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Response to Ontario Securities Commission 2018-2019 Statement of Priorities

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INTRODUCTION

Financial Planning Standards Council (FPSC) is pleased to comment on the Ontario Securities Commission's (OSC) 2018-2019 Statement of Priorities (the Statement).

FPSC is a national, not-for-profit standards-setting and certification body that develops, promotes and enforces professional standards for financial planning through CERTIFIED FINANCIAL PLANNER® certification. FPSC certifies and oversees approximately 16,700 CFP® professionals and 2,000 FPSC Level 1® Certificants in Financial Planning across Canada, more than 9,000 of whom live and work in Ontario. With FPSC's formal partnership with the Institut québécois de planification financière (IQPF), the only organization authorized to certify "Financial Planners" in Quebec, there are more than 24,000 "Financial Planners" in Canada who have met, and continue to meet, FPSC's unified financial planning standards.

COMMENTS ON THE 2018-2019 STATEMENT OF PRIORITIES

There are three specific priorities we wish to comment on:

1. **Publish regulatory reforms that address the best interests of the client**

FPSC supports enhancements to the client/advisor relationship that are in the interest of consumers.

With respect to the proposed best interest standard (BIS), FPSC continues to support the notion of such a standard. For their part, CFP professionals and FPSC Level 1 certificants are already required to place their clients' interests first, ahead of their own and all other interests. We believe that for the benefit of consumers, all registrants should be held to a similarly rigorous standard.

We also support embedding stronger client obligations within the identified targeted reforms, including conflicts of interest, know your client, know your product, suitability, and relationship disclosure, as proposed.

In our response to Consultation Paper 33-404¹, we identified modifications to the proposed BIS that could be made to enhance its utility and clarity for both industry participants and consumers. As outlined in our submission, in our view, a BIS will be most effective in an environment founded on clear registrant titles and corresponding enhanced proficiency requirements. We also believe this to be the case with those other proposed targeted reforms the OSC intends to prioritize for this year. Accordingly, while we welcome the OSC's plan to "initiate" work

¹ FPSC Response to Consultation Paper 33-404 (Proposals to Enhance the Obligations of Advisers, Dealers, and Representatives Toward Their Clients). <http://www.fpsc.ca/docs/default-source/FPSC/fpsc-response-to-csa-33-304.pdf>

on title and proficiency reforms, we view them as foundational issues that are best resolved prior to, or concurrent with, these other reforms.

Registrant titling and proficiency requirements are a source of significant confusion for Ontarians today. In the current environment, consumers are unable to make informed choices when seeking out financial advice, because they do not understand the different forms of advice or types of “advisors” available to them, or the differences in knowledge, competencies and types of advice offered among all the different types of “advisors”. This lack of clarity and corresponding confusion is harmful to the financial health of consumers.

This issue has recently been recognized by the Ontario government. As the Statement notes, one key environmental factor that stands to impact the OSC’s work over the coming year is the planned “implementation of a regulatory framework for financial planners” in Ontario. This framework will include restricting the title “Financial Planner” to those who demonstrate their proficiency by obtaining an appropriate financial planning credential, and restricting the use of similar titles that may confuse or mislead consumers—many of which are used by OSC registrants today.

Given the clear overlap between the government’s forthcoming framework and the OSC’s own mandate and work (particularly regarding this priority), we encourage the OSC to play a leadership role in ensuring the finalization and implementation of this framework, and to use it as a stepping stone for further title and proficiency regulation.

Prioritizing titling and proficiency reforms will create much-needed clarity for consumers in search of professional advice for their unique financial needs, help enhance the feasibility of implementing an effective BIS and the other planned targeted reforms, and ensure harmonization between the OSC and the Ontario government’s forthcoming regulatory framework. We encourage the OSC to complete reforms in these two areas without delay.

2. Publish regulatory actions needed to address embedded commissions

FPSC was pleased to respond to Consultation Paper 81-408², which sought input on the option of discontinuing embedded commissions and transitioning to direct pay arrangements.

In developing our response, we surveyed CFP professionals and FPSC Level 1 certificants about their perspectives on the potential issues with, and impacts of, such a change. Through the survey, CFP professionals and FPSC Level 1 certificants identified several potential consumer concerns associated with discontinuing embedded commissions, which were outlined in our submission.

In light of these concerns, we are pleased that the OSC, as part of its 2018-2019 priorities, intends to undertake an analysis of the potential impacts of its proposed policy changes regarding embedded commissions, which will help ensure any changes have the intended effect and do not have unintended or adverse consequences—particularly for consumers.

As noted in our response, we also wish to reiterate that there seems to be confusion and uncertainty among registrants about key aspects of the potential changes in this area, including the scope of compensation arrangements that would be permitted as part of any regulatory intervention. As such, if the OSC and its CSA counterparts determine to move forward with foundational changes to compensation arrangements—either through an outright ban on embedded commissions as contemplated in Consultation Paper 81-408 or in an alternative form—communication with the advisor and planner community, and with investors, must be a priority.

² FPSC Response to Consultation Paper 81-408 (Consultation on the Option of Discontinuing Embedded Commissions). http://www.fpsc.ca/docs/default-source/FPSC/submissions-and-remarks/fpsc-response-to-csa-81_408.pdf

3. Advance retail investor protection, engagement and education through the OSC's Investor Office

We are encouraged by the work of the OSC's Investor Office, particularly the release of the *Seniors Strategy* and the OSC's commitment to effectively respond to the needs of older Ontarians. As the OSC moves forward with implementation of this strategy and development of a corresponding regulatory framework, FPSC looks forward to lending its support and expertise.

CONCLUSION

FPSC would like to thank the OSC for the opportunity to provide comment. We look forward to continuing to work collaboratively with the OSC over the coming year to provide Ontarians with the protection and confidence they deserve.