



PAUL C. BOURQUE, Q.C., ICD.D / c.r. IAS.A
President and CEO *Président et chef de la direction*
pbourque@ific.ca 416 309 2300

November 12, 2020

Delivered through FSRA submission system

Financial Services Regulatory Authority of
Ontario
5160 Yonge Street, 16th Floor
Toronto, Ontario
M2N 6L9

Dear Sirs and Mesdames:

RE: Proposed Financial Professionals Title Protection Rule and Guidance

The Investment Funds Institute of Canada (**IFIC**) is pleased to comment on the Financial Services Regulatory Authority of Ontario's (**FSRA**) proposed *Financial Professionals Title Protection* rule (the **Proposed Rule**) and associated guidance. IFIC appreciates the policy objectives of the Proposed Rule and commends FSRA for taking action to strengthen consumer confidence by introducing a minimum standard for the use of the financial planner (**FP**) and financial advisor (**FA**) titles.

IFIC is the voice of Canada's investment funds industry. IFIC brings together 150 organizations, including fund managers, distributors and industry service organizations to foster a strong, stable investment sector where investors can realize their financial goals. IFIC works collaboratively with industry representatives, regulators, governments and investor advocates to help cultivate a system that is fair, secure and efficient for all stakeholders.

IFIC operates on a governance framework that gathers member input through working committees. The recommendations of the working committees are submitted to the IFIC Board or board-level committee for direction and approval. This process results in a submission that reflects the input and direction of IFIC members.

In addition to the questions for consideration and comment, which are addressed in Appendix A, we would like to offer some general feedback on the Proposed Rule. IFIC also submitted a proposal to the Canadian Securities Administrators on Title Reform¹ that contains additional information. The submission proposed some guiding principles to improve upon the current use of titles that may be useful as FSRA considers its next steps.

Exempt SRO Members

The Notice of Proposed Rule and Request for Comment (**Notice**) indicates that a primary objective of the title protection framework is to create minimum standards for title usage, without creating unnecessary burden for title users. IFIC fully supports this objective, however, it is not clear how the Proposed Rule intends to accomplish this objective without including an explicit exemption for individuals who are already

¹See [IFIC Submission CSA Title Reform Proposal September 14, 2018](#)

subject to a regulatory framework that meets or exceeds the proposed standards and expectations. The lack of an explicit exemption creates the possibility of duplicative and confusing rules, which is contrary to the stated objective.

The Mutual Fund Dealers Association of Canada (**MFDA**) and the Investment Industry Regulatory Organization of Canada (**IIROC**) (collectively the **SROs**) require their approved persons to meet a minimum standard of education, training and experience before performing registerable activities². The minimum requirements to conduct registerable activities are substantially similar to the proposed minimum standards for using the FA title. As such, all SRO registrants should be able to use the FA title without any additional costs or oversight from a credentialing body.

Similarly, the SROs have rules³ that prohibit individuals from holding themselves out in a manner that could be deceptive or misleading. This prohibition includes using a business title or financial designation without the required proficiency or qualifications. SRO members generally preclude individuals from using the FP title unless they have obtained a recognized financial planning designation, which again aligns with the expectations set out in the proposed rule.

It is worthwhile to note that, while the Proposed Rule seeks to regulate only the use of the FP and FA titles, the SRO⁴ rules look beyond the title to address both how an individual holds themselves out as well as the activities being conducted. In evaluating appropriate business titles, SRO members are expected to consider a range of factors including:

- the role and function the individual is approved to undertake;
- the services and/or products that an individual is approved to sell and/or advise on;
- the qualification, education and experience of the individual; and
- the actual role, function and office held by the individual.

Lastly, it is important to acknowledge that in addition to day-to-day supervision by the member firm, regular business conduct exams are conducted by the applicable SRO to help ensure a high standard of conduct by its members and approved persons. Furthermore, SROs are subject to oversight by the statutory regulators who ensure the SROs continue to develop and uphold acceptable standards to protect investors.

Given the existing SRO regulatory framework, we submit that any incremental requirements, oversight or costs to SRO members would be duplicative and unnecessary. As such, SRO members, approved persons and their staff should be exempt from the Proposed Rule.

Consider Relationship Disclosure Information

IFIC supports FSRA's intention to enhance consumer confidence by creating a minimum standard for the use of the FP and FA titles. Critical to the success of this initiative is the ability of consumers to understand what services and capabilities they should expect from an individual who uses the FP or FA title. However, in our view, creating a minimum standard for an indeterminate activity may introduce confusion and uncertainty rather than provide greater confidence in the quality of service being provided by individuals using the FP and FA titles.

An FP is commonly understood to be a type of financial advisor who helps create a plan to reach one or more financial goals. Financial planners may offer a variety of services or may limit the services they offer to specific areas⁵.

² See IIROC Dealer Member Rules 18 and 2900, MFDA Rule 1.2

³ See IIROC Dealer Member Rules 18.16 and 29.7, MFDA Rule 1.2.5

⁴ As an example, refer to [IIROC Notice 14-0073](#)

⁵ See [FCAC website - Choosing a financial advisor](#)

An FA is a more general term that is commonly used by anybody who helps consumers manage their money⁶. Given that both the FA title and the minimum standard for using the title are quite broad, the nature and scope of the expected activity may not be readily apparent to the average consumer.

To provide valuable clarity to consumers, securities registrants⁷ provide their clients with relationship disclosure information that includes a description of the products and services they will offer their clients. The relationship disclosure information provides clarity for clients of securities registrants and supports the recommendation that SRO members, their approved persons and staff should be exempt from the proposed rules.

To ensure consumer clarity, it may be prudent to consider the extent to which title users who are not securities registrants provide similar transparency to their clients.

Undertake a Regulatory Impact Analysis

Section 22(2) of the *Financial Services Regulatory Authority of Ontario Act, 2016* requires a qualitative and quantitative analysis of the anticipated costs and benefits of a proposed rule. We believe this is an important step in the rule-making process. We encourage FSRA to adopt a fulsome regulatory impact analysis, in addition to a robust cost-benefit analysis process, as outlined in the IFIC submission to OSC Staff Notice 11-784 *Burden Reduction*⁸. A robust cost-benefit analysis should take into consideration the anticipated costs and benefits for various stakeholders, particularly where a proposed rule may overlap with existing regulation.

Consult on Equivalent Titles

The Proposed Rule intends to restrict the use of the FP and FA titles, as well as equivalent or other titles that could reasonably be confused with such titles. Determining which titles are equivalent or could reasonably be confused with an FP or FA title is a highly-subjective exercise.

While it is reasonable to assume that the Proposed Rule intends to capture titles such as “advisor” and “adviser”, if FSRA intends to consider a broader range of titles, it would be prudent to engage industry stakeholders in advance to consult on which titles are equivalent to, or could reasonably be confused with, the FA and FP titles.

* * * * *

IFIC appreciates the opportunity to provide feedback on the Proposed Rule and guidance. We would be pleased to provide further information or answer any questions you may have. Please feel free to contact me by email at pbourque@ific.ca or by phone at 416-309-2300.

Yours sincerely,

THE INVESTMENT FUNDS INSTITUTE OF CANADA



By: Paul C. Bourque, Q.C, ICD.D
President and CEO

⁶ See [FCAC website - Choosing a financial advisor](#)

⁷ “securities registrants” will include SRO members and approved persons as well as firms and individuals directly registered with the statutory regulator.

⁸ See [IFIC Submission OSC Staff Notice 11-784 Burden Reduction March 1, 2019](#)

APPENDIX A

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.**

IFIC supports the intent and the general approach taken by FSRA. However, we believe that there are some key elements that have not been fully contemplated.

The relationship between a consumer and an FP or FA may be an on-going relationship or it may be a limited engagement for a defined purpose. The ability to use an FP or FA title should not be diminished or impaired by the length of the relationship with the client.

Each of the competency profiles expects the title user to be able to develop and present suitable investment recommendations. The provision of suitable financial planning strategies or financial advice may be independent of providing a specific investment recommendation. As such we recommend that the FP competency profile be amended to refer to the provision of financial planning or investment recommendations, and the FA competency profile be amended to refer to the provision of suitable financial or investment recommendations.

Technical knowledge has been referred to in the competency profiles as "KYP". As noted above, the provision of financial planning strategies or financial advice may be independent of providing a specific investment recommendation. Accordingly, reference to Know Your Product (KYP) should be removed.

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.**

If the qualifying credential to use an FP or FA title is a relevant industry designation, such as the CFP, it is customary for an individual to note the designation after their name. This should continue to be an acceptable practice.

While we do not generally object to title holders disclosing their qualifying credentials, we do not believe that this disclosure should be required.

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.**

SRO members, their approved persons and staff should be exempt from the Proposed Rule. As previously noted, the current regulatory framework set out by the SROs is sufficient to meet the objectives of the Proposed Rule. Subjecting SRO members to additional fees and oversight will not provide any incremental benefit to consumers, but will result in unnecessary regulatory burden and costs for title users.

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.**

SRO members, their approved persons and staff should be exempt from any additional fees as we believe the existing SRO regulatory framework achieves the intended outcome without any additional regulatory burden or costs.

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.**

Consumer education will be an important aspect of implementing the Proposed Rule. However, to increase consumer confidence, consumers will need to understand what services and capabilities they should expect from someone using the FP or FA title as well as the minimum standard for using those titles. The provision of relationship disclosure information, similar to the disclosure required under securities legislation, should be considered to help consumers understand how a title user can help them achieve their financial goals, the scope of the services being provided, and what their qualifications are to conduct those activities.