

FINANCIAL PLANNING STANDARDS COUNCIL

**2017 ENFORCEMENT AND DISCIPLINARY**  
REVIEW REPORT



**FPSC** FINANCIAL  
PLANNING  
STANDARDS  
COUNCIL®



# Table of Contents

<b>Financial Planning Standards Council</b>	3
<b>Obtaining Certification with FPSC</b>	4
<b>Profile of the Profession</b>	5
<b>Maintaining High Standards of Professional Competence</b>	6
<b>Professional Standards</b>	7
FPSC® Code of Ethics	7
FPSC® Rules of Conduct	7
FPSC® Fitness Standards	7
FPSC® Financial Planning Practice Standards	7
<b>Independent Oversight of the Standards: By the Profession, for the Profession</b>	8
<b>Transparency and Fairness</b>	8
<b>Enforcing Professional Standards</b>	9
<b>Areas of Focus</b>	10
<b>Complaint Statistics</b>	11
<b>FPSC's Enforcement Process</b>	13
1. Intake and Initial Review	13
2. Investigations	14
3. Review by the Conduct Review Panel	15
4. Disciplinary Hearings	16
<b>Partnerships, in the Public Interest</b>	17

## FINANCIAL PLANNING STANDARDS COUNCIL

Financial Planning Standards Council (FPSC) was incorporated in 1995 as a not-for-profit organization, setting the foundation for the establishment of uniform professional standards for financial planners in Canada.

FPSC certificants are part of an international network of more than 175,000 CFP® professionals in 26 territories around the world.

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 in Canada. To achieve this purpose, FPSC ensures those it certifies—CERTIFIED FINANCIAL PLANNER® professionals and FPSC Level 1® Certificants in Financial Planning (collectively “FPSC certificants”)—meet appropriate standards of competence and professionalism through rigorous requirements of education, examination, experience and ethics. More information is available at [FPSC.ca](http://FPSC.ca) and [FinancialPlanningForCanadians.ca](http://FinancialPlanningForCanadians.ca).

### PURPOSE

We exist to drive **value** and instill **confidence** in **financial planning**.

### WHY DOES THAT MATTER?

Because without sound financial planning from a qualified and trusted professional, the wellbeing of Canadians is at risk.

### MANDATE

**We achieve our purpose by:**

- Defining financial planning
- Developing and enforcing standards
- Certifying financial planning professionals
- Ensuring appropriate education of prospective and existing financial planning professionals
- Promoting FPSC and CFP professional brands as synonymous with the financial planning profession

## OBTAINING FPSC CERTIFICATION

The path to FPSC certification is a rigorous process.



To obtain FPSC Level 1 Certification in Financial Planning, candidates must successfully complete an FPSC-Approved Core Curriculum program and pass the national FPSC Level 1 examination. To be eligible to apply for CFP certification, candidates must have obtained FPSC Level 1 certification and successfully completed an FPSC-Approved Capstone Course and the national CFP examination. After completing these education and examination requirements, as well as three years of qualifying work experience, candidates may apply for CFP certification.

As of December 2017, there were 16,518 CFP certificants and 1,936 FPSC Level 1 certificants across Canada.<sup>1</sup> In 2017, FPSC certified 595 new CFP professionals and 738 new FPSC Level 1 certificants—16% more new certificants than in 2016.

Engaging a professional certified by FPSC provides assurance to Canadians that the design of **their financial future rests with an appropriately qualified professional** who will put their clients' interests above all others.

<sup>1</sup>Data as at December 31, 2017. The certification term for CFP professionals is April 1 to March 31, with applications for renewal received by FPSC between January and June each year. The certification term for FPSC Level 1 certificants is August 1 to July 31, with applications for renewal received by FPSC between June and September.



## MAINTAINING HIGH STANDARDS OF PROFESSIONAL COMPETENCE

Continuing Education (CE) is a vital component of continuous professional development and is essential to ensuring that a professional's knowledge and competence remain current.

FPSC certificants are required to meet annual CE requirements to maintain certification. CFP professionals must complete 25 hours of CE activities annually; FPSC Level 1 certificants must complete 12 hours.<sup>2</sup> All FPSC certificants must complete a minimum of one hour of CE annually in the Professional Responsibility category.<sup>3</sup>

FPSC certificants are subject to random audit by FPSC to ensure compliance with CE requirements and accuracy of reporting.

FPSC certificants who do not meet the CE requirements may be denied renewal of their certification with FPSC, pending proof that they have completed any outstanding CE requirements.

Professional skills and professionalism are central to a professional certification. To ensure that FPSC certificants receive CE of the highest quality, FPSC approves, develops and directly delivers CE in the category of Professional Responsibility, including a 90-minute ethics session delivered each November during Financial Planning Week, both in Toronto and Vancouver. In addition, FPSC's Managing Director, Standards is a frequent speaker at industry conferences.

### CE Audit Results

73% of CFP professionals selected for audit met or exceeded their CE requirements, an increase of 3% from the 2015 audit.

Of the 27% that did not meet their requirements, 1 out of 2 (13.5% overall) failed to meet their CE requirements as a result of failing to take the required FPSC-approved credit in the category of Professional Responsibility.

### FPSC is focused on professional obligations relating to dealing with and supporting aging clients or clients with diminishing capacity.

In support of this focus, FPSC's most recent Ethics Breakfasts, held during the 2017 Financial Planning Week, included a thought-provoking panel discussion moderated by FPSC's Managing Director, Standards and featuring legal experts from Toronto and Vancouver and a geriatric psychiatrist from Toronto's Sunnybrook Health Sciences Centre. The discussion centred around a case study and addressed:

- Signs of diminishing capacity and the impact of dementia on the ability to make financial planning decisions.
- Confidentiality concerns around caregivers.
- Dealing with powers of attorney, and professional obligations triggered by a POA's failure to act in accordance with a client's previously expressed objectives.

<sup>2</sup> CE may be completed in the categories of: Financial Planning; Practice Management; Giving Back; Product Knowledge and/or Professional Responsibility.

<sup>3</sup> Qualifying CE in the category of Professional Responsibility must include direct application of the *Standards of Professional Responsibility*.

## PROFESSIONAL STANDARDS

Standards unify and elevate a profession and promote and guide best practices and behaviour. To be truly meaningful, standards must be actively adopted by the profession and they must be enforced.

The *Standards of Professional Responsibility for CFP Professionals and FPSC Level 1 Certificants in Financial Planning* (the “*Standards of Professional Responsibility*”) define the ethical and professional responsibilities of those certified by FPSC.

### FPSC® Code of Ethics

The Code of Ethics embodies the standard of ethical conduct to which all FPSC certificants must adhere.

### FPSC® Rules of Conduct

The Rules of Conduct and incorporated Guidance provide specific guidance to FPSC certificants on expected practices.

### FPSC® Fitness Standards

The Fitness Standards detail the good character requirements for new and continued certification.

### FPSC® Financial Planning Practice Standards

The Practice Standards provide guidance to FPSC certificants when engaged in financial planning activities with clients.

Where an FPSC certificant is found to have breached the *Standards of Professional Responsibility*, discipline sanctions range from a letter of admonishment to suspension or revocation of certification by an FPSC Discipline Hearing Panel.

### FPSC certificants

are held to high standards of care, including an obligation to act in their clients’ best interests. Canadians reasonably expect and demand such care.

### Under the *Standards of Professional Responsibility* FPSC certificants have a professional obligation to:

- ✓ Place their clients’ interests first
- ✓ Act with integrity
- ✓ Maintain objectivity
- ✓ Develop and maintain the professional skills and knowledge required to competently provide advice to clients
- ✓ Be fair and open in all professional relationships
- ✓ Maintain client confidentiality
- ✓ Act with diligence
- ✓ Demonstrate professionalism

## Recent Amendments to the FPSC® Fitness Standards

Effective June 1, 2017, following a comprehensive review by a six-member sub-committee composed of members of the FPSC Standards Panel and Conduct Review Panel, the Standards Panel approved amendments to the Fitness Standards. The amendments include, among others, the following key changes:

- A new presumptive bar: failure to comply with a Court Order;
- A change to the presumptive bar arising from the suspension of a professional licence. This presumptive bar is now triggered where the licencing body imposes a suspension of one year or longer (previously a suspension of any length triggered this presumptive bar); and
- A change to the presumptive bar arising from the suspension of a financial services registration. This presumptive bar is now only triggered where the regulatory body imposes a suspension of one year or longer (previously a suspension of any length triggered this presumptive bar).

## INDEPENDENT OVERSIGHT OF THE STANDARDS:

### *By the Profession, for the Profession*

Three independent panels play a direct role in setting the standards of the profession and enforcing those standards:

**The Standards Panel** oversees the standards of the profession including the *FPSC Competency Profile* and the *Standards of Professional Responsibility*. An independent Panel appointed by the FPSC Board of Directors composed of public members and financial planners, the panel's membership reflects significant diversity of experience as well as geographic diversity.

**The Conduct Review Panel** is an independent panel composed of CFP professionals and members of the public that reviews staff reports and directs the appropriate disposition of complaints, in the public interest. The panel's membership reflects significant diversity of experience as well as geographic diversity.

**The Hearing Panel Roster** is composed of CFP professionals and lawyers with diverse experience and national representation. These professionals, many of whom bring compliance or experience in professional discipline, play a critical role as members of Discipline Hearing Panels and Appeal Hearing Panels, ensuring the integrity of the profession by enforcing the high professional and ethical standards embodied in the *Standards of Professional Responsibility*.



## TRANSPARENCY AND FAIRNESS

All policies and procedures relevant to FPSC's complaint, review and discipline process are published on [FPSC's website](#) and accessible to certificants and members of the public.

FPSC is committed to maintaining a complaint intake, review and discipline process that is transparent, reflects fairness to the certificant whose conduct comes under review, protects the public interest, and ensures the financial planning profession continues to earn the public's trust and to be held in the highest regard.

## GUIDING PRINCIPLES

1. Fairness
2. Effectiveness
3. Objectivity
4. Transparency
5. Consistency
6. Timeliness

## ENFORCING PROFESSIONAL STANDARDS

As a professional oversight body, FPSC ensures that certificants adhere to rigorous standards. Ensuring adherence to these standards protects both the Canadian public and the reputation of the financial planning profession.

Over the past three years, FPSC has made significant changes to its complaints, investigation and enforcement process, including the creation of the Conduct Review Panel, an arm's-length panel tasked with determining the appropriate disposition of complaints, in the public interest. In connection with the changes to its process and the increased rigour, FPSC has made a number of changes to its website, increasing public awareness of the professional standards to which FPSC certificants are held.

FPSC continues to work to ensure the public interest is protected and that all certificants meet or exceed the rigorous standards expected of them, ensuring the financial planning profession continues to earn the public's trust and to be held in the highest regard.



Damienne Lebrun-Reid, LL.B.  
Managing Director, Standards

Damienne is responsible for the development, maintenance and enforcement of FPSC's financial planning standards. Damienne leads FPSC's certification program and requirements for CFP professionals and FPSC Level 1 Certificants in Financial Planning. She also leads FPSC's complaint and enforcement process.

## GUIDING PRINCIPLES

FPSC's Enforcement Department governs itself through an internal policy manual developed in 2015, which provides guidelines and policies around the enforcement process. The following principles guide staff and are reflected in all communications and undertakings involving internal and external stakeholders including: complainants, members of the public and FPSC certificants.

1. To be fair and to be seen to be fair by ensuring open, transparent, consistent processes aimed at promoting and enforcing high standards of professionalism among FPSC certificants.
2. To employ principled, competent and effective complaint, investigation and enforcement processes, with a view to protecting the public interest and increasing public confidence in the profession.

## AREAS OF FOCUS

FPSC's Enforcement Department continues to focus on ensuring certificants are aware of, and are meeting, their professional obligations in the following key areas: client first obligations; disclosure obligations (including disclosure of potential conflicts of interest); client confidentiality; suitability of financial planning recommendations; and discovery of key client-specific information.

### Client first

FPSC certificants are required to always place their clients' interests ahead of all others.

### Conflicts of interest

FPSC certificants are required to disclose all potential and existing conflicts of interest, in writing, including conflicts of interest between clients in joint engagements.

A conflict of interest exists where the duties a CFP professional owes to his/her clients (including the Client First Duty in the FPSC® Code of Ethics) are in conflict or impacted by the duties or loyalty owed by the CFP professional to a third party or with the CFP professional's own interests. For example, a conflict of interest may exist where the CFP professional has a personal or financial interest in a client's business. In such circumstances, the personal or financial interest impacts the CFP professional's ability to provide objective advice to the client and/or put the client's interests first. CFP professionals should actively avoid situations that give rise to conflicts of interest, including but not limited to personal loans to a client or becoming involved as an investor or creditor in a client's business. As a matter of best practice, CFP professionals should decline to enter into a professional relationship with a client where there is an existing conflict of interest or where a conflict of interest is likely to materialize that cannot be mitigated.

### Confidentiality

FPSC certificants are obligated to maintain client confidentiality.

### Disclosure obligations

FPSC certificants must disclose in writing, among other things all sources of compensation including referral fees, area and scope of practice and potential conflicts of interest. The FPSC® Rules of Conduct require full transparency and written disclosure.

### Suitability

FPSC certificants are required to only make recommendations and implement strategies that are both prudent and appropriate for the client.

CFP professionals must decline to implement strategies that are neither prudent nor appropriate, where such strategies will materially and negatively impact the client's best interests. A client's request for a strategy or action cannot override the CFP professional's obligation under this Rule.

### Discovery of key client information

FPSC certificants should meet on a regular basis with the client or identify changes in the client's personal and financial circumstances that may impact recommendations and financial planning strategies.

# COMPLAINT STATISTICS

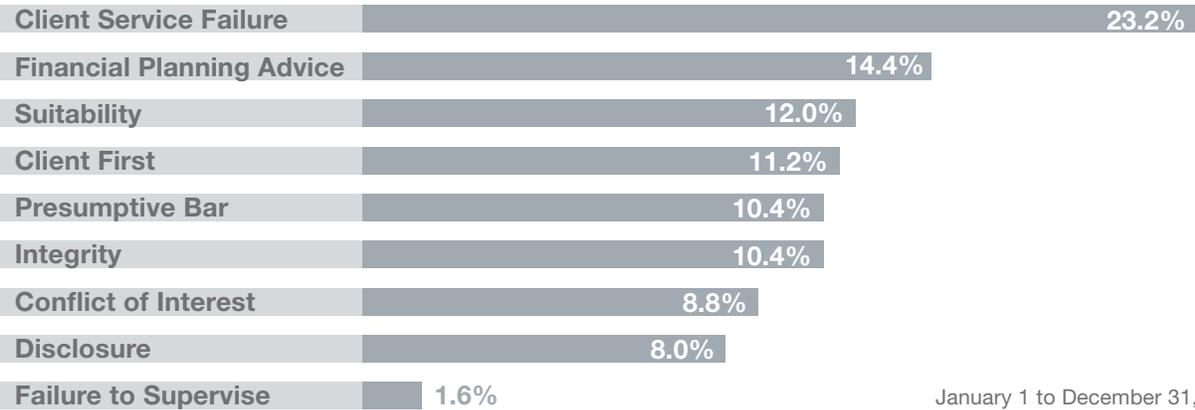
## 2017 AT A GLANCE

76 Complaints Received

38 Complaints Referred to Conduct Review Panel

14 Complaints Referred to Hearing Panel

### Complaint Allegations (Combined)



January 1 to December 31, 2017

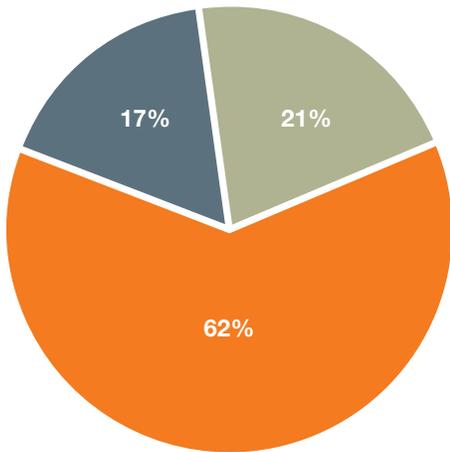
Top 5 Public Complaint Allegations	
2016	2017
Financial Planning Advice (28%)	Disclosure (20%)
Disclosure (19%)	Client Service Failure (20%)
Suitability (16%)	Conflict of Interest (20%)
Client Service Failure (13%)	Financial Planning Advice (20%)
Client First (13%)	Integrity (10%)

Top 5 FPSC Complaint Allegations	
2016	2017
Client Service Failure (30%)	Client Service Failure (44%)
Integrity (15%)	Client First (16%)
Client First (12%)	Financial Planning Advice (15%)
Suitability (12%)	Suitability (8%)
Financial Planning Advice (11%)	Conflict of Interest (8%)

In 2017, FPSC saw an increase in public complaints regarding the suitability of financial planning advice.

In 2017, 53% of the public complaints received by FPSC were reported to FPSC alone, not to another regulatory body or self-regulatory organization. 47% were concurrently reported, by the complainant, to FPSC and an SRO or other regulatory body.

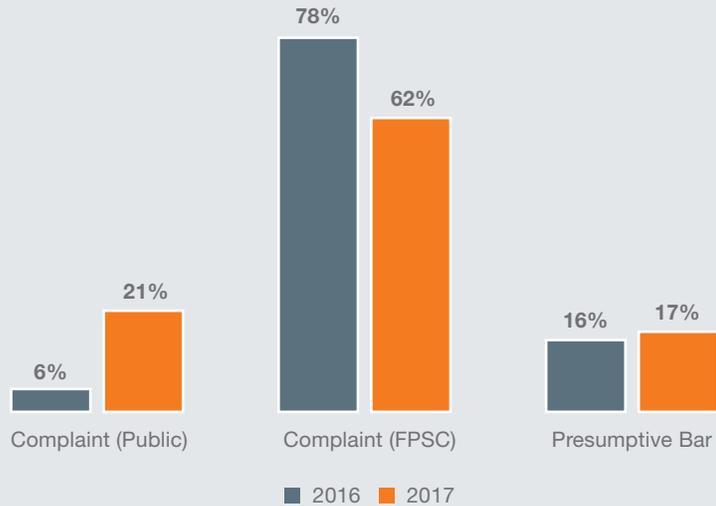
## COMPLAINTS RECEIVED



- Complaint (Public)
- Complaint (FPSC)
- Presumptive Bar

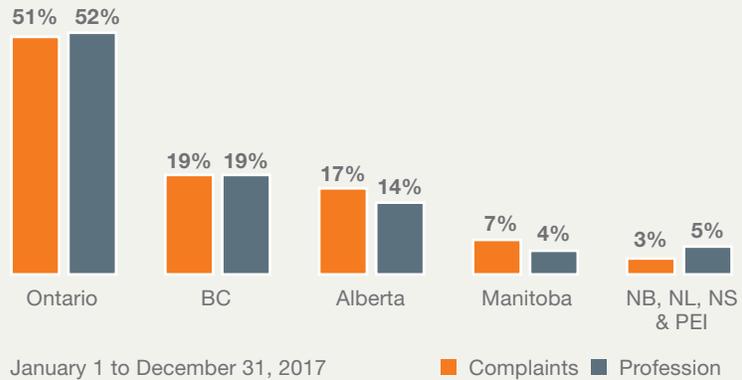
January 1 to December 31, 2017

### Comparison of Complaints Received 2016 & 2017



In 2017, FPSC saw a threefold increase in number of public complaints received over 2016.

### Subject of Complaint: Geographic Region

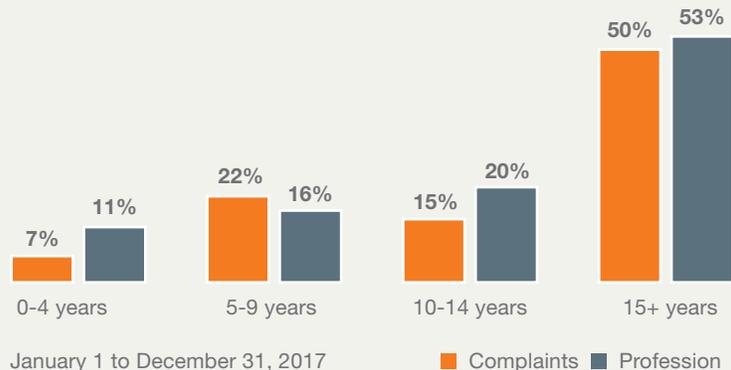


January 1 to December 31, 2017

■ Complaints ■ Profession

While FPSC did receive a higher percentage of complaints involving individuals who have been certified in excess of 15 years, the percentage of complaints received was proportionate to the ratio of individuals who have been certified for this length of time.

### Subject of Complaint: Years Certified



January 1 to December 31, 2017

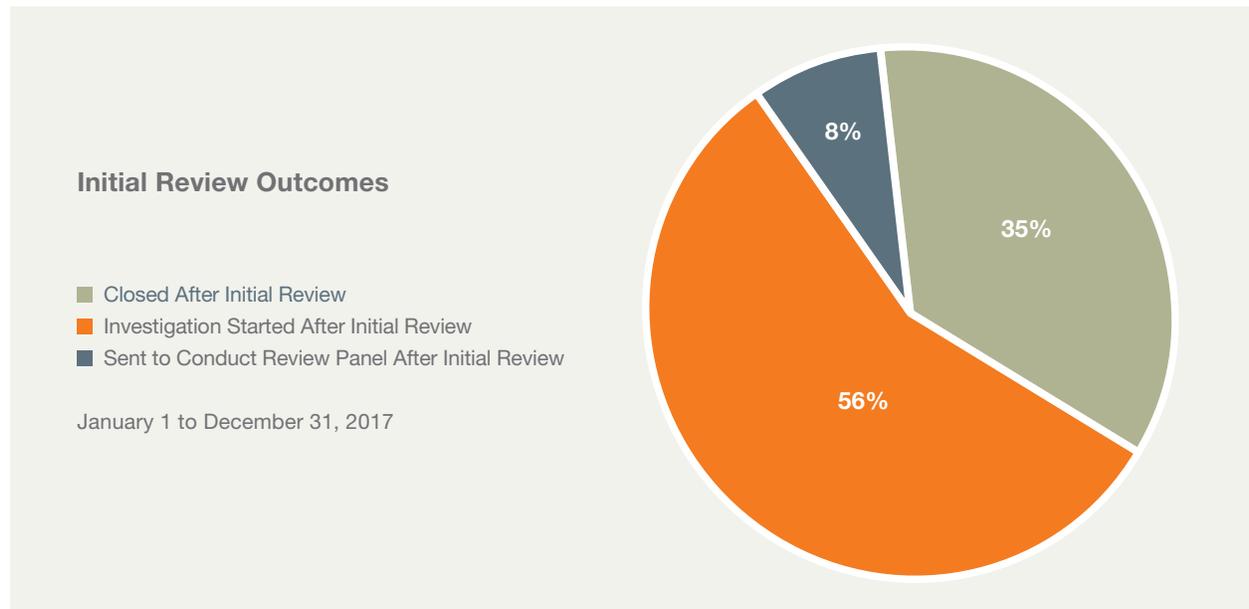
■ Complaints ■ Profession

# FPSC'S ENFORCEMENT PROCESS

## 1. Intake and Initial Review:

All complaints are subject to an initial assessment to determine if the complaint raises allegations that may, if shown to be true, demonstrate a potential violation of the *Standards of Professional Responsibility*.

The purpose of this stage is to determine whether the issues raised fall within FPSC's jurisdiction (the allegations must relate to an individual who was an FPSC certificant at the relevant time) and whether the allegations raise a reasonable suspicion that the individual may have engaged in conduct that would breach the *Standards of Professional Responsibility*.



## 2. Investigations

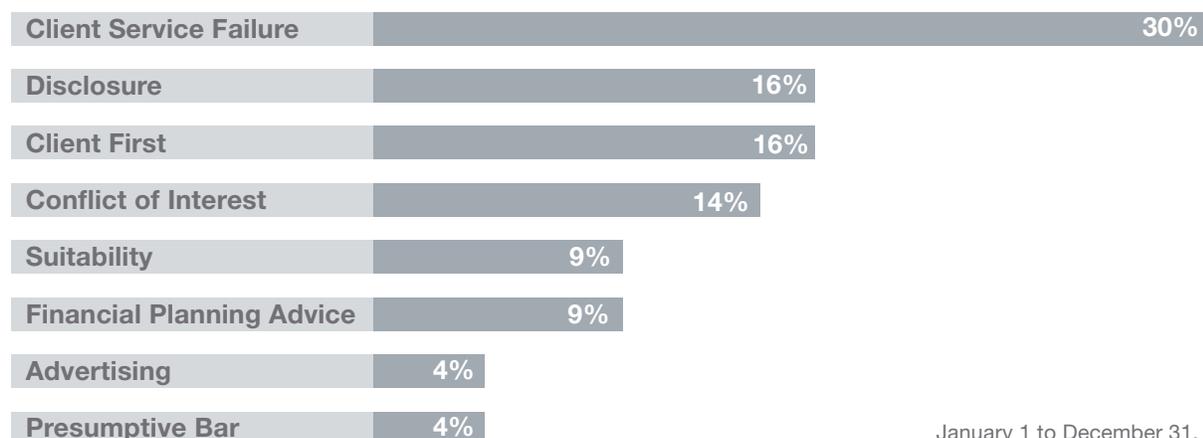
### Investigations may be commenced:

1. By FPSC, as a result of an alleged breach of the FPSC<sup>®</sup> Code of Ethics or FPSC<sup>®</sup> Rules of Conduct;
2. By FPSC, as a result of presumptive bar under the FPSC<sup>®</sup> Fitness Standards;<sup>4</sup> or
3. As a result of a public complaint to FPSC.

The Managing Director, Standards has the authority to initiate investigations when information comes to FPSC's attention that suggests that a certificant engaged in conduct that may breach the *Standards of Professional Responsibility*.

Where it is determined that there are sufficient grounds to commence an investigation, the certificant who is the subject of the complaint is notified and invited to respond to the allegations. All information and documentation provided by the certificant and the complainant is reviewed and considered. Additional information may also be obtained through interviews and from witnesses.

### Investigations Instructed: Allegations



January 1 to December 31, 2017

### Exceptional Circumstances

Pursuant to the *Disclosure of Investigations and Interim Suspensions* policy, FPSC staff has the ability to obtain interim suspensions at the investigation stage, in exceptional circumstances and as necessary to protect the public.

In addition, where a certificant fails to respond to FPSC's communications or cooperate with an investigation, staff may refer the matter to a Hearing Panel. A Hearing Panel finding that the certificant failed to cooperate may result in a suspension of certification.

<sup>4</sup>A presumptive bar to continued certification may come to FPSC staff attention as a result of a self-declaration by an FPSC certificant (in accordance with the professional obligations to report) or as a staff member proactively identifying a triggering circumstance. FPSC proactively monitors a number of regulatory feeds.

### 3. Review by the Conduct Review Panel

The Conduct Review Panel—an independent Panel composed of CFP professionals and members of the public—meets approximately every two months to determine the appropriate disposition of complaints, in the public interest.

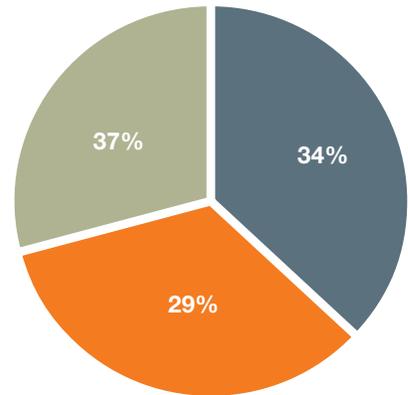
**The Conduct Review Panel may in the case of an alleged breach of the Code of Ethics, Practice Standards and/or Rules of Conduct:**

1. Dismiss the matter;
2. Dismiss the matter with a letter of Guidance and Advice; or
3. Refer the matter to a Hearing Panel.

**In the case of an alleged breach of the Fitness Standards, the Conduct Review Panel may:**

1. Allow the certification where it is determined the conduct is not a bar to certification and, where appropriate, recommend Guidance and Advice; or
2. Deny certification and refer the matter to a Hearing Panel.

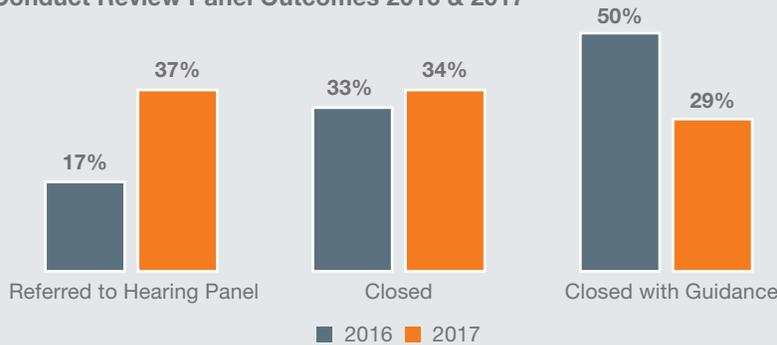
**Conduct Review Panel Outcomes**



■ Referred to Hearing Panel  
■ Closed  
■ Closed with Guidance

January 1 to December 31, 2017

**Conduct Review Panel Outcomes 2016 & 2017**



In 2017, the number of complaints that were reviewed by the Conduct Review Panel doubled, from 18 in 2016 to 38 in 2017.

**In 2017, Guidance was issued in the following areas:**

- Conflict of interest
- Failure to perform due diligence
- Failure to make adequate inquiries of a power of attorney regarding withdrawals
- Signature falsification
- Inaccurate and misleading product recommendations or advice
- Compliance with regulatory rules relating to the use of blank-signed forms
- Criminal offense

Anonymized Letters of Guidance and Advice from the panel are published on FPSC’s website in and serve as notice to the public and FPSC certificants regarding the type of conduct that is of concern.

## 4. Disciplinary Hearings (as directed by the CRP)

### Where there is a finding of misconduct, the Hearing Panel may:

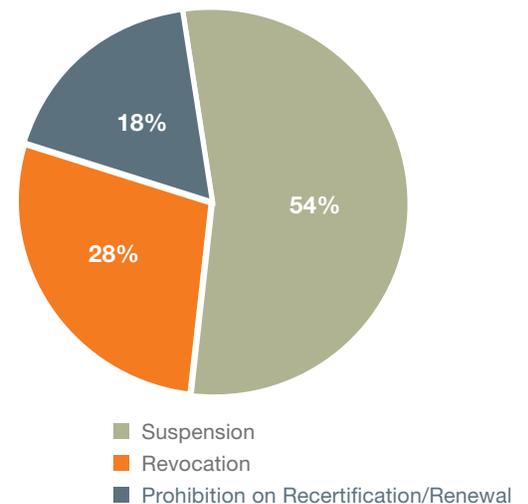
- Issue a Letter of Admonishment
- Impose a remedial action plan
- Suspend FPSC certification
- Ban an individual from seeking renewal or reinstatement of certification
- Revoke FPSC certification
- Award costs against the certificant

FPSC Hearing Panels consist of three members of the Hearing Panel Roster and include, at a minimum, two CFP professionals.

FPSC certificants are afforded a full opportunity to respond and participate in the hearing process. Certificants are afforded an opportunity to challenge the allegations before the Hearing Panel and to submit written and/or oral evidence to the Hearing Panel, either directly or with the assistance of counsel.

In accordance with FPSC's [Policy on the Publication of Disciplinary Information](#), all decisions issued by a Hearing or Appeal Panel are published on FPSC's website. A certificant's disciplinary history is linked to the [Find a Planner or Certificant](#) tool on FPSC's website and a publicly accessible, historically searchable database is maintained by FPSC.

**Hearing Panel Penalty Decisions Issued in 2016 and 2017**



### In 2017, matters that were referred to a Hearing Panel involved the following allegations:

- Financial Planning Advice
- Suitability
- Presumptive Bar
- Conflict of Interest
- Disclosure
- Client First
- Client Service Failure
- Forgery
- Failure to Supervise

In 2017, 63% of certificants were represented by counsel at the hearing stage.

## **PARTNERSHIPS, IN THE PUBLIC INTEREST**

Because FPSC certificants often hold more than one credential, or at least one financial services license, FPSC works closely with other certifying, licensing and regulatory organizations, where appropriate. Cooperative enforcement practices and information sharing agreements assist the public by supporting seamless enforcement across various bodies.

In addition to the agreements with regulatory bodies highlighted below, FPSC has entered into information sharing agreements with various education providers who offer FPSC-Approved Core Curriculum and/or FPSC-Approved Capstone Courses.

### **Memorandum of Understanding with the Insurance Council of British Columbia**

In May 2016, FPSC entered into a Memorandum of Understanding with the Insurance Council of British Columbia (ICBC). As a result, FPSC and ICBC have agreed to share information about upcoming hearings and disciplinary outcomes involving individuals who are dually certified and licensed by FPSC and the ICBC, respectively.

In addition, in certain circumstances, FPSC and ICBC may share information about specific complaints received. The two organizations will also inform complainants about each other's mandate where appropriate, thereby assisting consumers in having their concerns heard and resolved.

Among other collaborative actions, ICBC will be reporting trademark violations to FPSC, as well as insurance license suspensions, which constitute a presumptive bar to continued or new certification from FPSC.

### **Memorandum of Understanding with the Ontario Securities Commission**

In October 2017, the Ontario Minister of Finance approved a Memorandum of Understanding (MOU) between FPSC and the Ontario Securities Commission (OSC).

The MOU supports a framework for cooperation between FPSC and the OSC that will assist in the effective delivery of each organization's respective mandate. Under the MOU, FPSC and the OSC will cooperate in numerous areas, including:

- Notifying each other about matters that are materially relevant to their respective mandates;
- Sharing information regarding registration/certification, compliance and enforcement activities, where appropriate and in the public interest;
- Exchanging information related to regulatory and investigatory approaches and best practices that are of mutual interest; and
- Undertaking joint education or advocacy activities relating to financial planning or securities issues.

Greater transparency and increased direct cooperation between FPSC and the OSC will allow each organization to act in the most timely and efficient manner, improving oversight and strengthening consumer protection.

## ABOUT FPSC

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. With FPSC's formal partnership with the Institut québécois de planification financière (IQPF), which is the only organization authorized to certify Financial Planners in Québec, there are more than 23,500 Financial Planners in Canada who have met, and continue to meet, FPSC's standards. More information is available at [FPSC.ca](http://FPSC.ca) and [FinancialPlanningForCanadians.ca](http://FinancialPlanningForCanadians.ca).

## FINANCIAL PLANNING STANDARDS COUNCIL

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