

# Policy on the Disclosure of Investigations and Interim Suspensions

Updated September, 2014



## PURPOSE

The purpose of this policy is to protect the public interest, and promote fairness and transparency, by establishing guidelines for disclosure of investigations and interim suspensions in exceptional circumstances.

## SCOPE

Investigations refers only to investigations conducted by FPSC Staff (Staff). It does not include those instances in which Staff is requested or required to participate in reviews or investigations conducted by other regulatory bodies.

## OBJECTIVE

Ensure that the disclosure of FPSC investigations is made in only exceptional circumstances where the protection of the public warrants it, and that such disclosure is made in a fair manner that considers the rights of both the public and the CFP® professional or FPSC Level 1® Certificant (collectively FPSC Registrants) involved.

## RESPONSIBILITIES

The Director, Standards and Enforcement shall make recommendations to the Board of Directors for approval of disclosure of an investigation and where appropriate, the immediate interim suspension of an FPSC Registrant's certification in accordance with the provisions of this Policy.

The Enforcement Policy Committee will review this policy from time to time and recommend any changes required to the Board of Directors as needed for approval.

## GUIDELINES FOR DISCLOSURE OF INVESTIGATIONS AND INTERIM SUSPENSIONS

### General Policy on Disclosure of Disciplinary Proceedings

As a general rule, there is no public disclosure by Staff of information about an on-going or a closed investigation. This position is based primarily on the following factors:

- Potential prejudice to the investigation;
- Potential prejudice to those who are under investigation; or
- Restrictions imposed by the provisions of confidentiality detailed in the FPSC Privacy Policy.

### Disclosure of Investigations – Exceptional Circumstances

Staff may disclose the name of the FPSC Registrant who is under investigation in the following, exceptional circumstances:

- Protection of the public outweighs factors favouring non-disclosure (e.g. where there is apparently credible evidence of continuing fraudulent behaviour, and non-disclosure would be likely to result in losses to members of the public). This can also be triggered during the course of an investigation, where the amount of information gathered reaches a level such that lack of disclosure would be prejudicial to the public;
- A criminal investigation for possible criminal activity is underway at the same time as an FPSC investigation;

- The investigation relates to conduct or issues that are substantially in the public domain and there are credible allegations which engage the enforcement jurisdiction of FPSC. Confidence in the CFP designation may be harmed by failure to confirm that the matter is under FPSC consideration;
- A similar investigation by another regulator or law enforcement agency has been disclosed regarding the same individual or individuals; or
- The FPSC Registrant has disclosed the FPSC investigation. FPSC may confirm and, if necessary, correct any misleading or inaccurate information disclosed by the FPSC Registrant.

### Interim Suspension

The Director may recommend suspension of the FPSC Registrant's certification pending the investigation and adjudication of the matter if there are reasonable grounds to believe:

- That there is a significant risk of harm to members of the public or public interest, and
- The suspension of the FPSC Registrant's certification would be likely to reduce such risk.

### Recommendation to the Board

Once a determination has been made by the Director, Standards and Enforcement that an exceptional circumstance exists in accordance with the above Guidelines, a recommendation will be made to disclose the investigation and where appropriate, suspend the FPSC Registrant's certification pending the conclusion of the investigation and adjudication of the matter. A special meeting of the Board shall be convened to consider the recommendation and make a determination based on balancing the public interest with the prejudice that disclosure and suspension may have on the FPSC Registrant.

### Manner of Disclosure

Disclosure of an investigation and where applicable, the suspension of the FPSC Registrant's certification shall be made on the FPSC website and in the FP Standard, and in such other proprietary or media publications as Staff deems appropriate.

### Right to Hearing

Where the FPSC Registrant's certification has been suspended pursuant to this policy, the FPSC Registrant may request a hearing on the matter of the suspension by a Hearing Panel of the Enforcement Policy Committee to occur within 30 days of the effective date of the request.

### Conclusion of Investigation

Where, at the completion of a publicly disclosed investigation, no further proceedings or discipline action will be taken, Staff will make public notice of such outcome. Where a breach of the FPSC Code of Ethics or FPSC Rules of Conduct, pursuant to the *Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1® Certificants in Financial Planning* has been found and disciplinary measures have been taken, in accordance with the provisions of the Disciplinary Rules and Procedures, such disciplinary measures shall be made public in accordance with the FPSC Policy on the Publication of Disciplinary Information and Interim Suspensions.

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