

## Skating on thin ice: FCSC proposes new rules relating to title protection

January 31, 2024

Following a similar process as in Ontario and Saskatchewan (which you can read about [here](#)), earlier this month the New Brunswick Financial and Consumer Services Commission (Commission) proposed two rules under the Financial Advisors and Financial Planners Title Protection Act (Act). Rule TPA-001 General (General Rule) sets out the criteria for credentialing bodies and the credentials to be approved, and Rule TPA-002 Fees (Fee Rule) sets out the fees to be paid to the Commission under the framework.

Like the frameworks existing in other provinces which we've also written about in prior [bulletins](#), the General Rule outlines the conditions for an applicant to receive approval as a credentialing body and the approval of a credential for the title of Financial Advisor or Financial Planner. Among other things, the applicant must demonstrate an effective governance structure and administrative policies and procedures that serve the public interest, a code of ethics and professional standards for its officers, directors and employees that serves the public interest and the necessary expertise and resources to effectively oversee the conduct of individuals holding approved credentials (in both English and French). Approval may be granted if the application shows that a regulatory authority elsewhere in Canada has already approved the applicant as a credentialing body based on substantially similar criteria.

Credentialing bodies must also be able to respond to complaints related to individuals holding credentials, adjudicate them and enforce discipline in a transparent and impartial manner.

With respect to credentials themselves, they must be based on a program that ensures a credential holder will deal with their clients competently, professionally, fairly, honestly and in good faith. Material conflicts of interest must be addressed in the best interests of **clients, and credential holders must put their clients' interests first when making a** suitability determination. Credentials will not be permitted to be issued to an individual unless the person has passed an exam that tests all the educational requirements set out in the rule. The individual is required to comply with a code of ethics and professional standards and is subject to continuing education (CE) requirements applicable to a financial advisor or financial planner, as applicable.

The Fee Rule would require an application fee of \$10,000 for approval as a credentialing body, and a 50 per cent discount will be available if the applicant is already approved by a regulatory authority in Canada as a credentialing body based on substantially similar criteria. Similarly, the fee for approval of a credential is \$5,000, which is halved for credentials already approved by another regulatory authority in Canada.

It is also proposed that there would be an annual fee for the credentialing body based on the total number of individuals using a protected title, which range from \$30-\$50 per title holder, depending on the number of holders. Of note, the credentialing body can apply for a reduction in the annual fee under certain conditions, including if the applicant is already regulated pursuant to financial and consumer services legislation or is approved as a credentialing body by a regulatory authority.

Comments are being accepted on the consultation until **April 10, 2024**.

By

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