

2010 – FPSC receives ISO 17024 accreditation from the Standards Council of Canada as meeting globally recognized standards for certification bodies.

2011 – FPSC releases the *Standards of Professional Responsibility for CFP Professionals and FPSC Registered Candidates*, which updated and consolidated its *Code of Ethics, Financial Planning Practice Standards, Fitness Standards and Rules of Conduct*.

2012 – FPSC introduces new Continuing Education Approval Program.

2013 – FPSC Board of Directors adopts formal organizational purpose: to instill confidence in the financial planning profession.

2014 – FPSC enhances its path to CFP certification, introducing the FPSC Level 1 Certification in Financial Planning and new Routes to CFP certification.

2015 – FPSC and IQPF publish the *Canadian Financial Planning Definitions, Standards & Competencies* – the first widely-accepted, unified set of definitions, standards and competencies for financial planning. This publication was followed by the joint development of unified *Project Assumption Guidelines* to aid in making medium and long-term financial projections.

APPENDIX C: STANDARDS OF THE PROFESSION

Standards of Professional Responsibility

The *Standards of Professional Responsibility for CFP Professionals and FPSC Level 1 Certificants in Financial Planning* define the ethical and professional responsibilities of financial planners certified by FPSC. The *Standards of Professional Responsibility* encompass four sets of standards:

1. **Code of Ethics** – The Code of Ethics embodies the standard of ethical conduct that all CFP professionals must adhere to.
2. **Rules of Conduct** – The Rules of Conduct and incorporated Guidance set the standard of conduct that all CFP professionals must adhere to.
3. **Fitness Standards** – The Fitness Standards detail the good character requirements for new and continued certification.
4. **Financial Planning Practice Standards** – The Financial Planning Practice Standards provide guidance to CFP professionals with respect to client engagements.

The *Standards of Professional Responsibility* are overseen by the Standards Panel – an independent standing committee of the FPSC Board of Directors composed of public members, CFP professionals and a PI.Fin.

Competency Profile

The *CFP Professional Competency Profile* identifies the core knowledge, skills and abilities required for competent financial practice. It is not an exhaustive list of every element possible in every variation of practice, but rather of those that are expected of every CFP professional. On a practical level, the *Competency Profile* describes what CFP professionals actually do. It can be a valuable resource to help define the profession and the expectations of its members.

The *Competency Profile* is based on FPSC's comprehensive analysis of the financial planning profession. The current version is founded on the previous version released by FPSC in 2006, the global Financial Planner Competency Profile released by Financial Planning Standards Board Ltd. in 2007 and considerable input from industry. Every five years, FPSC revalidates the Competency Profile to ensure it is relevant and reflective of the demands expected of financial planners working in the industry

Body of Knowledge

The *Financial Planning Body of Knowledge* describes the depth of knowledge expected of CFP professionals and FPSC Level 1 Certificants in Financial Planning in 11 technical topic areas. As a key foundational support to the demonstration of financial planning competence, the *Body of Knowledge* provides the underpinning for the *CFP Professional Competency Profile*.

The *Body of Knowledge* was developed by practitioners and approved by an independent group of CFP professionals from across Canada. It serves to provide clarity to Canadians around exactly what they can expect from CFP professionals in terms of knowledge and to industry firms around the customer value CFP professionals can provide. It also provides direction to educators in preparing the next generation of financial planners and as a guide to students contemplating a career as a financial planner by explaining the scope and distinct nature of this profession compared to other disciplines taught within business schools.

The *Body of Knowledge* was developed based on Bloom’s taxonomy, one of the most widely used classification systems in education to define and distinguish different levels of human cognition (i.e., knowledge, comprehension, application and evaluation).

Below is the Table of Contents for the *Body of Knowledge*. The full *Body of Knowledge* will be an extensive multi-section document, which will be published in January 2017.

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Developed jointly by FPSC and the IQPF, the [*Projection Assumption Guidelines*](#) are intended as an aid in making medium and long-term financial projections that are free from potential biases or predispositions. As guidance, the assumptions acknowledge that each client situation is different and that financial planners will and should deviate from these assumptions when the client's situation justifies doing so.

The Canadian Financial Planning Definitions, Standards & Competencies

The [*Canadian Financial Planning Definitions, Standards & Competencies*](#) is the first unified, definitive source on financial planning definitions and professional financial planning standards in Canadian history. Jointly published by FPSC and IQPF, it performs an important role in providing consistency within the financial planning profession by specifying unified standards for those practicing within it. Until its creation, there was no unified source for clarity on financial planning definitions and professional financial planning standards.

APPENDIX D: CERTIFICATION OF PROFESSIONALS

FPSC currently certifies nearly 17,000 CFP Professionals and 2,000 FPSC Level 1 Certificants in Financial Planning. In 2015, 494 CFP professionals were newly certified, and an additional 740 individuals became FPSC Level 1 Certificants in Financial Planning.

The design of the certification program provides candidates with opportunities to demonstrate success at stages along the path to CFP certification and prepares candidates for their roles as CFP professionals by aligning with the *CFP Professional Competency Profile*. This means that candidates experience competency-based learning that is focused on the application of technical knowledge to real-world client situations and includes the development of an integrated financial plan based on a real-life client scenario.

FPSC's certification requirements include:

- Completion of an FPSC-approved Core Curriculum education program
- Successful completion of the FPSC Level 1 examination
- Completion of an FPSC-approved Capstone Course, with case materials, instructor resource guides, and recommended marking keys provided by FPSC
- Successful completion of the CFP examination
- A minimum of three years of qualifying work experience
- Approval for certification by FPSC, subject to the FPSC Fitness Standards
- Agreeing to abide by, and meet the obligations of, the *Standards of Professional Responsibility for CFP Professionals and FPSC Level 1 Certificants in Financial Planning*
- Continuing Education

Education

Core Curriculum

The first step to obtaining CFP certification is to complete an FPSC-approved Core Curriculum program. There are 29 approved Core Curriculum programs offered by 20 institutions across Canada, including colleges, universities and other national providers.

Candidates must successfully complete the FPSC Level 1 examination within four years (or four attempts) of successfully completing an FPSC-Approved Core Curriculum program. If candidates are not successful on the exam within four years (or four attempts), they will need to successfully repeat the Core Curriculum program.

Capstone Course

The Capstone Course requires candidates to demonstrate an ability to think and act across all financial planning components simultaneously, and an ability to apply the technical knowledge learned in the Core Curriculum program to develop a fully integrated financial plan based on a real-world client. The duration of the course varies depending on the education provider, but for most it is equivalent to a 40-hour credit course offered by one of 14 accredited post-secondary institutions. The Capstone Course's focus is on the fundamental financial planning practices, professional skills and integration that are inherent in the *Competency Profile* and essential to the practice of financial planning.

In order to offer an FPSC-approved Capstone Course, educators must demonstrate how their Capstone Course will meet these two requirements:

- Ensure that all aspects of the *Competency Profile* are covered through FPSC's education requirements. Emphasis is given to aspects of the *Competency Profile* that may not be fully covered in the Core Curriculum courses; and
- Ensure the completion of an individual financial plan by each student based on a case study provided by FPSC. This step assures FPSC that graduates are able to analyze and synthesize information in a realistic scenario. It demonstrates integration of the information from at least four of the six financial planning components in order to make suitable recommendations.

Examinations

Examinations for those on the path to certification are developed by FPSC's two Exam Panels: one for the FPSC Level 1 Examination in Financial Planning and another for the CFP examination. All members of these two panels are CFP professionals.

The Exam Panels' purpose is to ensure:

- The certification examinations sufficiently and appropriately assess the competence of candidates to certification by demonstrating the necessary knowledge, skills and abilities; and
- Individuals who are qualified receive a passing score and individuals who are not qualified receive a failing score.

The FPSC Level 1 examination is a four-hour exam consisting of approximately 95 multiple-choice questions. Every question on the exam focuses on specific elements of the *CFP Professional Competency Profile* and may also require integration across several financial planning areas. In 2015, approximately 1,200 candidates challenged the FPSC Level 1 examination.

The CFP examination is a six-hour exam consisting of a combination of multiple-choice (15%-25%) and constructed-response (75%-85%) questions. Each question on the CFP examination focuses on specific elements of the *CFP Professional Competency Profile* and may also require integration across several financial planning areas. Approximately 800 candidates write the CFP examination each year.

Work Experience

Three years of work experience is required for assurance of the candidate's ability to apply financial planning-related knowledge in a business setting. Prior to applying for CFP certification, candidates must have completed three years of qualifying financial planning work experience. This work experience must have been completed in the eight years *prior* to applying for CFP certification and a maximum of four years *after* successfully completing the CFP examination.

Qualifying work experience is based on a 35-hour work-week and is defined as full-time (or equivalent part-time) financial planning-related employment or self-employment. Experience may be gained in the following areas of personal financial planning:

- Financial Management
- Investment Planning
- Insurance and Risk Management
- Tax Planning
- Retirement Planning

- Estate Planning and Legal Aspects

Qualifying work experience may include direct client-facing financial planning roles as well as roles that apply the knowledge, skills and abilities outlined in the *Competency Profile* to support the client-planner relationship, such as managing, training or assisting financial planners.

All work experience submissions are subject to approval. FPSC will review a candidate's specific work experience and evaluate their key accountabilities to determine its eligibility. Depending on the nature of responsibilities and their link to *the Competency Profile*, FPSC may approve all or part of the candidate's work experience.

Continuing Education

Continuing Education (CE) is a vital component of continuous professional development, and like other professionals, CFP professionals have an obligation to ensure that their knowledge and competence remain current. To renew certification, CFP professionals must attest to completing 25 hours of CE activities each year. FPSC Level 1 Certificants in Financial Planning must complete 12 hours each year.

Being a financial planner involves more than technical competence. It is about being a well-rounded individual with skills and qualities that can be helpful in carrying out professional duties. As such, FPSC has five categories of qualifying CE which CFP professionals and FPSC Level 1 Certificants in Financial Planning can complete credits in.

1. **Professional Responsibility** - Qualifying CE requires the application of the standards, principles and rules outlined in FPSC's *Standards of Professional Responsibility for CFP Professionals and FPSC Level 1 Certificants in Financial Planning*. Application-oriented CE may commonly be delivered by such means as discussion, debate, storytelling, case studies and role-plays with the purpose of guiding CFP professionals and FPSC Level 1 certificants in the face of what may be difficult ethical decisions or challenges of practice.
2. **Giving Back** - Qualifying CE includes the knowledge and skills gained from volunteering with community organizations, industry associations, charitable groups or others to help Canadians understand the importance of financial planning and enhance their financial well-being. CE in this category may include involvement in pro bono teaching or development of education programs, community involvement, development of published financial planning research, or involvement in financial planning-related committees, task forces, or focus groups.
3. **Practice Management** - Qualifying CE includes the knowledge and skills used in building professional relationships and growing a professional practice. CE in this category may include activities focused on prospecting skills, business development behaviours, actions and/or processes, business planning skills, networking skills and sales skills.
4. **Product Knowledge** - Qualifying CE includes the product knowledge that planners may use to advise on and sell products or comment on products held by their clients. CE in this category may be focused on any financial planning product, including investment, insurance or debt. Ideally, CE should present a balanced view of the product that includes features and benefits as well as client suitability, risks and costs. The content of CE should help you make product recommendations based on the fit of the product with your client's situation rather than on the product's returns.

5. **Financial Planning** - CE activities that fall within the Financial Planning category must be related to one or more aspects of the CFP Professional Competency Profile, the foundation of certification requirements leading to CFP certification. CE in this category may relate to one or more of the financial planning areas, professional skills and technical knowledge.

To maintain the integrity of CFP certification and FPSC Level 1 certification, a percentage of CFP professionals and FPSC Level 1 Certificants in Financial Planning are chosen randomly for CE audit each year. Individuals who are selected for audit will be requested to supply supporting documentation for their CE credits taken in the previous calendar year. CFP professionals and FPSC Level 1 certificants whose certification has lapsed and then been reinstated are automatically subject to audit.

Individuals who are found to have falsified their CE attestation are in breach of the FPSC Code of Ethics, as outlined in the *Standards of Professional Responsibility for CFP Professionals and FPSC Level 1 Certificants in Financial Planning*. These cases are forwarded to FPSC's Enforcement department for further action under FPSC's *Disciplinary Rules and Procedures*.

FPSC reserves the right to audit any CFP professional or FPSC Level 1 Certificant in Financial Planning at any time and for any reason.

APPENDIX E: ENFORCEMENT

FPSC is responsible for serving the public interest and protecting the integrity of the profession. This mandate is fulfilled by overseeing compliance with the high professional and ethical standards embodied in the *Standards of Professional Responsibility for CFP Professionals and FPSC Level 1 Certificants in Financial Planning* set and enforced by FPSC.

FPSC vigilantly guards the trust Canadians have placed in CFP professionals and FPSC Level 1 Certificants in Financial Planning. Under the direction of Standards and Enforcement, FPSC promptly addresses all concerns that come to our attention and thoroughly investigates all allegations of misconduct.

Where a CFP professional is found by an FPSC Disciplinary Hearing Panel, to have breached the *Standards of Professional Responsibility*, discipline sanctions range from a letter of admonishment to permanent revocation of certification.

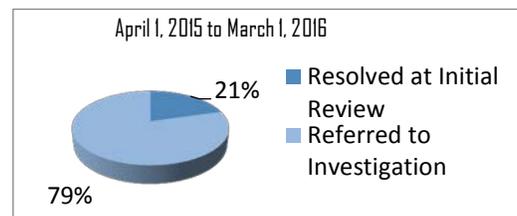
Enforcement Process

FPSC's Enforcement Process reflects the following guiding principles:

- To be fair and to be seen to be fair by ensuring open, transparent, consistent processes aimed at promoting and enforcing high standards of professionalism among FPSC certificants.
- To employ a principled, competent and effective complaint, investigation and enforcement processes with a view to protecting the public interest and increasing public confidence in the profession.

FPSC's Enforcement Process involves the following stages:

1. Intake and Initial Review: The purpose of this stage is to determine whether the issues raised fall within FPSC's jurisdiction¹⁴ and whether the allegations raise a reasonable suspicion that the CFP professional may have engaged in conduct which, if found, would breach the Standards of Professional Responsibility.



2. Early Resolution¹⁵ (where appropriate): Early Resolution may help repair the relationship between the FPSC certificant and the Complainant.

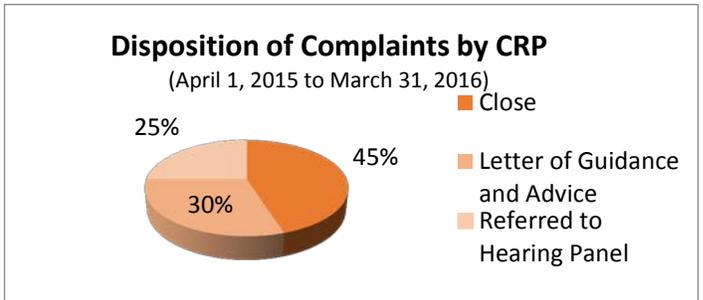
3. Investigations: FPSC will investigate complaints about CFP professionals and FPSC Level 1 certificants involving:

- Any act or omission that may violate the provisions of the Code of Ethics; Rules of Conduct; Fitness Standards and/or Financial Planning Practice Standards;
- Any other acts or omissions amounting to misconduct or which may bring the reputation of the Marks into question.

¹⁴ The allegations must relate to an individual who was an FPSC certificant at the relevant time.

¹⁵ A matter may be suitable for Early Resolution if it involves client administrative services related concerns or allegations of a minor or administrative error where that error did not result in irreversible or significant harm.

4. **Review by the Conduct Review Panel (CRP):** The CRP is an independent Panel composed of CFP professionals and members of the public that reviews staff investigation and prosecution reports and determines the appropriate disposition of complaints¹⁶.
5. **Disciplinary Hearings** (as directed by the CRP)



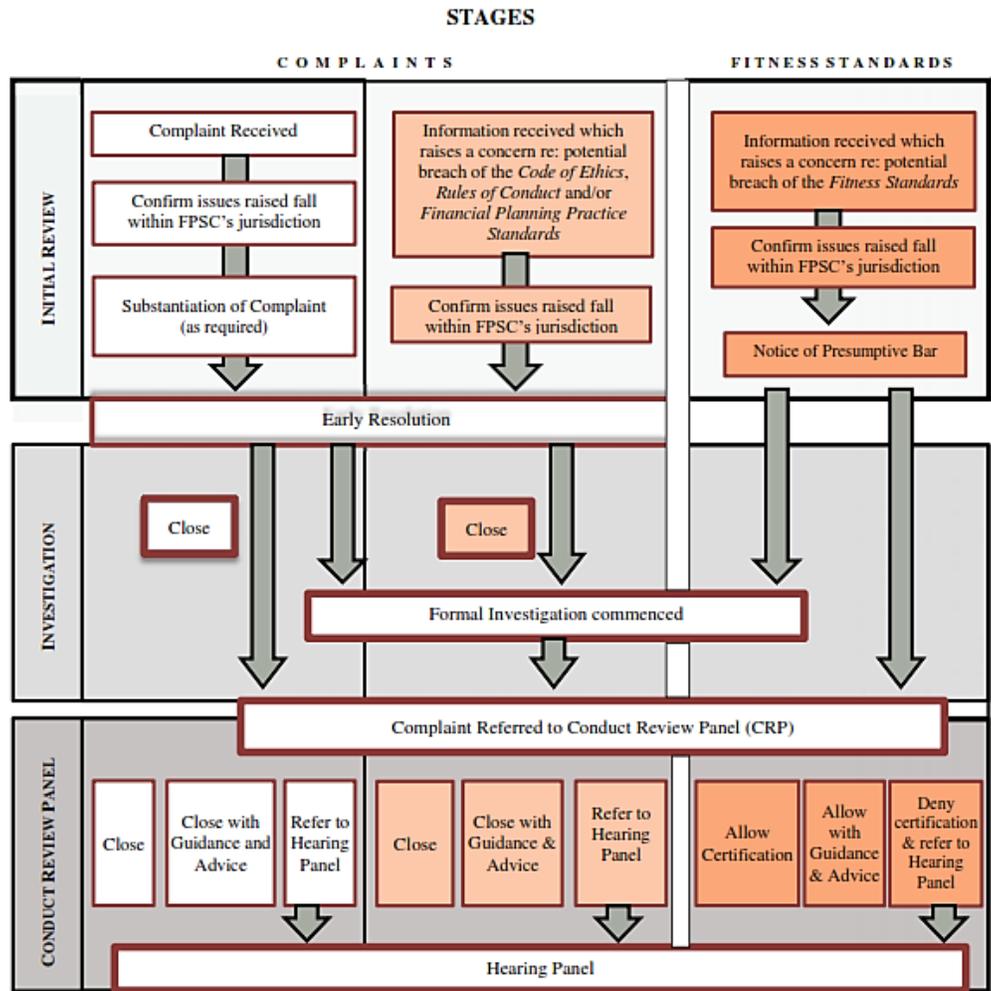
Exceptional Circumstances

In accordance with its *Disclosure of Investigations and Interim Suspensions* policy, FPSC has the ability to obtain interim suspensions, at the Investigation stage, in exceptional circumstances and as necessary to protect the public.

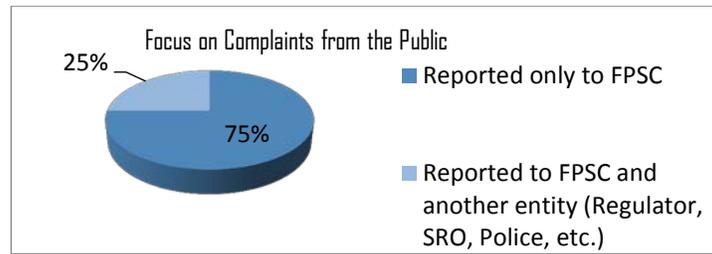
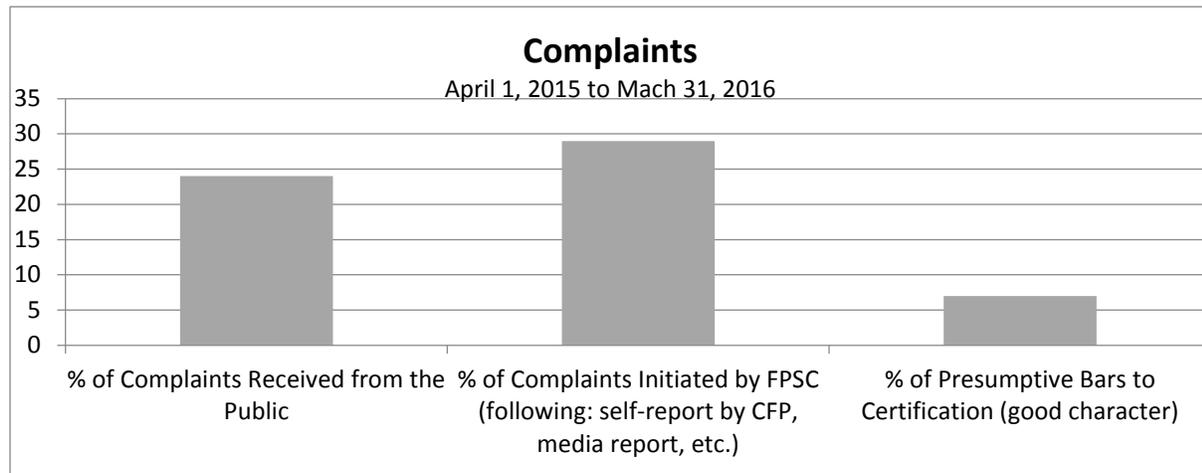
In addition, pursuant to Article 4.2 of the *Disciplinary Rules and Procedures*, where a certificant fails to respond to FPSC's communications or cooperate with an investigation, Staff may refer the matter to a Disciplinary Hearing Panel for consideration of the allegation that the certificant has contravened Rule 24 of the *Rules of Conduct*.

¹⁶ The CRP currently has seven members (five CFP professionals, many of whom also hold an LL.B., and two public members). The membership reflects diverse cross-sector industry experience and geographic diversity.

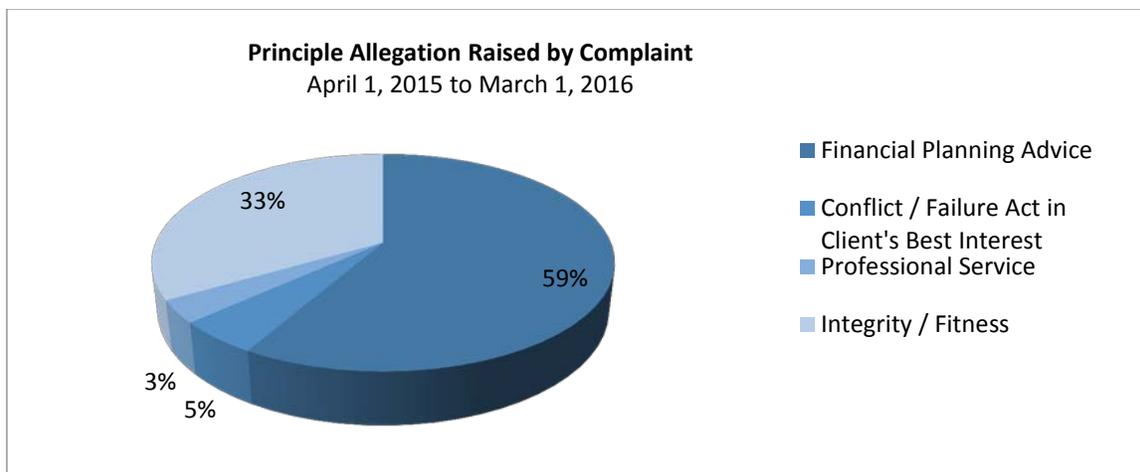
Overview of FPSC's Enforcement Process



Enforcement Statistics



| Subject | Male | Female | | | | | |
|-------------------------|-----------|------------|-------------|-----------|-----|-----|----|
| | 85% | 15% | | | | | |
| Length of Certification | 0-3 years | 5-10 years | 10-15 years | 15+ years | | | |
| | 10% | 12% | 20% | 58% | | | |
| Province | AB | BC | MB | NS | ON | PEI | QC |
| | 11% | 24% | 3% | 3% | 55% | 3% | 1% |

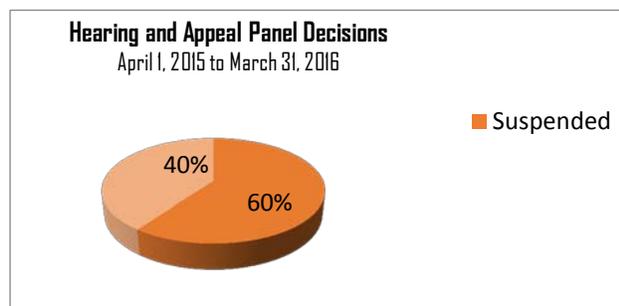
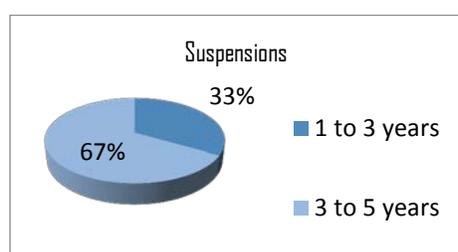


Discipline

In accordance with its *Policy on the Publication of Disciplinary Information* (published on FPSC's website and accessible to CFP professionals and the public), all Decisions and Orders issued by FPSC Hearing and Appeal Panels are published on FPSC's website to protect the public interest and promote fairness and transparency. A historical searchable database is also maintained by FPSC and accessible to CFP professionals and members of the public.

Hearing Panel Roster

FPSC maintains a Disciplinary Hearing Panel Roster (the Panel Roster); a list of qualified members who can serve as Chairs and Members on FPSC Discipline Hearing and Appeal Hearing Panels. The Panel Roster is composed of not less than ten members, including a mix of CFP professionals and individuals who hold a J.D. or an LL.B.



Partnerships, In the Public Interest

Because financial planning professionals often hold more than one credential or financial services license, FPSC works closely with other certifying, licensing and regulatory organizations, where appropriate.

FPSC believes that Information Sharing Agreements and Memoranda of Understanding between professional-oversight bodies strengthen consumer protection and ensure more efficient and effective oversight. FPSC has engaged in discussions with a number of professional-oversight and regulatory bodies with a view to sharing information, in the public interest. As a result of these discussions, in 2016, FPSC entered into a Memorandum of Understanding with the Insurance Council of British Columbia and is in the process of exploring MOUs with other Regulators.

In addition, in support of FPSC's commitment to the highest standards and ethical conduct in those it certifies, FPSC has entered into information sharing agreements with various education providers who offer FPSC-approved Core Curriculum and/or FPSC-approved Capstone courses.