FINANCIAL PLANNING STANDARDS COUNCIL

Response to CSA Notice and Request for Comment: Proposed Amendments to National Instrument 31-103 and Companion Policy 31-103CP (Reforms to Enhance the Client-Registrant Relationship)

TABLE OF CONTENTS

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumer Services Commission, New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Superintendent of Securities, Northwest Territories
Superintendent of Securities, Yukon
Superintendent of Securities, Nunavut

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INTRODUCTION

Financial Planning Standards Council (FPSC) is pleased to comment on the Canadian Securities Administrators' (CSA) Proposed Amendments to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and Companion Policy 31-103CP Registration Requirements, Exemptions and Ongoing Registrant Obligations ("the Client Focused Reforms").

A professional standards-setting and certification body working in the public interest, FPSC's purpose is to drive value and instill confidence in financial planning. FPSC ensures those it certifies—CERTIFIED FINANCIAL PLANNER® 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. There are more than 18,500 Financial Planners in Canada who have met, and continue to meet, FPSC's standards.

GENERAL COMMENTS ON THE CLIENT FOCUSED REFORMS

FPSC welcomes the CSA's continued efforts to strengthen the interests of consumers. We support the intended outcomes of the Client Focused Reforms, including better alignment of the interests of registrants and clients, improved client outcomes, and greater clarity for clients around the nature and terms of their relationship with registrants.

In keeping with these intended outcomes, there are several areas of reform we wish to provide comment on, to ensure they best serve the interests of consumers.

MISLEADING COMMUNICATIONS (TITLES AND DESIGNATIONS)

FPSC supports the CSA's efforts to better regulate the use of titles, designations and holding out. The lack of regulation in the current environment leaves consumers in need of professional financial advice confused as to what type of advice they need, from whom they can or should get it and who is qualified to provide it.

Specifically, the current environment is especially harmful to the large number of consumers in need of financial planning advice. Only "financial planners" are trained to take a truly holistic approach to their clients' financial health, and to understand the interrelationships among all the pieces of their clients' financial puzzle. Yet, despite the proven importance of financial planning, anybody can use the title or hold themselves out as a "financial planner". As a result, consumers could be getting advice from individuals they believe to be qualified financial planners who, in fact, have little or no relevant expertise or qualifications.

While the addition of ***Division 7*** – **13.18 Misleading communications** is a positive step, a less interpretive and variable approach to the regulation in this area is necessary to address the problems the CSA has identified. In the interest of truly creating clarity for consumers as intended, all registrants should be required to use prescribed, plain-language titles that clearly communicate not only what products the registrant is authorized to offer, but more importantly, what type of advice they are qualified to provide.

We urge the CSA to move forward quickly with the comprehensive review of titles and designations it has planned. As the CSA prepares for this review, we would be pleased to discuss the proposals outlined in our 2016 response to Consultation Paper 33-404[1], wherein we proposed a clear, comprehensive titling framework which could apply not only to securities registrants, but to all those purporting to offer financial planning and/or other types of advice.

PROFICIENCY STANDARDS

As with its planned review of titles and designations, we encourage the CSA to move forward with its planned review of registrant proficiency standards as quickly as possible.

In our response to Consultation Paper 33-404, we noted that the ability of the proposed reforms to address the CSA's key investor protection concerns and produce the intended outcomes would, in many cases, depend on significant enhancements to baseline registrant proficiency requirements. Notwithstanding the proposed new obligation for firms to establish compliance- and product-centred training programs for their registrants, significant proficiency requirement enhancements are still in order.

As the CSA prepares for its planned review of proficiency standards, we would be pleased to discuss this topic further.

REFERRALS

It is critically important that referral arrangements should only occur where such arrangements are in the best interest of the client, that they are fully disclosed and that consumers are informed of the costs and obligations related to such arrangements. In addition, referral arrangements should always be based on the premise that the client is being served by a qualified professional who is held to appropriate professional and ethical standards.

To this end, FPSC's *Standards of Professional Responsibility for CFP professionals and FPSC Level 1 Certificants in Financial Planning* ("the Standards of Professional Responsibility"), sets out rigorous rules to govern referrals by CFP professionals and FPSC Level 1 certificants – regardless of whether they are a registrant or a non-registrant.[2,3]

Given the general alignment with our own standards, we support the CSA's intention to ensure consumers in referral arrangements are well-served by the regulatory framework. Further to this point, there are several principles inherent in the Client Focused Reforms that we fundamentally agree with, including:

- Referrals should be made based on the client's best interests, and should not be motivated by the referral fee;

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[1] *FPSC Response to CSA Consultation Paper 33-404*: http://www.fpsc.ca/docs/default-source/FPSC/fpsc-response-to-csa-33-304.pdf
[2] *Standards of Professional Responsibility for CFP Professionals and FPSC Level 1 Certificants in Financial Planning*. http://www.fpsc.ca/docs/default-source/FPSC/standards_of_professional_responsibility.pdf.
[3] FPSC's Standards Panel recently approved a revised version of the Standards of Professional Responsibility. This revised version of the Standards will come into effect January 2019, and will include additional rules and guidance around referrals.

- Individuals who provide no ongoing work or services to the client should not receive referral fees in perpetuity[4];
- Parties to referral arrangements should only perform work which they are licensed and/or qualified to perform;
- Clients in referral arrangements should not be paying inflated costs for products and services because of referral fees;
- Clients in referral arrangements must be provided with full information and disclosure when it comes to the terms of the arrangement, including the fees paid and services provided.

Based on anecdotal evidence, and in keeping with these principles, we do believe there is merit to reviewing existing referral arrangements, and the rules governing them, to assess whether consumers today are being well-served, informed and protected.

That said, we are concerned that the specific rules set out in the Client Focused Reforms do not best serve the interests of consumers.

To help inform our own views and understanding of this issue, and to provide the CSA with the information needed to make a more educated decision, we conducted a survey of CFP professionals and FPSC Level 1 certificants on their use of referral arrangements.[5] In total, 1,083 individuals participated in this survey. We have summarized key findings in Appendix A for the CSA's reference.

Based on our own views and understanding of the issue, and information gleaned from this survey, we have the following key concerns with the CSA's proposals:

1. ***Seeming lack of recognition for shared-client service arrangements***

   We are concerned that the proposed new rules do not clearly distinguish between one-time referrals and referrals leading to ongoing shared-client service arrangements.

   Under the latter, both parties to the referral arrangement provide defined, agreed upon, ongoing professional services to the client; however, only one party collects payment directly from the client. That party, in turn, remits the agreed upon payment to the other party, on the client's behalf, with the client's consent.

   Among CFP professionals and FPSC Level 1 certificants, this type of referral arrangement is by far the most common type they engage in; far more common than one-time referrals.[6] This is not surprising, given the holistic and ongoing nature of financial planning, and the long-term relationships many financial planners have with their clients.

   These arrangements, when supported by the appropriate safeguards (including strict written disclosure requirements and rigorous regulatory and professional oversight), can be highly beneficial to consumers who require ongoing professional services beyond the capabilities of any single individual (e.g. financial planning, accounting, legal services, investment services, etc.), and should continue to be permitted.

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[4] We note there may be limited exceptions, such as when an individual who is retiring sells their business or book of clients to another registrant for an ongoing payment.
[5] The survey was conducted online from October 12-18, 2018, and consisted of a combination of multiple choice, "yes/no", and open-ended survey questions. Please refer to Appendix B for a complete list of survey questions asked.
[6] Please see Appendix A.

While it is not entirely clear to us that the CSA *meant* to capture such shared-client service arrangements with its proposed referral rules, based on our survey results, it is widely perceived that they would be. The rules restricting the duration of referral fees to 36 months, capping the total outflow of payments at 25% of the fees collected from the client by the registrant, and the prohibition of payments to non-registrants would all seem to inhibit such arrangements.

2. Prohibitions on referral arrangements with non-registrants

We are also very concerned by the proposal to prohibit registrants from paying referral fees to non-registrants.

In keeping with our comments above, registrants often engage in shared-client service arrangements with a variety of non-registrants, including professionals such as financial planners, accountants and lawyers. We note that for consumers of financial planning services in particular, referrals are quite common.[7] These arrangements can result in clients receiving access to a much wider range of specialized financial advice and related services than any single individual is licensed or qualified to give, ultimately leading to better client outcomes.[8]

We recognize the CSA's concern around regulatory arbitrage and the implications of individuals being able to avoid regulation by instead using referral arrangements; we agree with taking action to address this concern (though we would note that based on our own survey results, actual occurrences of this phenomenon appear far fewer than the CSA may believe[9]). However, given the potential disruption on the use of diverse professional services by consumers, prohibiting all referral fees from registrants to non-registrants is, in our view, not an appropriate solution.

A more targeted approach would be more effective in addressing the CSA's concern. For example, there are very real differences among various types of "non-registrants", which could be specifically called out in any approach to this issue. For example, individuals who give up their license as a means to avoid appropriate regulatory oversight are very different from professionals who provide specialized advice and services that fall outside the scope of securities regulators, and should not be treated the same.

To this point, while not overseen directly by the CSA, in many cases non-registrants are themselves accountable to another regulatory or professional body for their conduct in referral arrangements. For example, as previously noted, CFP professionals and FPSC Level 1 certificants who are not securities registrants are still overseen for their professional conduct by FPSC, and subject to corresponding rules governing their professional conduct, including specifically their professional obligations when making a referral.

While there are likely other options for addressing the CSA's concerns in a more targeted manner, at a minimum, recognizing the role of professional non-registrants and the professional oversight, outside of securities regulation, to which they are held would help mitigate risks to consumer outcomes.

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[7] According to our survey results, more than 57% of FPSC certificants participate in paid or unpaid client referrals.
[8] We have outlined the various professionals who CFP professionals and FPSC Level 1 certificants refer clients to, and some of the reasons for these referrals, in Appendix A.
[9] Please see Appendix A for data we collected on CFP professionals and FPSC Level 1 certificants who have given up their licensure in the past five years.

3. *Other possible unintended consequences*

As the CSA notes in Appendix E of the consultation document, the new rules around referral arrangements are very likely to have negative unintended consequences for consumers. In fact, the concerns the CSA has itself identified are serious and merit further examination.

In response to our survey, many respondents identified what they believe will be additional unintended consequences the rules could have for consumers. We have summarized these concerns in **Appendix A** for the CSA's review.

In light of these concerns, in our view it would be prudent for the CSA to undertake further consultation on the issue of referral arrangements before proceeding with any new rules, so that these concerns can be properly addressed. As always, we would welcome the opportunity to participate in such a consultation.

DISCLOSURE REQUIREMENTS

Finally, we wish to express our principled support for the CSA's enhancements to information and relationship disclosure requirements in the Client Focused Reforms, including the new **Duty to provide information**.

FPSC has long advocated for full transparency and disclosure around fees, products and services, and views them as critically important to the protection and empowerment of consumers.[10] For consumers to achieve their financial goals, they require all relevant facts so that they can make informed choices regarding whom they work with.

Requiring such information to be made publicly available to consumers will play an important role in helping to achieve this.

CONCLUSION

FPSC would like to thank the CSA for the opportunity to provide comment. We wish to reiterate our support for the intended outcomes of the Client Focused Reforms, including better alignment of the interests of registrants and clients, improved client outcomes, and greater clarity for clients around the nature and terms of their relationship with registrants. We believe the Client Focused Reforms will help to achieve these outcomes.

As the CSA begins planning its comprehensive reviews of titles, designations and proficiency standards, we would welcome the opportunity to lend our input and expertise. In the meantime, we encourage the CSA to re-read our prior submission to Consultation Paper 33-404, which began to address these issues.

Finally, while we are supportive of the CSA's efforts to ensure consumers are well-served, informed and protected regarding referral arrangements, we have some significant concerns surrounding the CSA's proposed new rules in this regard and recommend further consultation and review on this matter. As always, we would welcome the opportunity to lend our counsel.

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[10] Rule 7 of the Standards of Professional Responsibility details a Certificant's disclosure obligations relevant to compensation arrangements, potential conflicts of interest, information relevant to the Certificant's practice and services and any other information the client may reasonably want to know when establishing a relationship.

APPENDIX A – SUMMARY OF SURVEY FINDINGS

This Appendix provides an overview of the survey results referenced in this submission. The survey was conducted online from October 12-18, 2018, and consisted of a combination of multiple choice, "yes" or "no", and open-ended survey questions. In total, 1,083 CFP professionals and FPSC Level 1 Certificants in Financial Planning participated in the survey.

For the CSA's reference, we have broken down responses based on individuals who are/are not securities licensed, where applicable. We would be pleased to provide further information and contextual data to the CSA upon request.

The results and comments presented below have been included for the CSA's information and reference only, and do not constitute FPSC's official position.

1. INCIDENCE OF REFERRAL ARRANGEMENTS

FPSC asked survey respondents the following question to learn more about the incidence of paid referral arrangements:

The CSA is currently proposing reforms that would restrict certain referral arrangements. The CSA defines "referral arrangement" as "any arrangement in which a registrant agrees to provide or receive a referral fee". The CSA defines "referral fee" as "any form of monetary or non-monetary benefit, direct or indirect, provided for the referral of a client to or from a registrant". Based on the CSA's definitions above, do you currently provide or receive referral fees as part of your practice? Choose the answer that best describes you:

- *I mostly or only provide referral fees*
- *I mostly or only receive referral fees*
- *I both provide and receive referral fees*
- *I provide or receive referrals, but not referral fees*
- *I do not provide or receive referrals*

Responses to this question were as follows:

	All Respondents	Licensed Only	Non-licensed Only
I MOSTLY OR ONLY PROVIDE REFERRAL FEES	3.24%	4.17%	2.11%
I MOSTLY OR ONLY RECEIVE REFERRAL FEES	16.00%	14.61%	17.68%
I BOTH PROVIDE AND RECEIVE REFERRAL FEES	4.19%	4.52%	3.79%
I PROVIDE OR RECEIVE REFERRALS, BUT NOT REFERRAL FEES	33.71%	33.91%	33.47%
I DO NOT PROVIDE OR RECEIVE REFERRALS	42.86%	24.60%	42.95%

*Number of respondents: 1,050

2. STRUCTURE OF REFERRAL FEE PAYMENTS

FPSC asked survey respondents who indicated they provide or receive referral fees the following question:

Which of the following best describes the referral arrangements you typically engage in?

- *One-time payment, with no agreement for both parties to provide ongoing services to the client*
- *Ongoing payment, with no agreement for both parties to provide ongoing services to the client*
- *One-time payment, with both parties continuing to service the client and collect further fees independently of each other*
- *Ongoing payment to both parties, collected from the client by one party and remitted to the other, in exchange for defined, agreed upon, ongoing services from both parties to the client*
- *Other (please specify)*

Responses to this question were as follows:

	All Respondents	Licensed Only	Non-licensed only
ONE-TIME PAYMENT, WITH NO AGREEMENT FOR BOTH PARTIES TO PROVIDE ONGOING SERVICES TO THE CLIENT	**11.11%**	**12.03%**	**10.0%**
ONGOING PAYMENT, WITH NO AGREEMENT FOR BOTH PARTIES TO PROVIDE ONGOING SERVICES TO THE CLIENT	**5.35%**	**6.02%**	**4.55%**
ONE-TIME PAYMENT, WITH BOTH PARTIES CONTINUING TO SERVICE THE CLIENT AND COLLECT FURTHER FEES INDEPENDENTLY OF EACH OTHER	**16.05%**	**18.80%**	**12.73%**
ONGOING PAYMENT TO BOTH PARTIES, COLLECTED FROM THE CLIENT BY ONE PARTY AND REMITTED TO THE OTHER, IN EXCHANGE FOR DEFINED, AGREED UPON, ONGOING SERVICES FROM BOTH PARTIES TO THE CLIENT	**60.91%**	**57.89%**	**64.55%**
OTHER	**6.58%**	**5.26%**	**8.18%**

*Number of respondents: 243

3. REASONS FOR CLIENT REFERRALS

FPSC asked survey respondents the following question to learn more about why they refer their clients:

What are the typical circumstances in which you refer your clients to another individual? Check all that apply:

- *When I do not have the time to effectively serve the client*
- *When it is not economical for me to perform the work*
- *When they require portfolio management services*
- *When they require investment products or services for which I am not licensed*
- *When they require insurance products or services for which I am not licensed*

- *When they require other professional services for which I am not licensed or appropriately designated (e.g. legal services)*
- *When they require highly specialized advice, beyond the scope of my expertise*
- *I am planning on retiring and am now referring most or all clients*
- *Other (please specify)*

Responses to this question were as follows:

	All Respondents	Licensed Only	Non-licensed only
WHEN I DO NOT HAVE THE TIME TO EFFECTIVELY SERVE THE CLIENT	**11.49%**	**13.52%**	**9.06%**
WHEN IT IS NOT ECONOMICAL FOR ME TO PERFORM THE WORK	**11.66%**	**12.89%**	**10.19%**
WHEN THEY REQUIRE PORTFOLIO MANAGEMENT SERVICES	**27.27%**	**20.44%**	**35.47%**
WHEN THEY REQUIRE INVESTMENT PRODUCTS OR SERVICES FOR WHICH I AM NOT LICENSED	**40.99%**	**29.56%**	**54.72%**
WHEN THEY REQUIRE INSURANCE PRODUCTS OR SERVICES FOR WHICH I AM NOT LICENSED	**23.33%**	**22.96%**	**23.77%**
WHEN THEY REQUIRE OTHER PROFESSIONAL SERVICES FOR WHICH I AM NOT LICENSED OR APPROPRIATELY DESIGNATED (E.G. LEGAL SERVICES)	**77.02%**	**77.99%**	**75.85%**
WHEN THEY REQUIRE HIGHLY SPECIALIZED ADVICE, BEYOND THE SCOPE OF MY EXPERTISE	**60.38%**	**59.12%**	**61.89%**
I AM PLANNING ON RETIRING AND AM NOW REFERRING MOST OR ALL CLIENTS	**1.75%**	**1.57%**	**1.89%**
OTHER	**5.32%**	**6.60%**	**3.77%**

*Number of respondents: 583

4. WHO CLIENTS ARE REFERRED TO

FPSC asked survey respondents the following question to learn more about the types of professionals they refer their clients to:

What types of professionals do you typically refer your clients out to? Check all that apply:

- *Lawyer*
- *Accountant*

- *Portfolio manager*
- *Another financial planner*
- *Investment advisor*
- *Insurance advisor/specialist*
- *Realtor*
- *Mortgage specialist*
- *Other (please specify)*

Responses to this question were as follows:

	All Respondents	Licensed Only	Non-licensed only
LAWYER	**67.52%**	**67.60%**	**67.42%**
ACCOUNTANT	**67.01%**	**68.22%**	**65.54%**
PORTFOLIO MANAGER	**28.91%**	**24.30%**	**34.46%**
ANOTHER FINANCIAL PLANNER	**13.95%**	**13.71%**	**14.23%**
INVESTMENT ADVISOR	**19.90%**	**15.26%**	**25.47%**
INSURANCE ADVISOR/SPECIALIST	**28.40%**	**31.46%**	**24.72%**
REALTOR	**32.99%**	**33.33%**	**32.58%**
MORTGAGE SPECIALIST	**56.29%**	**57.01%**	**55.43%**
OTHER	**9.01%**	**9.03%**	**8.99%**

*Number of respondents: 588

5. PERCENTAGES OF CLIENTS IN PAID REFERRAL ARRANGEMENTS

To learn more about the scope of the problem and the potential for disruption, FPSC asked survey respondents who engage in paid referrals (providing them, receiving them or both) the following question:

Approximately what percentage of your clients are in referral arrangements?

- *0%*
- *<10%*
- *11-25%*
- *26-50%*
- *50-75%*
- *76% +*
- *Do not wish to respond*

Responses to this question were as follows:

APPROXIMATEY WHAT PERCENTAGE OF YOUR CLIENTS ARE IN REFERRAL ARRANGEMENTS?	All Respondents	Licensed Only	Non-licensed only
0%	2.08%	0.77%	3.64%
<10%	50.00%	56.92%	41.82%
11-25%	10.00%	13.85%	5.45%
25-50%	10.42%	12.31%	8.18%
51-75%	5.00%	6.15%	3.64%
>76%	20.42%	9.23%	33.64%
DO NOT WISH TO RESPOND	2.08%	0.77%	3.64%

*Number of respondents: 240

6. REGISTRANTS WHO GIVE UP THEIR LICENSURE

To learn more about the risk of registrants giving up their licensure, FPSC asked survey respondents who indicated that they were not licensed the following question:

Have you been licensed to sell securities in the past five years?

- *Yes*
- *No*

YES	13.37%
NO	86.63%

*Number of respondents: 673

To learn more about why the individuals who answered "yes" to this question had given up their licensure, FPSC asked these respondents only the following question:

What was the primary reason you decided not to renew your license to sell securities?

- *I moved to a different role within the firm*
- *I moved into the sale of other, non-securities products (e.g. insurance)*
- *I moved to fee-only planning/product-free advice*
- *I moved to a business model where the investment advice is provided, through agreement, by a separate registrant*
- *I retired*
- *Other*

Responses among these individuals were as follows:

I MOVED TO A DIFFERENT ROLE WITHIN THE FIRM	22.50%
I MOVED INTO THE SALE OF OTHER, NON-SECURITIES PRODUCTS (E.G. INSURANCE)	16.25%
I MOVED TO FEE-ONLY PLANNING/PRODUCT-FREE ADVICE	12.50%
I MOVED TO A BUSINESS MODEL WHERE THE INVESTMENT ADVICE IS PROVIDED, THROUGH AGREEMENT, BY A SEPARATE REGISTRANT	22.50%
I RETIRED	7.50%
OTHER	18.75%

Number of respondents: 80

7. POTENTIAL PROS AND CONS OF THE PROPOSED REFORMS TO REFERRAL ARRANGEMENTS

FPSC asked survey respondents the following question to learn more about the potential positive and negative implications of the proposed reforms:

In your opinion, if the CSA were to implement their proposed reforms to referral arrangements, would the overall impact to consumers be positive or negative? If applicable, please explain your choice in the space below.

- *Positive*
- *Negative*
- *I don't know/ No opinion*

Responses to this question were as follows:

IN YOUR OPINION, IF THE CSA WERE TO IMPLEMENT THEIR PROPOSED REFORMS TO REFERRAL ARRANGEMENTS, WOULD THE OVERALL IMPACT TO CONSUMERS BE POSITIVE OR NEGATIVE?	All Respondents	Licensed Only	Non-licensed only
POSITIVE	27.54%	29.10%	25.66%
NEGATIVE	29.25%	29.10%	29.42%
I DON'T KNOW / NO OPINION	43.22%	41.80%	44.91%

*Number of respondents: 995

We have summarized the most common open-ended explanations we received below for the CSA's reference.

Potential **pros** identified by survey respondents were as follows:

- The proposed rules could mean fewer real or perceived conflicts of interest.
- The proposed rules could reduce the risk of individuals making referrals based primarily on fees, as opposed to what is in the client's best interests.

- The proposed rules could introduce clients to a larger universe of service providers (as opposed to only those who pay referral fees).
- The proposed rules could help address some "money for nothing" arrangements within the industry, whereby referral fees go to individuals who do minimal or no work in exchange. This could potentially lower client costs.
- The proposed rules could promote a higher level of professionalism and trust in the industry.

Potential **cons** identified by survey respondents were as follows:

- Parties to referrals who currently receive their fees through remittance from the other party would need to begin collecting their fees separately. In some cases, where the party/their firm are not equipped to do so, this could result in more costs being passed on to consumers (e.g. the costs of new invoicing software, additional support staff, bookkeeping, etc.).
- The costs of coordination between professionals may currently be "subsidized" to an extent for the client (e.g. when it comes to supporting a client's tax preparation). If clients had to pay separately, the costs of coordination might be passed onto them.
- There is a risk that consumers may be moved into alternative channels or investments outside of the CSA's purview by some referring agents.
- There is a risk that the 36-month limit on referral fee payments could lead to "churning" by referral agents.
- The proposed rules could reduce the viability of non-traditional business models, such as product-free financial advice.
- While a few respondents not currently licensed indicated a willingness to become registrants, they felt it would reduce their capacity to focus on providing the "non-investment" aspects of financial planning advice they specialize in to their clients (e.g. financial management, retirement planning, etc.).
- The proposed rules could reduce the availability of specialized financial advice to clients.
- The proposed rules could reduce the willingness of some individuals to refer their clients to other service providers, which would require clients to find an appropriate service provider on their own, adding unnecessary complexity to the process for consumers.
- A number of non-licensed financial planners expressed concerns about the willingness of their clients to pay directly for financial planning advice, despite the benefits of this advice to them.

8. ADDITIONAL WAYS TO PROTECT CONSUMERS

FPSC asked survey respondents the following question to learn more about additional ways to protect consumers in referral arrangements:

Are there any other steps the CSA could take to protect consumers involved in referral arrangements? Please explain.

Among respondents who offered specific comments not already considered by the CSA (e.g. maintaining status quo, capping fee amounts and duration, etc.), the most commonly cited answers were to enhance transparency, strengthen the disclosure obligations of all parties and/or more vigorously enforce the existing rules.

Other specific suggestions received in response to this question included:

- Require that any individuals receiving referral fees hold a professional designation or certification with an aligned best interest requirement.

- Consider simplifying or standardizing the disclosure format to provide more clarity to consumers – particularly when it comes to the services they should expect to receive from each party and the corresponding dollar amounts they are paying.
- Require clients to re-authorize their referral agreements at regular intervals, as a means to ensure individuals are actually providing the client with the services they are expecting.
- Do not permit referral fees to go to individuals who have had their licensure revoked.
- Ban referral fees completely.
- Provide more consumer education and information in this area.

APPENDIX B – LIST OF ALL SURVEY QUESTIONS

The following is a complete list of survey questions FPSC asked CFP professionals and FPSC Level 1 certificants. Please note that respondents may have been skipped ahead of certain questions, depending on their answers to previous questions.

1. What is your age range?
   - Under 31
   - 31-40
   - 41-50
   - 51-60
   - 61-64
   - 65 or older

2. What is your gender?
   - Male
   - Female
   - Other

3. What province do you live in?
   - British Columbia
   - Alberta
   - Saskatchewan
   - Manitoba
   - Ontario
   - Quebec
   - New Brunswick
   - Nova Scotia
   - Newfoundland and Labrador
   - Prince Edward Island
   - Yukon
   - Northwest Territories
   - Nunavut
   - I live outside of Canada

4. Are you a CFP professional or FPSC Level 1 certificant?
   - CFP professional
   - FPSC Level 1 certificant

5. How long have you been a CFP professional or FPSC Level 1 certificant?
   - Less than 5 years
   - 5-10 years
   - 11-15 years
   - 16+ years

6. Are you a securities registrant or employed in a registered firm?
   - Yes
   - No

7. Are you currently licensed to sell securities?
   - Yes
   - No

8. Have you been licensed to sell securities in the past five years?
   - Yes
   - No

9. What was the primary reason you decided not to renew your license to sell securities?
   - I moved to a different role within the firm
   - I moved into the sale of other, non-securities products (e.g. insurance)
   - I moved to fee-only planning/product-free advice
   - I moved to a business model where the investment advice is provided, through agreement, by a separate registrant
   - I retired
   - Other (please specify)

10. The CSA is currently proposing reforms that would restrict certain referral arrangements. The CSA defines “referral arrangement” as “any arrangement in which a registrant agrees to provide or receive a referral fee”. The CSA defines “referral fee” as “any form of monetary or non-monetary benefit, direct or indirect, provided for the referral of a client to or from a registrant”. Based on the CSA’s definitions above, do you currently provide or receive referral fees as part of your practice? Choose the answer that best describes you:
    - I mostly or only provide referral fees
    - I mostly or only receive referral fees
    - I both provide and receive referral fees
    - I provide or receive referrals, but not referral fees
    - I do not provide or receive referrals

11. Which of the following best describes the referral arrangements you typically engage in?
    - One-time payment, with no agreement for both parties to provide ongoing services to the client
    - Ongoing payment, with no agreement for both parties to provide ongoing services to the client
    - One-time payment, with both parties continuing to service the client and collect further fees independently of each other
    - Ongoing payment to both parties, collected from the client by one party and remitted to the other, in exchange for defined, agreed upon, ongoing services from both parties to the client
    - Other (please specify)

12. Approximately what percentage of your clients are in referral arrangements?
    - 0%
    - <10%
    - 11-25%
    - 26-50%
    - 50-75%
    - 76% +
    - Do not wish to respond

13. Approximately what percentage of your business is based on taking in referral fees?
    - 0%
    - <10%
    - 11-25%
    - 26-50%
    - 50-75%
    - 76% +
    - Do not wish to respond

14. What types of professionals do you typically refer your clients out to? Check all that apply:
    - Lawyer
    - Accountant
    - Portfolio manager
    - Another financial planner
    - Investment advisor
    - Insurance advisor/specialist
    - Realtor
    - Mortgage specialist
    - Other (please specify)

15. What are the typical circumstances in which you refer your clients to another individual? Check all that apply:
    - When I do not have the time to effectively serve the client
    - When it is not economical for me to perform the work
    - When they require portfolio management services
    - When they require investment products or services for which I am not licensed
    - When they require insurance products or services for which I am not licensed
    - When they require other professional services for which I am not licensed or appropriately designated (e.g. legal services)
    - When they require highly specialized advice, beyond the scope of my expertise
    - I am planning on retiring and am now referring most or all clients
    - Other (please specify)

16. In your opinion, if the CSA were to implement their proposed reforms to referral arrangements, would the overall impact to consumers be positive or negative? If applicable, please explain your choice in the space below.
    - Positive
    - Negative
    - I don't know/No opinion

17. Are there any other steps the CSA could take to protect consumers involved in referral arrangements? Please explain.