



## NOTICE OF PUBLIC CONSULTATION

### ***REGULATION OF FINANCIAL PLANNER AND FINANCIAL ADVISOR TITLES***

**10 August 2021**

#### **Introduction**

The Financial and Consumer Services Commission of New Brunswick (“**FCNB**”) is responsible for the administration and enforcement of provincial legislation that regulates securities, insurance, pensions, credit unions, trust and loan companies, cooperatives and a wide range of consumer legislation.

The Government of New Brunswick has mandated FCNB to develop a legislative proposal for the protection of titles used by financial professionals. To advance this work, FCNB is seeking public comment on potential approaches to the regulation of the titles “Financial Planner” and “Financial Advisor” in New Brunswick.

#### **Background**

Consumer and investor advocates have raised concerns about a large number of titles currently used by individuals providing financial services and advice in New Brunswick’s financial services marketplace, and how this has contributed to confusion for consumers. Two titles in particular – “Financial Planner” and “Financial Advisor” – are among the most commonly used and are not subject to any regulation or requirements. This raises concerns that consumers may be obtaining financial services or advice from individuals with limited qualifications or knowledge.

Other Canadian jurisdictions have taken steps to regulate the “Financial Planner” and “Financial Advisor” titles. In Québec, an [\*Act Respecting the Distribution of Financial Products and Services\*](#), first adopted in 1998, requires an individual using the title “Financial Planner” to obtain education approved by the *Institut québécois de planification financière* (the “**IQPF**”), to successfully complete an examination held by the IQPF, and to receive a license from the *Autorité des marchés financiers* of Québec. The title “Financial Advisor” is prohibited in Québec as it is deemed to be confusing with the regulated “Financial Planner” title.

More recently, two provinces have adopted legislation to protect both the “Financial Planner” and “Financial Advisor” titles. Ontario passed the [\*Financial Professionals Title Protection Act, 2019\*](#) (“**Ontario Legislation**”) on 29 May 2019. The Ontario Legislation is designed to leverage existing regimes for licensing and designating financial professionals to ensure efficient and effective regulation. Under the Ontario Legislation, certain entities may become “credentialing bodies,” which may then offer approved credentials to individuals. An individual must hold an applicable approved credential from an approved credentialing body to hold themselves out as a “Financial Planner” or “Financial Advisor.”



Saskatchewan recently passed the [Financial Planners and Financial Advisors Act](#) (the “**Saskatchewan Legislation**”) on 7 July 2020. The Saskatchewan legislation is similar to Ontario’s, requiring individuals to obtain approved credentials from approved credentialing bodies to use the “Financial Planner” or “Financial Advisor” titles. The Saskatchewan Legislation has some differences from the Ontario Legislation, including different offences, penalties and enforcement provisions for individuals who use protected titles without authorization, and simplified provisions for approving credentialing bodies already approved in another province.

The Ontario and Saskatchewan title protection regimes are not yet in effect. In Ontario, the Financial Services Regulatory Authority (“**FSRA**”), which administers the Ontario Legislation and approves credentialing bodies, has published draft rules and guidance for public comment. The rules and guidance were recently re-published for a [second comment period](#) on 11 May 2021.

### **Consultation Questions**

In light of the developments in Ontario and Saskatchewan, and in response to the Government of New Brunswick’s directive, FCNB is seeking public comments on the following questions to help develop a potential approach to the regulation of titles of financial professional in New Brunswick:

1. FCNB is considering recommending a regime similar to the approach recently taken in Ontario and Saskatchewan to protect “Financial Planner” and “Financial Advisor” as regulated titles in New Brunswick. Such an approach would leverage existing regimes for licensing and designating financial professionals, and maximize the extent to which New Brunswick’s regulation of these titles is harmonized with other jurisdictions.
  - a. Are you supportive of New Brunswick adopting legislation to protect “Financial Planner” and “Financial Advisor” as regulated titles in a legislative model similar to those of Ontario and Saskatchewan?
  - b. Do you have any general comments about New Brunswick adopting such legislation? Please elaborate.
2. Under the Ontario Legislation, FRSA may impose compliance orders on individuals who use a protected title without an approved credential, but does not have the power to levy fines or provincial offences. The Saskatchewan Legislation enables the provincial regulator, the Saskatchewan Financial and Consumer Affairs Authority, to impose fines and other penalties on individuals who violate the Saskatchewan Legislation. FCNB is considering recommending similar enforcement powers to those in the Saskatchewan Legislation. Do you have any comments on New Brunswick adopting similar enforcement powers in any potential New Brunswick title protection legislation? Please elaborate.



3. The Saskatchewan Legislation includes a simplified method for approving credentialing bodies that have already been approved in another Canadian jurisdiction. FCNB is considering recommending a similar provision. Do you have any comments on New Brunswick adopting a simplified approval process for credentialing bodies that have already been approved elsewhere in Canada? Please elaborate.
4. In Québec, financial professionals are prohibited from using a list of certain titles, set out in the [Regulation respecting titles similar to the title of financial planner](#), including titles such as “financial consultant”, “personal financial co-ordinator” and “private wealth advisor”, which are deemed to be confusing to the regulated “Financial Planner” title. In Ontario, FSRA has proposed a different approach to prohibiting similar titles, which is set out at Appendix 1 to [FSRA's Proposed Title Protection Supervisory Framework](#). To prevent consumer confusion, FCNB is considering adopting rules to prohibit the use of other similar titles, much like the approach taken in Québec. Do you have any comments on the approach New Brunswick should take to prohibiting similar titles to prevent confusion with regulated titles? Please elaborate.
5. Please comment on any other matters in relation to a potential title protection regime for the “Financial Planner” and “Financial Advisor” titles.

FCNB is publishing this consultation paper for a 75-day comment period. Please send your comments in writing on or before 25 October 2021.

All submissions should refer to “Consultation Notice – Title Protection 2021.” This reference should be included in the subject line if the submission is sent by email. Regardless of whether you are sending your comments by email, you should also send or attach your submissions in an electronic file in Microsoft Word format.

Please send your submission to:

Email: [consultation@fcnb.ca](mailto:consultation@fcnb.ca)

Alternatively, submissions may be sent by mail or fax to:

Securities Division c/o David Shore  
Financial and Consumer Services Commission  
300-85 rue Charlotte Street  
Saint John, NB E2L 2J2  
Fax: (506) 658-3059

We cannot keep submissions confidential as they may be subject to a request under the *Right to Information and Protection of Privacy Act*. Additionally, any submissions or comments received during the comment period may be published; therefore, you should not include personal information directly in comments. It is important that you state on whose behalf you are making the submission.

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If you have any questions, please refer them to:

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