



IIROC Response to the Financial Services
Regulatory Authority of Ontario Second
Request for Comment on:

Proposed Rule [2020 – 001]

Financial Professionals Title Protection

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Introduction

As a pan-Canadian self-regulatory organization (**SRO**), the Investment Industry Regulatory Organization of Canada (**IIROC**) mission is to protect investors and support healthy capital markets.

IIROC supports the objective of the *Financial Professionals Title Protection Act, 2019 (FPTPA)* and FSRA's goal to create minimum standards for the use of the Financial Advisor (**FA**) and Financial Planner (**FP**) titles¹ in Ontario, and the key principles of consumer confidence and regulatory effectiveness and efficiency.

IIROC [responded](#) to the first public consultation on the Financial Services Regulatory Authority of Ontario (**FSRA**) proposed title protection framework in November 2020.

Comments on the current public consultation

Our comments on FSRA's current public consultation cover the following themes:

- Investor protection
- Regulatory duplication
- Titles considered "in scope"
- Fee model and public registry focus on credentials, rather than titles
- Harmonization across Canada.

Investor Protection

We understand the complexities involved with establishing a new framework that (i) does not disrupt or disenfranchise regulated models that exist and operate effectively today, and (ii) for the non-regulatory organizations, acknowledges the existing "market-based" differences in their offerings, allowing them to continue to compete as long as they all meet certain minimum supervisory standards.

We offer the following comments for FSRA's consideration:

Proficiency standards

IIROC supports the objective to create minimum standards for the use of the FA and FP titles.

Existing proficiency and conduct standards imposed by conduct regulators such as IIROC, the MFDA and the OSC, are generally higher than those contemplated under the FSRA titling regime.

We are committed to high proficiency standards and believe that they help support investor protection and confidence in investment dealers and those registered individuals who provide financial advice and solutions to investors across Canada.²

¹ Throughout this document, wherever we refer to FA or FP titles, these would include similar titles, as confirmed by FSRA.

² IIROC has committed to setting and publishing competency profiles to bolster investor and industry confidence in the proficiency system and strengthen IIROC's proficiency regime - refer to IIROC Notice 20-0174 [Consultation Paper - Competency Profiles for Registered Representatives and Investment Representatives, Retail and Institutional](#).

Importance of consistent, high, supervision and enforcement requirements

The creation of multiple new Credentialing Bodies (CBs), with a wide range of established capabilities with respect to compliance and enforcement, could result in the codification of an un-level playing field, compromising investor protection and transparency. Consumers may not understand the differences between CBs, and any corresponding differences in investor protection.

We recommend that FSRA implement high minimum standards for CBs, to ensure appropriate and consistent levels of supervision and enforcement, and to avoid approving any organization as a CB, through terms and conditions, that do not meet appropriately high supervision and enforcement standards.

Information sharing between CBs and with regulators

Greater clarity is needed on how CBs will be required to interact with each other, and with regulators, with respect to sharing information related to complaints and enforcement actions. A requirement for non-regulatory CBs to defer to regulators when it comes to complaints or enforcement actions could help avoid inconsistent consumer experiences and confusion and potentially sub-optimal enforcement outcomes.

Situations where an individual using one of the FA or FP titles could avoid or delay enforcement sanctions by moving to another financial sector or CB should be avoided.

Regulatory Duplication

As a general principle, we believe that regulators should avoid introducing any new regulatory requirements that are duplicative to existing regulations and that do not add incremental benefit to investor protection or market integrity.

In relation to SROs, their dealers and registrants:

- Title protection is a part of conduct regulation, which is already part of the SRO mandate
- SROs are already subject to comprehensive CSA oversight across the country
- The Client Focused Reforms that will be effective on December 31, 2021, include a new Misleading Communications Rule
- The CSA has a title protection review initiative underway that is national in scope. IIROC dealers and registrants will be subject to any changes, consistently across the country.

Titles

FSRA has provided examples of which titles could reasonably be confused with the FA and FP titles, as well as examples of titles that likely would not be reasonably confused with the FA and FP titles. We are concerned that, given the number of titles that appear to be out of scope, additional consumer confusion may result.

Should FSRA decide to change their approach and/or include a longer list of titles, we encourage FSRA to include the new information in the next consultation for public consideration and comment.

Fee model and public registry focus on credentials, rather than titles

FSRA has indicated that they plan to charge CBs based on the number of individuals that hold credentials, rather than based on the number of individuals using the FA or FP title or dealing with the

public. This approach could have the unintended consequence of discouraging individuals who have no interest in using the FA or FP title from upgrading their knowledge and proficiency levels.

We look forward to FSRA providing more information through their upcoming public consultation on the proposed fee model, to advance our understanding of the practical implications for investors, CBs and industry stakeholders.

Harmonization across Canada

A harmonized, Canadian approach to title protection would deliver the best outcomes for investors, as well as dealers and registrants who operate in more than one province.

Collaboration with other provinces to create a national public registry would be beneficial, providing transparency and consistency for Canadian consumers of financial services.

Conclusion

We are continuing our analysis and engagement with stakeholders regarding the most effective ways to support consistent title protection in Ontario and the rest of Canada. We look forward to more information on the proposed fee model and continuing discussions with FSRA. We encourage the involvement of all stakeholders in the process.