Kenmar Associates
Investor Education and Protection

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Financial Services Regulatory Authority (Ontario)
https://www.fsrao.ca/engagement-and-consultations/financial-professionals-title-protection-rule-and-guidance

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**Financial Services Regulatory Authority of Ontario Notice of Proposed Rule and Request for Comment Proposed Rule [2020-001] Financial Professionals Title Protection** file:///F:/fcac/csa/FSRA%20FPFA_Rule_Public_Notice_2020_07_15.pdf

Kenmar Associates appreciates the opportunity to comment on the Proposed Rule. We are most impressed with the Financial Services Regulatory Authority of Ontario (FSRA) determination to obtain a fulsome input on the proposals.

Kenmar Associates is an Ontario-based privately-funded organization focused on investor education via on-line research papers hosted at www.canadianfundwatch.com .Kenmar also publishes *the Fund OBSERVER* on a monthly basis discussing investor protection issues primarily for investment fund investors. An affiliate, Kenmar Portfolio Analytics, assists, on a no-charge basis, abused investors and/or their counsel in filing investor complaints and restitution claims.

**"What may pass as a financial advisor in some instances may be a product salesperson, such as a stockbroker or a life insurance agent. A true financial advisor should be a well-educated, credentialed, experienced, financial professional who works on behalf of his clients as opposed to serving the interests of a financial institution."** –Investopedia https://www.investopedia.com/terms/f/financial-advisor.asp Besides technical knowledge, this articulation makes it clear that a financial consumer presumes a Best interest or fiduciary standard from FA title holders.

**Introduction**

The consultation paper states: **"***The title protection framework does not create a new licensing regime for individual title users, but will recognize existing licensing and professional designation regimes administered by approved credentialing bodies (CB), and will grant the individuals holding such licences or designations the right to use the FP or FA titles."* This needs discussion since we are not aware of any CB or regulator that provides a FA title such that "*…consumers can have confidence in the quality of the services they receive from individuals using these titles* ".

It must also be said that while concerns have been raised by consumer and investor advocates about the wide array of titles and credentials currently used by individuals operating in Ontario's financial services marketplace, the resulting Act is substantially

different than the consumer advocate feedback provided to the government.

The Financial Professionals Title Protection Act (FPTPA) restricts the use of the titles "financial planner" (FP) and "financial advisor" (FA) (as well as equivalents in another language or titles that could reasonably be confused with such titles) to individuals who have obtained a credential issued by a FSRA-approved credentialing body (CB). FPTPA requires that a CB have an effective governance structure and administrative policies, a Code of ethics and professional standards for its officers, directors and employees that serve the Public interest.

FPTPA does not specify when a title should be used, or include a restriction on its use, other than the need to have an approved title/credential.

Too often, Canadians are duped into "investing" with unlicensed charlatans and rogue registrants, who then proceed to lose or abscond with their savings, causing terrible harm. Because the perpetrators are not registered financial services providers, there is nothing regulators or organizations such as OBSI or OLHI that operate in regulated sectors, can do. If individuals who obtain the right to use the FA (or FP) title are not required to be employed by a regulated Firm, clients could be exposed to reduced financial consumer protections **We are of the firm conviction that anyone using a protected title is a member of, and accountable to, a regulatory body (a statutory regulator or a designated SRO).** If however, there is no requirement to be a member of, and accountable to a regulatory body, a title should NOT be a "protected title". To do otherwise would mislead the public.

The proposed rule would require bank "advisors", among others, to be credentialed if they use the FA title or reasonably confusing title. That is a positive since even tellers with minimum qualifications are referred to by the banks as "advisors". However, these tellers and other similar individual bank functionaries are not subject to direct regulation so it could very well happen that the only change that will occur is that the banks will use another deceptive title instead. We question whether the banks will reimburse these functionaries for the fees that would be required to be paid to the credentialing bodies and to the FSRA as it will add to operating costs. Time will tell.

Kenmar has advocated for years that titles be standardized and the number reduced throughout financial services and not be deceptive so as to minimize investor confusion. We have asked regulators to restrict the number of authorized designations and titles to reduce consumer confusion and raise standards. Kenmar have also advocated for the Best interests standard for providers of personalized financial advice. The Ontario Government responded with the FPTPA which departs significantly from the Expert Committee recommendations. For example:

*FINAL REPORT OF THE EXPERT COMMITTEE TO CONSIDER FINANCIAL ADVISORY AND FINANCIAL PLANNING POLICY ALTERNATIVES*
"….during the course of our research and consultation that reform is required to the

current fragmented framework for regulating financial services in Ontario. A harmonized regulatory framework for financial planning and financial advice would not only better protect consumers, but also provide a more streamlined approach to the regulation of financial services in Ontario. The plethora of misleading titles used in the financial services industry combined with the lack of a **clearly articulated duty to act in the best interest of the consumer** leaves Ontarians vulnerable."
https://www.fin.gov.on.ca/en/consultations/fpfa/fpfa-final-report.html

From the Proposed rule:
(a) based on a program designed and administered to ensure that an individual using the credential will be required to deal with the individual's clients competently, professionally, fairly, honestly and in good faith, and.....This standard is not congruent with the Committee recommendations.

This change adversely impacts the value of an FA or FP title depending on how the proposed text is interpreted.

The consultation paper states that "... Once proclaimed in force, the FPTPA will, subject to the transition periods described below, restrict the use of the titles "financial planner" (FP) and "financial advisor" (FA) **(as well as equivalents in another language or titles that could reasonably be confused with such titles**) to individuals who have obtained a credential issued by a FSRA-approved credentialing body." Enforcement of the highlighted text is key to success of the Act and its associated rule. FSRA has not yet provided examples of what titles would be considered as misleading/confusing and who they would apply to (individual or Firm authorizing their use or both). The corresponding Quebec law gives specific examples of such titles and has a list of banned titles that have similar meaning to "financial planner": See
http://legisquebec.gouv.qc.ca/en/ShowDoc/cr/D-9.2,%20r.%2020

The 2015 OSC Mystery Shop report found that the shoppers encountered no fewer than 48 different business titles during the shops. Kenmar is dismayed by the lack of consistency of business titles and the question marks around whether those titles are actually tied to specific skills and qualifications and conduct. As we have pointed out before, imagine if regulators in the health care field allowed individuals with the training and experience of massage therapists to call themselves physiotherapists or heart surgeons. And yet this is what the average consumer faces when seeking financial advice. *MYSTERY SHOPPING FOR INVESTMENT ADVICE Insights into advisory practices and the investor experience in Ontario* September 17, 2015 OSC Staff Notice 31-715 IIROC Notice Number 15-0210
https://www.osc.gov.on.ca/documents/en/Securities-Category3/20150917-mystery-shopping-for-investment-advice.pdf Some of these titles are very creative and arguably could be reasonably confused with FA/FP titles in the mind of a typical retail financial consumer. Consumer Focus groups may assist the FSRA in implementation of the Act. **. Kenmar recommend that the interpretation of "could reasonably be confused with..." be as broad as possible so as to capture the greatest number of titles.**

Building financial consumer trust and confidence is critical. The 2020 Edelman Trust Barometer Canada report found that financial services sits near the bottom end of the trust scale with **just 56% saying they trust the industry, down 8 percentage points from 2019.** This puts the industry between telecoms (52%) and consumer packaged goods (57%) but well behind technology (68%) and professional services (67%) and Education (70%). Source: https://www.edelman.ca/sites/g/files/aatuss376/files/2020-02/2020%20Edelman%20Trust%20Barometer%20Canada%20-%20FINAL.pdf The financial services industry clearly has a lot of work to do to regain consumer trust.

Through legislation overseen by the AMF, financial planners must meet continuing education requirements and comply with Codes of conduct and ethics. They're also subject to fines (capped at $50,000 per offence) and disciplinary measures for misconduct. This oversight is delegated to la Chambre de la sécurité financière (CSF), a SRO that oversees planners as well as mutual fund, insurance and scholarship plan reps. The Quebec regime does not deal with financial advisors. **We believe this regulatory approach is robust to efficiently and effectively control title usage.**

**Some comments on the proposed rule**

*"Where the fundamental nature of the relationship is one in which customer depends on the practitioner to craft solutions for the customer's financial problems, the ethical standard should be a fiduciary one that the advice is in the best interest of the customer. To do otherwise — to give biased advice with the aura of advice in the customer's best interest — is fraud."* -James J. Angel, Ph.D., CFA and Douglas McCabe Ph.D., McDonough School of Business, Georgetown University, "Ethical Standards for Stockbrokers: Fiduciary or Suitability?" Sept. 30, 2010

The sad fact is that while some individuals do use the term "Financial Advisor", the vast majority use other misleading titles. These financial advisors, using misleading titles, assert that they provide personalized financial advice and financial planning services. This is the problem. They are in fact salespersons working under a conflict-of-interest scenario currently using the low suitability standard as the basis for recommendations. They are selling a product with embedded trailing commissions or upfront payments (DSC mutual funds). They provide recommendations that can be skewed by compensation and in the case of deferred sales charge (DSC) mutual/Seg funds, provide advice that continues to cause investor harm to some of Ontario's most vulnerable investors. In fact, every jurisdiction in Canada, except Ontario, has banned the sale of DSC mutual funds.

**Recognition of statutory regulators and SRO's**
When you have a financial planner or financial advisor that is subject to the authority of a statutory regulator AND a credentialing body (that may also act as a trade association or

lobby group), it creates the potential to confuse and negatively impact investors. There needs to be a hierarchy that maintains and respects the investor protection standards of statutory regulators for those subject to their jurisdiction. Statutory regulators should have priority over authority under the Act for any FA who is part of both a statutory regulator and credentialing body. **The OSC, MFDA and IIROC should be granted a blanket approval as a FSRA approved credentialing body for FA's, if and only if, they are held to a Best interests standard.** Granting a blanket exemption to statutory regulators would greatly reduce the burden of operationalizing the Act with no downside**.** Regulatory complexity and costs would also be reduced for titleholders and consumers. This may however require a new registration category by securities regulators. A new registration capacity with higher standards would allow only those who have passed the credentialing standards to hold the FA or FP designation. The names a person uses without that designation is irrelevant. The regulatory machine would be better used to monitor this than an easily confused minimum titling standard. In this instance anyone who does not have an advising registration could not use any title implying advice.

The FP title is a totally different story. **Since we do not believe the statutory regulators have adequately dealt with professional financial planning as a profession, we do not recommend the statutory regulators or SRO's be granted credentialing rights for the FP title.**

**Grandfathering**
We agree with the FSRA position that individuals who currently use either title will not be "grandfathered" .A grandfathering provision would be inconsistent with regulatory intent and would expose clients to individuals that did not meet a minimum standard for providing personalized financial planning or advice.

**Transition Periods**
The Consultation paper says that individuals will have 3 years from the time the new rule is implemented to update any credential or educational requirements needed to use the title "financial advisor," and 5 years for individuals who want to use "financial planner." **In our view, the transition periods (if any) should be extremely short given the advance notices provided by the years during which the Ontario government debated this basic consumer protection.** We do not see how it is in the consumer's interest to be served by a person that is not fully qualified to advise them on their nest eggs. To allow such individuals to provide personalized financial advice to clients for up to 5 years places Ontarians in harm's way and is therefore not in the Public interest. If a transition period is granted, the titleholder should disclose this in writing to clients to support transparency.

There can be no transition period for the title itself. The only time when the title becomes effective is when it is granted because that is the only time when it can be independently validated.

**Interpretation of titles that "could reasonably be confused with" FP and FA**
It is our understanding that the FSRA will determine if a title could reasonably be confused with the FP/FA titles. The basic principles on the criteria to be used should be made public. Also, the Hearing process per section 12 of FPTPA should be open to the public.

As things stand today, misleading titles abound. See for example This disclosure is from TD's legal notices about business titles at TD.

| TD Wealth Private Investment Advice | | |
|---|---|---|
| **Title** | **IIROC Registration Requirement** | **Description** |
| Vice President / Senior Vice-President | Registered Representative (RR) | TD Wealth Private Investment Advice awards the title of Vice-President or Senior Vice-President to those Investment Advisors who meet standards for seniority, business metrics, and a satisfactory compliance record. Adherence to these standards is reviewed annually by TD Waterhouse Canada Inc. management. These titles do not indicate that an Investment Advisor is a corporate officer of TD Waterhouse Canada Inc. |

It is important to distinguish between titles and professional designations. Titles can be used to mislead investors by conveying an inflated or inaccurate description of an individual's organizational status and influence. It seems to us that the FPTPA is calling a professional designation a title. Within the financial advice sales industry, titles normally mean supervisor, branch manager and the like.

The title "Vice President", is perceived as creating the impression that the individual is someone senior at the Firm and the title may therefore induce reliance and trust on the part of the client. Contrived titles like "Seniors Expert" that are not based on specialized training and specific standards can deceive elderly financial consumers to their detriment. Professional designations should be designed and regulated in a manner designed to convey accurately the individual's training, proficiency, and standards of conduct. For instance, a CFA designation identifies the holder as expert in portfolio construction working to a fiduciary standard**. We recommend that the FSRA provide interpretive Guidance on what constitutes a confusing title (designation) in addition to enumerating examples of unacceptable titles (designations).**

The proposed specifications for financial advisors appear to be set below even the existing standards in force by the Ontario Securities Commission/SRO's. For example, the FSRA refers to acting fairly, honestly in good faith with clients while the OSC has adopted

the more robust Client-Focussed- Reforms that require representatives to resolve conflicts-of-interest in the best interest of their clients. The Client Focused Reforms also add a new section to NI 31-103 prohibiting misleading communications. A registrant must not hold themselves out in a manner that could reasonably be expected to deceive or mislead any person or company as to the proficiency, experience, qualifications or category of registration of the registrant. To be clear, we do not believe the CFR is either a Best interest or a fiduciary standard. **We recommend that, at an absolute minimum, the FSRA proficiency standards should exceed those adopted in the CSA CFR.** The final version of the rule will need to address the standards issue across the entire financial services landscape including banking and insurance.

**Some related Issues**

A potential CB, Advocis, has copyrighted the term "Professional Financial Advisor" which suggests that those individuals who their credentialing body endorse as using the PFA title could use it, notwithstanding the provisions of the title protection Act. At a minimum, there appears to be a developing legal issue.

One absolute no-no for the use of the FP or FA titles is that they should not suggest a level of professionalism and conduct that is not present. That would be counter to the fundamental intent of the Act**. Kenmar argue that any "advisor" that is compensated by commissions, subject to sales quotas, has a restricted product shelf, and acts as a transaction intermediary rather than a fulsome financial advisor should not be authorized to use the FA title.** Kenmar has recommended that such persons should be labelled as "salesperson". We add parenthetically, that unlike the CSA (except for Ontario), the FSRA has not banned DSC segregated funds- that can lead to unhealthy regulatory arbitrage via dual-licensed individuals.

The FPTPA is limited to the protection of the two titles. There does not seem to be any limits contemplated on what people can practice. Insurance agents can still produce those flawed "illustrations" to try to sell product. They just cannot title themselves as a "financial planner" or "financial advisor" on their business cards and advertising. They will just have to use something like "insurance agent" instead which reflects what they really are or any of the myriad of other titles. That is quite different from professional designations like nursing. Besides using the nurse title, one is actually not allowed to perform certain procedures if one is not a registered nurse. Consumers need to understand this. In the US, broker-dealers using a title with advisor/adviser in the name are considered in breach of SEC regulations as transactional registrations are not considered advising registrations.

NOTE: A transactional and or product distribution framework starts from the position of the transaction and the parameters validating the transaction whereas an advice based framework starts with the underlying financial needs (cash flows in and out and their timing) which determine time horizon and primary objectives and/or portfolio constraints, investor risk profile and risk/return preferences, portfolio construction, planning and

management and investment disciplines before a shot has even been fired.

Around the world, the issue of misplaced confidence in advice is being or has been addressed, some better than others. Canada has the lowest standards with respect to both advice itself and with respect to the leeway regulation and statute allow for misrepresentation of advice itself. We remain constructively critical whether the FPTPA will materially help resolve the issues.

**Approval of credentialing bodies**

How will credentials and credentialing bodies be approved? To ensure the Public interest is protected, it will be essential that before any credentialing body is approved, it must exhibit a governance structure that avoids conflicts, acts in the Public interest, and has sufficient expertise, resources and infrastructure to transparently fulfil its mandate. We argue that a credentialing bodies is effectively an SRO in that it is approved by a statutory regulator, registers members, makes rules, sets standards, monitors compliance, deals with complaints , has an enforcement capability that includes permanent bans and a mandate imposed on it by the FSRA to act in the Public interest . **A credentialing body should be subject to the same transparency and public reporting requirements imposed on SRO's.**

The credentialing system will need to be coordinated with statutory regulators and SRO's to ensure consistency for financial consumers. Information sharing between regulators will be a key success factor. Since even bank tellers are being put forward as "advisors", close coordination with Federal banking regulator, the FCAC, is required. This potentially would include thousands of people in Ontario that would require credentialing. In light of the fragmented and inadequate nature of financial advice regulation in Ontario at this time, we are concerned that this initiative, absent coordination with other regulators and jurisdictions, will not lead to enhanced financial consumer protection. It might even have unintended negative consequences.

The Ontario government asserts that the new title protection framework will take a measured approach to enhance consumer protection without introducing unnecessary regulatory burden and will be mindful of the current regulatory oversight of licensees and registrants.

To use the financial planner title in Quebec, an individual must have a bachelor's degree, complete a university-level personal financial planning program approved by the Institut québécois de planification financière (IQPF), pass the four-hour in-class IQPF exam, and apply for and receive a licence by the Autorité des marchés financiers (AMF). This system appears to be working very well. While our preference is, as stated in our earlier comment letters, that the FSRA directly regulate financial planners as in Quebec, we respect that the FSRA prefer to contract out FP ( and FA) credentialing.

**That being said, Kenmar do not support there being more than one**

**credentialing agency for financial planners or financial advisors.** A single agency for each title will better guarantee consistency, would be easier for the FSRA to monitor and would reduce complexity and confusion for financial consumers. Another concern is that competing credentialing agencies might use their fee structure or other methods to attract individuals which could create a race to the bottom for financial planning and advice standards.

**Introduction of additional standards**

In response to an enquiry we made, the FSRA stated that CB procedures and practices could include additional standards imposed by CBs for FP and FA title users. We feel this gives too much power to a CB and could lead to wide differences in granting criteria between competing CB's. **Kenmar are supportive of higher minimum standards of proficiency and conduct but are strongly opposed to adding mandatory services ( e.g. mandatory E&O insurance) as this would not be in the Public interest and could be seen to be a restraint of trade in professional services by a private actor (one we consider an SRO). It could place CB's in a conflict-of-interest if the CB receives compensation for referrals. The proficiency, permitted practices and standards of conduct between all approved CB's must be identical.**

Allowing multiple CB's with the ability to grant the Title FA and FP is going to be problematic; differing standards and representations that will differ from securities regulation and registrations and a very real risk that some important credentialing bodies will not enter the field. Further, if the standards of multiple FA credentialing CB's are different, this could cause investor confusion. That being said, we do not want to restrict competition in the field of professional education (as opposed to credentialing).

## Consumer expectations of "advisors"

### What do financial consumers expect from a FA?

As a result of our continuous contact with financial consumers we can provide some useful insight to the FSRA. Here's what we see are the expectations of clients:

- A person that can be trusted to provide personalized financial advice :See *The role of trust in personal financial planning* https://researchdirect.westernsydney.edu.au/islandora/object/uws%3A32640/datastream/PDF/view
- Complies with Best interests or fiduciary Code of Conduct
- Proficiency in the subjects he/she is providing advice on
- Easy to talk to, encourages asking questions

- Readily accessible by electronic and other means
- Proactively takes action to ensure KYC is up to date
- Explains material in plain language
- Patient and a good listener, especially with elderly clients
- Understands how social benefits programs play into the financial plan
- Prepares Investment Policy Statements as a communication tool with clients
- Discloses fees and charges in plain language terms and in a forthright manner
- Explains the impact of cost and fees on long-term performance
- Has received training in how to deal with vulnerable clients
- Has sufficient mathematical skills in order to compute trade-off decisions
- Can create investment portfolios for De-accumulating accounts to meet cash flow needs within risk profile parameters
- Is proficient at tax loss harvesting
- Has the analytical skills to construct defined risk- reward portfolios
- Fully discloses, addresses and/or avoids conflicts- of- interest that could skew advice recommendations
- Resolves any unavoidable conflicts-of-interest in the best interests of clients
- Ensures that robust disclosure and best interests of clients are applied when providing financial advice
- Ensures that fees charged are appropriate and fair and that there is no double billing
- Discloses any restrictions on his/her providing advice ( e.g. enhanced supervision)

## Kenmar Response to specific consultation questions

In response to specific questions in the consultation we provide the following response:

### 1. FP and FA Credentials

*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*.

A meaningful competency profile for FP and FA titles (designations) needs to outline the knowledge (what titled persons need to understand), along with the behaviours, conduct and skills (how they should apply the knowledge to financial consumers).

We cannot really comment on whether the FA or FP title will be useful for Main Street based on the limited profile provided. In order to assess the value of these titles (Professional designations), we would need to see the curriculum and course content for each designation along with some idea of the duration of the courses. Are courses correspondence courses? Do candidates have to prepare a research paper, are exams

multiple choice, what constitutes passing grades...? Tables 1 and 2 in the consultation document are high level and imprecise such that it is not possible to meaningfully evaluate them.

a) The FSRA proposal requires FPs and FAs to "confirm "a client's risk profile whereas the OSC requires an assessment of the client's risk profile. We recommend the more robust OSC language. Consistency between regulators will avoid additional burdens on industry and reduce consumer confusion.
b) Per the consultation : *Ethics – Understanding of ethical practices and professional conduct in the financial services market, including identifying and managing conflicts of interest* .We recommend that this be changed to " Comply with all applicable Code(s) of Conduct, applicable laws, regulations and rules." The Table should be changed to create an obligation, not just an "understanding of ethical practices". For a title to be trusted, the qualifications must include a requirement to act in the client's Best interests. Otherwise the title could have the unintended effect of deceiving the public as to the true nature of the relationship. The proposed ethical standards must not conflict with existing professional designation standards so as to create a range of standards. Otherwise, depending on the credentialing, financial consumers will not know who they can trust and to what degree.
c) Consider adding : Identifies, explains, applies, analyzes, complies with and evaluates applicable regulatory requirements, Firm policies and procedures, including: (a). Conflicts-of-interest and ethics; (b). Outside business activities; (c). Personal Financial Dealings and (d) Containment of confidential information
d) This requirement: *Providing suitable recommendations • Ability to develop and present suitable financial and investment recommendations to retail clients, relevant to the scope of services being provided* is rooted in the suitability standard. The OSC/CSA has moved beyond a suitability standard- in 2021, all individuals advising retail investors must comply with the Client-Focussed Reforms (CFR), a higher standard than suitability but not quite a Best interests standard*. Since professional planners and advisors have a duty to act in the client's interest by placing the client's interests first i.e. placing the client's interests ahead of their own and all other interests , this should be the FSRA standard for those individuals carrying the title (professional designation) FP (or FA).
e) As for technical knowledge, the FSRA requires that the FP curriculum should provide the technical knowledge and competencies in one or more of the following: estate planning, tax planning, retirement planning, investment planning and alternatives, finance management and insurance/risk management. For us, this implies a knowledge of quantitative methods, intermediate level statistical analysis, a knowledge of applicable laws / tax codes/ regulations, modern portfolio theory and behavioural finance. **We recommend that the profile for FA and FP be expanded upon to provide enhanced guidance to certification body applicants and information to the public**. See for example, the IIROC consultation paper *IIROC to consult on*

*competency profiles for registered and investment representatives*
https://www.iiroc.ca/Documents/2020/a396b71f-06bd-4bb8-b524-362b604d5dfa_en.pdf

**A significant differentiation between the new Title regime and the current registration regime is essential to ensure both the success of the regulation and the satisfaction of the Public interest because the Title regulation should be forward- looking and designed as a beacon for the development of professional standards and services and increased consumer confidence in the industry.**

Some professions like engineering, require students to prepare a research paper or thesis as part of the educational process of becoming a professional engineer. The FSRA should consider whether the FP title (designation) or FA title (designation) would benefit from such a requirement.

*We define " Best interests" to mean that the Financial Advisor (FA) and Financial Institution act with "the care, skill, prudence, and diligence under the circumstances and information then prevailing that a prudent person would reasonably exercise based on the client objectives, risk profile, financial circumstances, and the needs of the Investor ". An excellent operational definition can be found in *Future of Financial Advice: Best interests duty and related obligations*
http://download.asic.gov.au/media/2125918/rg175-ris.pdf

**Also, it would be very helpful and instructive if the Rule clearly defined what constitutes personalized financial advice and planning.** The term "advice"" could mean any communication or statement of opinion sent or made available to a financial consumer that could, based on the context or circumstances, reasonably be expected to influence that investor's financial decision making . In September, FP Canada and Quebec's IQPF combined efforts to update the CanadianFinancial Planning Definitions, Standards and Competencies .

**2. Disclosure**

*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 credentialing body should provide a diploma (or equivalent) to all certified persons for use in disclosure to clients. The CB diploma (or equivalent document) could be displayed in the title holder's office.

Since the primary purpose of this Act is to protect consumers, it would be appropriate for clients to be provided with as much information as possible about the qualifications and proficiencies of the FP or FA that is advising them. However, if for some reason, a title

holder chooses not to disclose, the FSRA should not dictate mandatory disclosure. Some Firms or banks may prohibit the FP or FA title usage if they are uncomfortable with how it might impact clients and their liability.

A disclosure might help build financial consumer trust in the financial advice they are receiving and could, in principle, be a selling point for attracting clients for the credentialed individual looking to advise them. Disclosure should be verbal, written (paper and electronic), on business cards, in written communications and on any client-relationship documents. If the FP or FA uses social media, the credential could also be disclosed on that channel. The FP or FA title disclosure should take place at the time of initial engagement in writing and at such other times as deemed appropriate.

The disclosure MUST identify the specific credentialing body so that consumers can validate the title and check disciplinary history (since there may not be a central database like the CSA's national registration database). There is a material risk here that a person may be listed on the credentialing body database but not be registered with a regulator. This could deceive consumers into unduly trusting such individuals.

NOTE: Many individuals to be considered for licensing by FSRA approved credentialing bodies work to the suitability standard and are compensated via sales –based or other advice-skewing compensation when employed by investment dealers. Under the current business structure, professional obligations often give way to advice-skewing industry business practices and compensation structures/ sales quotas. Numerous empirical independent research reports confirm that consumers are harmed by conflicts-of-interest.

NOTE: If a credentialed person uses the FP or FA title in his/her relationship with clients, it appears that the Firm (or bank) which employs such a person could be held accountable for actions taken by the person if they are in contravention of credentialing standards. In other words, if a complaint is filed, the complainant would have the right to utilize violation of the credentialing agency standards as a basis for a complaint (a) against the Firm, (b) in civil litigation and (c) with OBSI (or other financial ombudsman service) in the case of complaint claims for compensation. This could help ensure that Firms will not permit staff to inappropriately utilize the FA or FP title (designations) in their relationships with clients to avoid liability to the Firm.

We recommend that the use of an Engagement Agreement be a mandatory disclosure document associated with title usage. As a minimum .the Agreement would include the scope of services to be provided, service level, advisor compensation and fee structure. See https://www.investopedia.com/terms/e/engagement-letter.asp and CIFP FPSC-approved Capstone Course— Sample Letter of Engagement https://pdf4pro.com/cdn/cifp-fpsc-approved-capstone-course-sample-letter-of-3d308d.pdf

**3. Exemptions**

*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.*

We cannot support any broad exemptions to the Act for individuals. The whole purpose of the Act is to give confidence to financial consumers that holders of the FP and FA professional designation (a.k.a. "title"} are proficient and trustworthy. If broad exemptions are granted, it would undermine the integrity of the system and that would not be in the Public interest.

The problem of lack of coordination with securities (CFAs) and statutory (lawyers/CPAs) regulators is real. We also believe those limited professional bodies, if they are granted exemptions, they should be publicly listed alongside acceptable credentialing agencies to minimize potential for confusion on the part of industry and financial consumers. If exemptions are permitted, it needs to be made crystal clear what bodies are exempted alongside what are allowable credentials such that confusion is minimized to both industry and the public.

**4. Fees and Assessments**

*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 recommend that the FSRA collect its own fee directly from credentialed persons.**

The Organizations that grant and administer industry designations are already expensive to join and maintain membership with. In addition to those organization fees, registered representatives need to pay fees to their SRO (whether IIROC or MFDA) for regulation and they may need E&O insurance etc. It is very important to keep CB and FSRA fees low or fees will need to increase and make good financial advice less accessible for Main Street.

**5. Consumer Education**

*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.*

We commend the FSRA's approach in seeking collaboration between government, regulators, credentialing bodies, industry and other stakeholders to create consumer education campaigns. Stakeholders must work collaboratively to ensure the new framework has the intended impact and that consumers clearly understand the differences in the knowledge, skills and abilities of financial planners and financial advisors.

Some obvious candidates include the Ontario Securities Commission, TSX, SRO's, consumer groups such as the Consumers Council of Canada, colleges and universities, media, CARP and the FCAC.

It is very important for consumers to understand that the proposed rule will not eliminate fake title usage. It does not address all those "Vice-Presidents" – a.k.a. top sales producers –at investment dealers. Nor will the rule clear up the confusion created by empty titles such as "wealth manager," "investment counsellor," or the dozens of other labels that dealers, insurance companies and banks invent to portray their advisors as "experts." Nor will it inject actual proficiency requirements into any of those titles/designations.

We are of the firm conviction that online and paper guides written in both official languages, in plain language explaining the titles FA and FP would be absolutely necessary. The FSRA should run various campaigns using a wide range of broadcast and social media to keep the importance of proper professional credentials (designations) top of mind among consumers.

Educational material should include text that informs consumers that similar sounding designations and titles are not the same as a certificated credentialed FP or FA. The material should also explain the difference between financial planning and financial advice.

The proposed rule requires an approved credentialing body to maintain and make public on its website: (a) A current list of individuals holding approved credentials it has issued and (b) Information with respect to disciplinary action taken against individuals. This means that if there more than one credentialing body, consumers would have to check numerous websites. This is not efficient or consumer-friendly, places additional burdens on the consumer, and requires an additional level of sophistication of consumers in order to perform this basic due diligence step. We recommend that the FSRA should take ownership of the public registry and list all of those individuals authorized to use the protected titles, and their approved credential(s**).** Note also that if a credentialing body were to be disqualified, cease operations or become unable to meet FSRA criteria, the database would remain in government hands and could be shifted to another CB.

**A single, free, consumer-friendly central registry should be created and maintained, with adequate resources to provide a one-stop source of information for consumers regarding the licensing and registration status, credentials and disciplinary history of individuals that provide financial advice and/or financial planning to Ontarians.** A single online portal to access disciplinary and enforcement information about practitioners would reduce consumer confusion. The National Registration Database ("NRD") that currently enrolls all other securities registrants in regard to other Canadian regulatory regimes is an example. Given the existence of a functioning registry for similar activities, we suggest that the FSRA look to the NRD as a mechanism to provide investors with relevant information about individuals providing financial advice and engaged in financial planning. The system should be designed such that as the FA and FP titles become national, individuals operating across provinces will appear on one website making consumer access easy, consistent and smooth.

We recommend that any Ontario resident should be able to take the courses offered by the credentialing body (or their equivalent) whether or not they are a Member of the credentialing body. This would allow more Ontarians to control their own financial destiny via enhanced financial competency. Such courses should be fairly priced, bilingual and available in a variety of formats. The FSRA could build this obligation into its Terms for Approval for a CB. The fee for the consumers should be similar to that, or less, than an applicant for a credential.

We recommend that credentialing shall not be restricted on the grounds of undue financial or other limiting conditions, such as membership in an Association or special interests group. **The Credentialing body shall not use procedures to unfairly impede or inhibit access by applicants and candidates.**

**Criteria for credentialing bodies**

**CB's must act in the Public interest.** This is critical. Otherwise, there will not be public confidence that the credentialing body will act in the Public interest when carrying out their activities relating to proficiency/policy/compliance/enforcement.

A key issue is whether the credentialing body is a non-profit. If not, then the CB has a profit motivation to maintain or increase membership by decreasing or overlooking standards and lax compliance and enforcement (i.e. increasing membership by having the lowest regulatory environment thereby creating regulatory arbitrage). **Our view is that credentialing bodies must be non-profit.** Another issue relates to whether the CB offers other fee-for-service activities or revenue streams offered by the credentialing body such as charging for educational services. Again, to increase that revenue stream, there may be the incentive to have lower standards in order to get members in to sell these other services. Even where the credentialing body is non-profit, there needs to be regulatory oversight over fees charged. The reason is that the FSRA has to be assured

that by inducing advisors into a "credentialing body", that body is not gouging the industry (which of course would get passed on to the public). The CB should be required to justify its fees to the FSRA.

We understand that the FSRA will issue the equivalent of a Recognition Order (Terms of Approval in FSRA parlance), similar to what the OSC issues, say, in respect of the MFDA. By providing title protection in order to reduce consumer confusion and enhance financial consumer protection, these credentialing bodies are acting in the Public interest and should be held to appropriate standards and subject to robust FSRA oversight. **A key point is a reserved position(s) for consumer (public) representation on the Board of Directors**

**It should be understood that a FSRA approved credentialing body is not a professional Association or a trade Association. These should be separate and distinct legal entities.**

The consultation paper details the information to be provided by applicants to become an approved credentialing body https://www.fsrao.ca/industry/financial-planners-and-advisors-sector/financial-professionals-title-protection-administration-applications .

As for credentialing body certification criteria, we recommend the following additional criteria for evaluating applicants:

- **The FSRA credentialing body criteria must be in accordance with *ISO 17024 Conformity assessment — General requirements for bodies operating certification of persons*,** an international standard and any unique requirements the FSRA is permitted to add.
- The credentialing body shall be a legal entity such that it can be held legally responsible for its certification activities
- The credentialing body shall have a legally enforceable agreement covering the arrangements, including confidentiality and conflicts- of-interests, with each entity that provides outsourced work related to the certification process.
- A credentialing body should be a non-profit entity based in any province of Canada
- A credentialing body shall operate in both of Canada's official languages
- A credentialing body should, if it is a registered lobbyist, publicly disclose in its annual report the amount spent on lobbying and the nature of the lobbying.
- A credentialing body shall not have the right or authority to impose additional requirements (other than perhaps higher standards of proficiency or conduct) on individuals as a condition of granting the FA or FP title (e.g. mandatory liability insurance).
- A credentialing body should not be permitted to expunge disciplinary records
- A credentialing body should publicly reveal all disciplinary actions ( current and historical) taken in a timely and transparent manner
- A credentialing body shall be capable of offering online courses

- A credentialing body shall not require the candidates to complete the certification body's own education or training as an exclusive prerequisite when alternative education or training with an equivalent outcome exists;
- A credentialing body shall have the capability to provide remote proctoring as an alternative to in-person examinations
- A credentialing body should have an efficient complaints function and process to promptly address complaints from the public or Firms in the financial services industry.
- A credentialing body shall have a majority of independent members of the public on its Board of Directors with at least one " reserved position for a " consumer" director
- A credentialing body shall make public its approach to oversight over credentialed individuals
- A credentialing body shall publicly release an Annual report on its financial condition and its operations .The financial statements shall be subject to external audit.
- A credentialing body should issue an Annual enforcement report.
- A credentialing body's educational requirements should require continuing education as a condition of holding the designation FP or FA. Conflicts-of-interest must be avoided in exercising this role.
- A credentialing body shall be transparent in its operations including enforcement.
- A credentialing body must consider the impact of any disciplinary actions by statutory or SRO regulators on its credentialed title holders. FP's and FA's must be required report any regulatory or legal sanctions imposed on them.
- A credentialing body should have the obligation to report suspected fraudulent activity to statutory regulators, SRO's and/or law enforcement.
- A credentialing body should have the necessary cybersecurity in place to ensure system integrity and privacy of credentialed persons under Privacy legislation.
- A credentialing body should ensure that if any financial regulator or SRO has imposed a lifetime ban on an individual, that individual shall automatically cease to be entitled to use the title of FA or FP in any capacity.

It is our understanding that credentialing bodies will have the power to suspend a title holder for periods of time during which the title holder would not be permitted to use the FP or FA title. A credentialing body could also ban a title holder from seeking renewal or reinstatement of certification. Credentialing bodies should have the power to fine (within limits) credentialed individuals if they are a recognized SRO. The CB shall have enforceable arrangements to require that the credentialed person informs the certification body, without delay, of matters that can affect the capability of the certified person to continue to fulfil the credentialing requirements. NOTE: There is nothing in the Act or rule that would prevent an individual that has been sanctioned with a ban from continuing to provide financial planning or advice as long as he/she did not use the FP or FP titles or any titles that could reasonably be confused with these titles.

The FSRA may wish to consider if restitution complaints against a title holder should be addressable by an external financial ombudsman service like OBSI. If so, individuals would have arrangements with the financial ombudsman service.

Another idea is a requirement that a CB have a whistleblower program. This could assist the CB and the FSRA in identifying rule breakers.

**Conduct Standard (proficiency +conduct= consumer confidence)**

In the current environment, financial consumers are susceptible to harm from conflicted providers of financial advice. The provision of financial advice, and to a lesser extent the preparation of financial plans, is susceptible to conflicts-of-interest. Kenmar strongly believe that those who provide personalized financial planning and financial advice owe duties of loyalty, prudence, and care to their customers, and that a Best interests duty of care should be required of those who provide financial planning and financial advice. The benefit of such a regime include: a) those providing financial planning and financial advice work to eliminate conflicts-of-interest; b) where that work proves impractical, that such conflicts are clearly disclosed; c) conflicts are resolved in favor of customer's interests when they cannot be avoided; and d) clear accountability is established for financial planners and advisors so that violations receive appropriate sanction. This type of conduct would give financial consumers the confidence they need to trust those holding the FP or FA title (designation).

Since the FPTPA does not directly regulate conduct of title holders, other means must be found to connect *conduct* to a title. If this is not done, it would be improper to assert "*The requirements included in the FPTP Rule aim to establish minimum standards for use of the FP and FA titles so that consumers can have confidence in the quality of the services they receive from individuals using these titles"*. Use of the titles would be deceiving and could create consumer confidence when such trust is not deserved. **There should be absolute clarity that such a duty would require all financial planners and advisors to put the best interests of their clients first and above all others.**

Only CB's with high standards of conduct and transparency for its title holders should be approved. In September, FP Canada improved its disclosure practices. Under the changes to the Disciplinary Rules and Procedures (DRP), it will now publish statements of allegations, which describe misconduct alleged by the Standards Council, on its website within 5 business days of being filed. FP Canada will also publish decisions and reasons from disciplinary hearings similar to securities industry SRO's. All CB's should be required to provide this level of transparency.

**Conflicts-of-interest/governance**

If a credentialing body denies an application, or expels a member in an enforcement matter, the body loses money. This is why robust governance is critical. Quebec's IQPF has signed on as a Proud Partner of FP Canada. Under the partnership, the financial

planning profession in Québec participates in the governance of FP Canada through representation on its Board of Directors and on important committees and Panels. The FSRA might consider a similar arrangement wrt the FP title.

The credentialing body must identify and resolve threats to its impartiality on an ongoing basis. This shall include those threats that arise from its activities, from its related bodies, from its relationships, or from the relationships of its personnel. A relationship that threatens the impartiality of the CB can be based on ownership, governance, management, personnel, shared resources, finances, contracts, marketing (including branding) and payment of a sales commission or other inducement for the referral of new applicants, etc. **Specifically, a FSRA approved CB should not be permitted to require add-on services beyond those to meet FSRA regulations in order to receive the right to use the FP or FA title without FSRA approval (similar restriction to tied selling).**

**A CB should not be permitted to require candidates to be a member of an affiliated entity in order to obtain the right to use the FP or FA title.**

The FSRA must ensure that any fees charged to individuals seeking the title(s) are on a cost basis, are fair and reasonable and are no more than if the FSRA were to do the credentialing itself. The credentialing body must be organized as a non-profit entity under corporation laws. The fee charged to titleholders should reflect only the costs of operating the FSRA approved credentialing body. This will keep fees low and encourage individual participation and laser focus the CB on its mandate.

It will be important to avoid a race to the bottom to a minimum standard in order to gain consensus from a large field of self-interested stakeholders. There is also a risk that enforcement may be "light touch" in order to maintain membership numbers. This why we stress independent Board members as a key governance parameter.

Requiring credentialing bodies to collect 'on behalf of' and then remit fees to the FSRA gives them a quasi-regulatory function that should really face FSRA directly in our view. It also lets the credentialing bodies potentially define the scope of their fee collection, potentially imposing wider coverage than the legislation and regulation would demand (i.e. are ALL credentialing body members holding out as FAs or FPs? Who gets to decide?). The consultation paper really doesn't provide sufficient detail to permit informed commentary. **The FSRA should address the fee question to prevent excess costs creeping into the credentialing system.**

**Expungement rights should be specifically prohibited in the Terms of Approval unless ordered by the FSRA or a court.** The right to expunge the disciplinary record of a certificated person constitutes a conflict- of- interest in the sense that the less such postings that exist on a CB website, the more financial consumers will trust the FP and FA titles proclaimed on individuals. This can be interpreted to mean that the CB is misrepresenting the robustness of the titles to embellish its image and reputation.

**Kenmar recommend that each CB should have a documented conflicts-of-interests policy** See ANSI sample at https://www.ansi.org/accreditation/product-certification/documentdetail

**Standardized Code of Conduct**
**We recommend that the FSRA develop a professional Code of Conduct and practice which all approved credentialed individuals must comply with** (one Code for FP's and one Code for FA's). This will also ensure that the Code would be uniform and that any changes to the Code can be made only by the FSRA and not by private actors.

**Enforcement**

After the revelations in a WSJ article (*Looking for a Financial Planner? The Go-To Website Often Omits Red Flags)* that exposed weak oversight of its members, the CFP Board launched an investigation and issued a report recommending changes to the way the organization would work going forward. See *Report of The Independent Task Force on Enforcement to the Certified Financial Planner Board of Standards, Inc.* https://www.cfp.net/-/media/files/cfp-board/about-cfp-board/governance/cfp-board-independent-task-force-on-enforcement-report-2019-12.pdf?la=en&hash=4A1E340CC8AD451FC6F5358F8313E149 this has resulted in numerous changes in governance, organization and enforcement. The FSRA needs to ensure that any approved CB will not have any of the issues raised by the U.S. reported scandal. This is critical if consumers are to have confidence in FSRA authorized title holders. It is not clear how the CB's will monitor compliance with rules/Code of Conduct by title holders. Further details are required. We expect the CB's would need unencumbered access to regulatory and other databases. **One thing is for sure- the system should not depend solely on self-reporting.** A video worth watching *Red flags to look out for when seeking a financial planner* https://www.cnbc.com/video/2019/08/02/red-flags-to-look-out-for-when-seeking-a-financial-planner.html

As regards FSRA enforcement, the consultation paper does not provide sanction guidelines for breaches of the Title Protection Act. It merely states that the "FSRA may take enforcement action in situations where an individual inappropriately uses an FP/FA title (i.e., the individual does not have an approved credential)". It is our understanding that enforcement will be limited to the issuance of a Compliance Order. **We remain unconvinced that a FSRA Compliance Order is a sufficiently severe sanction to deter individuals from misrepresenting themselves as credentialed FP's or FA's.** This is important since the public will place great trust in those who hold themselves out as professionals in financial planning and financial advice. We do not feel a Compliance Order meets IOSCO (or other) standards for general or specific deterrence. In our opinion, the limited impact of a Compliance Order would not and should not improve public confidence in the financial services industry, the CB or the FSRA.

**We recommend that the FSRA publicly release an annual oversight report on the approved CB's**. In the securities sector, the CSA SRO oversight committee makes public reports on IIROC and the MFDA. Such transparency is important if consumers are to have confidence in the CB's.

**Rule harmonization**
Kenmar strongly suggest liaison with Quebec authorities to avoid duplication of effort. **In any event, the FSRA should formally recognize Quebec's financial planner title regime assuming it meets or exceeds the FSRA FP competency/conduct standards so that Quebec-based planners can continue to service Ontario clients without adding additional costs.**

If a IIROC or MFDA registered individual domiciled in other provinces has clients in Ontario and uses the FA title, that usage should not have to be credentialed by a FSRA approved CB if that title is approved by the SRO.

It is essential that there is harmonization of rules across provinces. **We recommend that the education, training, credentialing and disciplining of individuals engaged in the provision of financial planning and advice be harmonized and subject to one set of Canadian regulatory standards.**

If the chosen standards conflict with SRO/CSA rules or are of a lesser standard, this could cause confusion for retail investors who will trust Reps with the FA or FP title (designation). **We urge the FSRA to harmonize with the OSC/SRO's so that the anticipated benefits of the Act are achieved without adding to investor confusion.**

The regulators need a good working relationship with these credentialing bodies but the proposed FSRA structure is currently lacking in an overarching framework and this is a weakness.

**Some general comments on the consultation paper**

The consultation paper states that FSRA will be an effective steward of resources, and will seek to minimize costs where practicable and where such minimization would not increase material or unacceptable regulatory risk. We believe that it would be more appropriate to express that the goal of FSRA's stewardship is to operate effectively and optimize costs rather than minimize them. Ontarians have seen the disaster with senior long-term care homes where light touch regulatory oversight was the norm. That lesson should be top of mind in finalizing this rule. Would anyone fly on an aircraft where the Ministry of Transport stated that they intended to regulate aircraft safety at a minimum cost level? Those providing personalized financial plans or advice are impacting the financial health of Ontarians. The plans and advice they provide determines client retirement income security and the availability of cash to fund their children's education. These are critical socio-economic considerations whose regulation should not be under-

resourced.

The FPTPA does not require that Firms must approve title usage of their employees/representatives. This is already a requirement under CSA CFR. This is a point the FSRA should consider in any amendments to the Act or it could be a condition of CB recognition.

It is not clear from the Consultation paper whether a dual-licensed individual with an FA title (designation) could use this title in the insurance AND the mutual fund regulatory framework simultaneously. **We ask that this matter be clarified and that FSRA require that in any dual licence situation, the higher standard applies whichever of the activities the FA or FP is performing with a client (No bait switching).**

Our experience with professional Associations credentialing systems is less than spectacular. Deficiencies in monitoring prowess and lax enforcement are the major weaknesses.

## SUMMARY and CONCLUSION

**The FPTPA is clearly flawed. There is no requirement for individuals who hold themselves out as providing financial advice to use the FA title.** While the Title Protection Act may prevent non-credentialed individuals from using the FP or FA title, it will not stop them from performing financial advising or planning work. Kenmar appreciate the challenges the FSRA face in operationalizing the FPTPA and stand ready to assist wherever possible.

We are pleased to see that the proposed rule attempt to make a distinction between financial planners and financial advisors. Drawing this distinction could help financial consumers both understand and appreciate the important differences between the nature of the advice that these two groups are qualified and permitted to provide.

Kenmar believe that only those who accept a duty of loyalty, prudence and care for their advice to clients (Best interests) should be able to hold themselves out to clients as financial advisors and planners. Practitioners whose business models are based on lower standards of care should be prohibited from referring to themselves as “financial advisors” in the marketplace.

In our opinion, the proposed competency profile needs more work to bring it up to a level where consumer confidence would be justified.

It remains an open question whether the FA title will be effective in reducing investor confusion because it will compete with dozens of other titles that sound impressive but may not contravene the Act. The Act and rule could easily be undermined because usage of other deceiving titles like VP, Retirement Coach or Wealth manager may not be subject to enforcement sanctions. The efficacy of the Act will largely depend on the degree of enforcement the FSRA can and will apply regarding the “(… *as well as equivalents in*

*another language or titles that could reasonably be confused with such titles*) provisions. Robust CB monitoring and enforcement over titleholders will be required to justify the cost of creating and operating the credentialing system.

Strong public promotion of the FP and FA title credentialing system may help reduce consumer confusion.

Kenmar remain constructively critical about the impact of the Act and rule proposals, as currently written. For many advisors who are far from ideal from a consumer/investor-protection perspective, this could be business as usual other than a few hundred bucks extra out the door each year to one or more of the new credentialing bodies.

The sharing of information among credentialing bodies and statutory regulators is essential to ensuring that financial consumers are protected. Collaboration and cooperation are required for an effective regulatory system. Any CB model must ensure there are no barriers to collaboration, cooperation and sharing of information.

The value of a FP or FA title will be determined by how financial consumers perceive the robustness and integrity of a CB. It is therefore essential that CB's have governance, reporting and transparency consistent with being a Body required to act in the Public interest.

Kenmar fear that FSRA's intended "protection" of titles could cause harm to Ontario's financial consumers by providing a false sense of regulatory oversight and protection. Nevertheless, we believe that with some creativity, the FSRA could minimize this risk as suggested in this Comment letter. The FSRA will be accountable for the impact of the CB system on Ontarians so it is critical that every measure be taken to ensure its integrity. Limiting consumer confusion must remain Top of mind.

We hope the FSRA find the comments provided useful.

Feel free to contact us if there are any questions.

Kenmar Associates agree to public posting of this Comment Letter.

We would be pleased to discuss our comments and recommendations with you in more detail at your convenience.

Sincerely,

Ken Kivenko P.Eng.
President, Kenmar Associates
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In "Licence to Capture: The Cost Consequences to Consumers of Occupational Regulation in Canada," authors Robert Mysicka, Lucas Cutler and Tingting Zhang explore how a growing number of occupations in Canada require members to be licensed or otherwise regulated and how, in many cases, the added costs consumers pay for regulated services outweigh the benefits.
https://www.cdhowe.org/public-policy-research/licence-capture-cost-consequences-consumers-occupational-regulation-canada . We urge the FSRA to implement the Title Protection Act in such a way that financial consumer costs are minimized and investor benefits demonstrably maximized.

**Advisor or adviser? It's not that simple** | Advisor's Edge 2017
This is another topic that has not been dealt with by the CSA. Financial consumers are as confused as ever - CFR provisions on titles are barely scratching the surface and we have yet to see how enforcement will work. In our experience, we have never seen a regulator take an enforcement action for misleading titles which blatantly breach the rules.
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