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VIA the FSRA website

October 26, 2020

Re: Proposed Rule [2020-001] – *Financial Professionals Title Protection* (the “Proposed Rule”)

The Investment Industry Association of Canada (the “IIAC”) appreciates the opportunity to provide input to the Financial Services Regulatory Authority of Ontario (“FSRA”) on its Proposed Rule, which introduces minimum standards for use of the Financial Planner (“FP”) and Financial Advisor (“FA”) titles in Ontario.

The IIAC’s 115 IIROC-regulated investment dealer member firms are the key intermediaries in Canadian capital markets, account for the vast majority of financial advisory services, securities trading and underwriting in public and private markets for governments and corporations. The IIAC provides leadership for the Canadian securities industry with a commitment to a vibrant, prosperous investment industry driven by strong and efficient capital markets.

As outlined in previous stakeholder consultations and our submissions to both the Ontario government and the Expert Committee, the IIAC supports additional clarity and standardization for the provision and supervision of financial planning in the industry. We recognize that there are many individuals who may hold themselves out as financial planners but may not have the necessary proficiency requirements and appropriate oversight.

Clarity and protection for investors being served by a wide variety of people who call themselves financial planners is welcome. It is imperative to ensure that those involved in financial planning have the necessary proficiency and meet minimum acceptable standards, thereby increasing confidence in the Canadian capital markets. This would be beneficial for all industry participants and, most importantly, for Canadian investors.

General Comments

Under section 2 of the *Financial Professionals Title Protection Act, 2019* (“FPTA”) there is a restriction on the use of the titles “financial planner” or “financial advisor”, as well as titles that could reasonably be

confused with such titles. From discussions with FSRA, we understand that this is meant to capture different spellings of the term “financial advisor”, such as “financial adviser”. However, we are unclear what other titles could reasonably be confused with the above titles. For example, would titles such as “investment advisor” and “securities advisor” or “estate planner” and “financial planning consultant” reasonably be confused with, respectively, the financial advisor or financial planner title? The IIAC requests that FSRA consider issuing guidance to clarify the titles that section 2 of the FPTA is intended to address. Given the fact that many of these titles are generally accepted titles for IIROC registrants, we request that FSRA engage in additional consultation with the industry before such guidance is released.

FP and FA Credentials

1. FSRA is seeking feedback on the above approach and whether the Proposed Rule and FP and FA baseline competency profile adequately reflect the technical knowledge, professional skills and competencies that should be included in a credentialing body’s education program to establish the minimum standard for FP and FA title users.

The IIAC has some concerns with the competency profiles set out in Tables 1 and 2 of the Notice of Proposed Rule and Request for Comment (the “Notice”). Both Tables are intended to set out FSRA’s understanding of the different skill sets, competencies and technical knowledge needed for FP and FA title users.

In our view, Table 1 Financial Planner Baseline Competency Profile, does not adequately reflect activities of persons who deliver financial plans. For example, many FPs would not examine a client’s risk profile but would gather information, including the risk tolerance of the client. Similarly, some FPs will not do a periodic review of the client’s ongoing objectives, priorities and areas of need as these FPs would not have an ongoing relationship with the client, but instead meet them to prepare a one time financial plan that may be reviewed if there is a change to their personal and financial circumstances.

In addition, under the technical knowledge component, a FP may not necessarily undertake a risk management review. Furthermore, we are unclear why this section on technical knowledge refers to KYP.

We believe this Table blurs the line between the role and activities of an investment counsellor or investment advisor and that of a FP. Similarly, this Table seems almost identical to Table 2 Financial Advisor Baseline Competency Profile.

The IIAC suggests, for better clarity, that FSRA consider incorporating a discussion of the role of a letter of engagement (or similar form of disclosure), which speaks to client outcomes and specifically, what services a client will receive from the FP.

With respect to Table 2, Financial Advisor Baseline Competency Profile, there are some elements, such as those set out in the technical knowledge (KYP) component that advisors at IIROC firms would not undertake. This includes tax planning as many members make it clear to clients that they do not provide tax advice and should seek external tax advice from a third party. In addition, on the subject of insurance, advisors are not permitted to engage in insurance activities unless they have the required proficiency and

licensing. Furthermore, IIROC and securities regulators have requirements surrounding misleading communications, which outlines that advisors are not permitted to indicate a level of proficiency that is misleading (see the further discussion of misleading communications below).

Thus, we believe that Table 2 needs to be re-evaluated. We would suggest that FSRA review IIROC's recently released consultation IIROC Notice 20-0174 Consultation Paper - *Competency Profiles for Registered Representatives and Investment Representatives, Retail and Institutional*. These profiles capture the general knowledge advisors should have when initiating and maintaining client relationships, the specific regulatory obligations they should have an in-depth knowledge of, and the technical knowledge they should have in order to fulfill their responsibilities.

While IIROC's competency profiles may not be directly applicable to, for example, MFDA registrants, we believe it is a useful tool when re-examining Table 2 to ensure it adequately reflects the proficiencies a financial advisor should have, and which ones should not be included.

Related to the above point, IIROC members are still unclear as to who a FA is meant to encompass, making it more challenging to make a determination as to what competency profiles would be most appropriate. Greater clarity as to the definition of FA is necessary. We note that the Notice does acknowledge that the FA title is broad in scope and varies widely and such individuals can include life insurance agents, bank employees as well as those who already hold a financial services designation or are licensed by an SRO. Clearly articulating whom FSRA envisions as FA title users would be helpful.

Disclosure

2. FSRA is seeking comments on whether FP and FA title users should be required to disclose to their clients the credential they hold that affords them the right to use an FP or FA title. FSRA is seeking feedback on the form that this disclosure could take and the overall consumer benefits it could achieve.

The IIAC supports FP and FA title users disclosing their credentials, but we do not believe an additional disclosure requirement is necessary nor warranted. We expect licensed individuals to certainly discuss their credentials with clients at an introductory meeting, outlining the advisor's proficiency and experience. It should also be noted that under the Client Focused Reforms, section 13.18 of National Instrument 31-103 prohibits registrants in their client-facing relationships from using titles or designations that could reasonably deceive or mislead, give rise to unintended expectations or create an unfounded feeling of trust, reassurance or prestige. The securities regulators also note that any registrant using certain titles must be appropriately qualified and competent in that area. In addition, IIROC firms usually maintain lists of approved titles and designations consistent with the role/product/services/registration for use in business cards, websites and marketing materials. As securities registrants, we believe these requirements are more than sufficient to inform and protect our clients.

We suggest that FSRA consider a service such as IIROC's *AdvisorReport* that members of the public can access and verify the advisor's background, qualification and disciplinary information. The Autorité des marchés financiers also has a similar service.

Exemptions

3. FSRA is seeking comments on whether the framework should allow for any exemptions. In particular, FSRA is requesting comments on the principles governing an exemption regime, the extent to which exemptions may be required, to whom they should be made available (if at all), and the benefits and drawbacks of permitting exemptions.

The IIAC requests that FSRA consider an exemption for both IIROC and MFDA registrants. We note that FSRA has stated its commitment to avoid duplicative oversight and unnecessary regulatory burden on market participants, yet this framework will do exactly that for SRO registrants.

The SROs, with the mandate of protecting investors and the integrity of the Canadian capital markets, have rigorous proficiency requirements and business and financial conduct oversight of their registrants.

In previous submissions, the IIAC advocated for an exemption for both FPs and FAs employed by registrants who are subject to the oversight of an SRO and either:

- i) hold a recognized financial planning credential from a recognized credentialing body (for FP title users); or
- ii) include specificity as to the services the individual is licensed to provide (for example, Financial Advisor – Investments or Financial Advisor - Insurance).

Such an approach achieves the stated intention to enhance consumer protection without introducing unnecessary regulatory burden, while being mindful of the current regulatory oversight of licensees and registrants.

It is important to note that today, IIROC and the MFDA do not bestow the FP title, credentials or designations on individuals using the FP title. The credentialing bodies are and will continue to be FP Canada and IQPF (Québec) for both SRO registrants and non-SRP, FP-only persons.

Fees and Assessments

4. The FPTPA requires credentialing bodies to collect from approved credential holders any fees FSRA requires those individuals to pay, and to remit those fees to FSRA. FSRA has the authority to make rules regarding the collection, holding and remittance of such fees. FSRA is seeking comment on this fee structure, including whether it allows for fair cost recovery, or if there are any operational challenges that credentialing bodies may experience with such a fee structure.

We support FSRA's approach to fees based on the principles of simplicity, consistency, fairness, effectiveness and efficiency. However, given the lack of specificity surrounding the fee structure, the IIAC would like greater detail before providing comments. When considering the details, we wish to highlight the importance of keeping fees low or providing a reduced fee to those SRO registrants currently subject to SRO fees.

Consumer Education

5. FSRA is seeking input on options for consumer education campaigns to support and follow implementation. As mentioned above, FSRA is also seeking feedback from stakeholders on how government, regulators, credentialing bodies and industry can educate consumers on financial planning and financial advising services in Ontario and on FP and FA title use.

The IIAC agrees that consumer education is important and a component of that relates to transparency as to what FSRA is undertaking. It is necessary that the public is made aware of the changes being made for their benefit and this includes why the title protection framework is being created and what outcomes FSRA hopes to achieve in language that is clear and concise.

Furthermore, the general public needs additional education as to what financial planning and financial advising means and the activities undertaken by individuals using these titles.

Thank you for considering our submission. We would be more than pleased to meet with FSRA to respond to any questions that you may have.

Yours sincerely,

A handwritten signature in cursive script that reads "M. Alexander".