



## **PROPOSED RULE**

### **RULE TPA-001 GENERAL**

#### **Part 1 – Definitions**

##### **Definitions**

1. (1) In this Rule:

“Act” means the *Financial Advisors and Financial Planners Title Protection Act* (New Brunswick);

“protected title” means a “financial advisor” or a “financial planner”, an abbreviation of the title, equivalent in another language or a title that could be reasonably confused with these titles, and collectively the “protected titles”;

- (2) The definitions contained in the *Act* apply to this Rule unless the terms in question are defined in this Rule.

#### **Part 2 – Applications**

##### **Application for approval as a credentialing body**

2. An applicant may apply for approval as a credentialing body by submitting an application to the Director that demonstrates compliance with the requirements of Part 3.

##### **Application for approval of credentials**

3. An approved credentialing body or an applicant for approval as a credentialing body may apply for approval of a credential for a protected title by submitting an application to the Director that demonstrates compliance with the requirements of Part 4.

##### **Abandonment**

4. If an application is submitted to the Director and the applicant conducts no activity on the application for 60 days after submitting the application, the Director may consider the application to be abandoned.



### **Part 3 – Credentialing Bodies: Criteria and Ongoing Obligations**

#### **Criteria for approval of a credentialing body**

5. (1) The Director may issue an approval to an applicant if the Director is satisfied that the applicant meets the requirements for a credentialing body and the application demonstrates the following:
  - (a) effective governance structure and administrative policies and procedures that serve the public interest;
  - (b) the necessary expertise, resources, policies, procedures and administrative practices to effectively administer and maintain a credentialing program;
  - (c) a code of ethics and professional standards for its officers, directors and employees that serves the public interest;
  - (d) the necessary expertise, resources, policies, procedures and administrative practices to effectively oversee the conduct of individuals holding approved credentials it has issued; and
  - (e) the ability to oversee the conduct of individuals holding approved credentials in English and French.
- (2) In addition to the requirements in subsection (1), an application to be an approved credentialing body must include the following information regarding the applicant:
  - (a) the legal name of the applicant and its constating documents;
  - (b) a description of the applicant's mandate and objects;
  - (c) the organizational structure (including names and addresses of management and directors); and
  - (d) the name and contact information of the individual who will respond on behalf of the applicant to any requests for information.
- (3) The Director may issue an approval to an applicant if the application demonstrates that a regulatory authority in a jurisdiction in Canada has approved the applicant as a credentialing body based on substantially similar criteria.

#### **Ongoing obligations of an approved credentialing body**

6. (1) An approved credentialing body shall regularly, and not less than annually, review its credentialing program to ensure that it is up to date regarding topics such as industry best practices, legal requirements and developments in the economy and the financial services sector.
- (2) An approved credentialing body shall maintain effective processes to:



- (a) respond to complaints from the public related to individuals holding approved credentials it has issued; and
  - (b) adjudicate complaints and enforce discipline in a transparent and impartial manner.
- (3) An approved credentialing body shall maintain and make public on its website:
- (a) a current list of individuals holding approved credentials it has issued, including the type of credential issued to each individual and whether the individual is using a protected title; and
  - (b) information with respect to disciplinary action taken against individuals who currently hold or previously held approved credentials it has issued.
- (4) An approved credentialing body shall provide to the Director, in a format determined by the Director, the information described in subsection (3) and may publish or direct a third party to publish that information.
- (5) An approved credentialing body shall monitor and enforce the credential criteria requirements in Part 4.

#### **Part 4 – Credential Criteria**

##### **Credentials for financial advisors and financial planners**

7. (1) A credential offered by an approved credentialing body for a financial advisor or a financial planner shall demonstrate that the credential is based on a program designed and administered to ensure that an individual using the credential will be required to:
- (a) deal with the individual's clients competently, professionally, fairly, honestly and in good faith;
  - (b) address material conflicts of interest in the best interests of the client; and
  - (c) put the clients' interests first when making a suitability determination.
- (2) An approved credentialing body shall not issue an approved credential to an individual unless the individual:
- (a) has passed a documented examination process that adequately tests all components of the applicable educational requirements in section 8 for a financial advisor or in section 9 for a financial planner;
  - (b) is required to comply with a code of ethics and professional standards that includes the standard of care described in paragraph (1)(a); and
  - (c) is required to comply with continuing education requirements that reinforce the educational requirements for a financial advisor or financial planner.



### **Educational requirements – financial advisors**

8. The credential for a financial advisor must meet educational requirements that provide the technical knowledge, professional skills and competencies that would reasonably be expected of an individual acting as a financial advisor, including, without limitation, educational requirements related to:
- (a) the Canadian financial services marketplace and regulatory environment;
  - (b) the products and services provided by the individual;
  - (c) code of ethics and professional standards and conduct;
  - (d) dealing with conflicts of interest;
  - (e) collecting personal and financial information;
  - (f) identifying client objectives, needs and priorities; and
  - (g) providing suitable financial and investment recommendations to a client; and
  - (h) providing suitable recommendations to a client with respect to comprehensive financial and investment strategies.

### **Educational requirements – financial planners**

9. The credential for a financial planner must meet educational requirements that provide the technical knowledge, professional skills and competencies that would reasonably be expected of an individual acting as a financial planner, including, without limitation, educational requirements related to:
- (a) the Canadian financial services marketplace and regulatory environment;
  - (b) estate planning, tax planning, retirement planning, investment planning, finance management and insurance and risk management;
  - (c) code of ethics and professional standards and conduct;
  - (d) dealing with conflicts of interest;
  - (e) collecting personal and financial information;
  - (f) identifying client objectives, needs and priorities;
  - (g) providing suitable financial planning and investment recommendations to a client; and
  - (h) developing and presenting an integrated financial plan for a client.

## **Part 5 – Annual Return**

### **Annual return**

10. (1) For the purposes of section 18 of the *Act*, a credentialing body shall deliver the annual return to the Director on or before March 31.
- (2) An annual return for a credentialing body shall include the following information:



- (a) the name and address of the credentialing body, including the address for service;
- (b) confirmation that the credentialing program was reviewed during the reporting period;
- (c) any updates made to the credentialing program;
- (d) information on the types of activities conducted by the credentialing body;
- (e) any new business activities conducted by the credentialing body not previously disclosed;
- (f) the number of individuals holding protected titles and the type of credential issued to each individual;
- (g) any changes in the format of records and the accessibility of those records;
- (h) a description of the complaints against individuals holding a protected title and the disciplinary action taken by the credentialing body;
- (i) any changes to the complaint handling procedure of the credentialing body; and
- (j) any change in circumstances of the credentialing body that had not been reported during the reporting period.

#### Part 6 – Transitional Matters

##### Transition

- 11.** (1) Subject to subsections (2) and (3), an individual who, immediately prior to [date to be determined] and up to the date this rule comes into force, used in New Brunswick the title:
- (a) Financial Advisor” or “conseiller financier”, an abbreviation of that title, an equivalent in another language or a title that could be reasonably confused with that title; or
  - (b) “Financial Planner” or “planificateur financier”, an abbreviation of that title, an equivalent in another language or a title that could be reasonably confused with that title,
- may continue to use that same title.
- (2) An individual may continue to use a title pursuant to clause (1)(a) until the earlier of:
- (a) the date on which the individual complies with section 4(1) of the Act, or
  - (b) the second anniversary of the date this rule comes into force.
- (3) An individual may continue to use a title pursuant to clause (1)(b) until the earlier of:
- (a) the date on which the individual complies with section 4(2) of the Act, or
  - (b) the fourth anniversary of the date this rule comes into force.



**Effective date**

12. This Rule comes into force on the day to be fixed by proclamation of the *Financial Advisors and Financials Planners Title Protection Act*.