



Stephen Frank  
President and CEO

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Mr. Mark White  
Chief Executive Officer  
Financial Services Regulatory Authority of Ontario (FSRA)  
5160 Yonge St, 16<sup>th</sup> floor  
Toronto, ON  
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Dear Mr. White,

**Re: Financial Professionals Title Rule and Guidance**

On behalf of the Canadian life and health insurance industry, I am pleased to provide the industry's comments in response to FSRA's consultation on the use of the titles "financial advisor" and "financial planner." We would like to commend FSRA for actively engaging with all stakeholders on this important issue. In our submission, we set out our general comments, followed by our responses to the specific questions raised by the industry.

**About CLHIA**

The CLHIA is a voluntary association whose member companies account for 99 per cent the life and health insurance business in Canada. These insurers are significant contributors to Canada and its economy. They provide financial security to over 29 million Canadians and make over \$103 billion in benefit payments (of which 90 per cent goes to living policyholders as annuity, disability, supplementary health or other benefits with the remaining 10 per cent going to life insurance beneficiaries). In addition, life and health insurers have nearly \$950 billion invested in Canada's economy. In total, 99 life and health insurance providers are licensed to operate in Canada.

**General Comments**

We agree that it is important to regulate how someone holds themselves out when in an advice-giving role. Life and health insurers support the advancement of title protection for the benefit of our customers, advisors, and the industry as a whole. A title should signal to consumers where they can receive competent advice from qualified practitioners. Currently, individuals without any formal education or a license to sell products are still allowed to call themselves financial advisors based solely on their own perceived personal knowledge and experience. To protect consumers, it makes sense to require everyone using the Financial Advisor (FA) title to achieve a baseline credential.

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However, to prove their knowledge, Life Licensed candidates in financial services, have passed regulatory sanctioned exams based on standardized material. Based on this training, they are expected to act in their clients' interests by taking a holistic approach to their financial situation. As we will detail in our submission, the LLQP is aligned with the proposed baseline competencies for the FA title in FSRA's proposed Rule. The CISRO standardized curriculum includes training for advisors on the specified topics. As well, CISRO has a rigorous new criteria (as of 2020) that LLQP course providers must follow. As required by regulation, life licensees are subject to oversight from both insurers and FSRA. Through our responses to the questions posed in the consultation document, we offer further explanation about how the LLQP program, and licensee oversight, aligns with the proposed Rule.

Overall, we believe that those who are life licenced should be exempt from being required to attain additional credentials in order to continue to call themselves financial advisors. If FSRA does not share our view on this, we would like to better understand where there might be a gap and how it could be addressed. Perhaps this could be accomplished, for example, through updates to the LLQP Continuing Education requirements. Any additional requirements under the titling framework should not be duplicative for life licensees, and should avoid creating unnecessary regulatory burden for advisors, many of whom are small business owners and operators.

Further, it is also important that the Rule not create barriers to accessing insurance, by signaling to consumers that the risk protection and investment options offered by life and health insurance are not as important for their financial wellbeing as compared to other financial products. A life licence should not be considered a lesser qualification than designations attached to specific products. Care must be taken so that FSRA's approach to titling does not inadvertently favour one financial product or sector over another, with negative impacts on access to advice and competition.

Overall, we realize the significant efforts of FSRA in reducing undue regulatory burden, while protecting consumers who need to access financial products and advice. In keeping with this overall philosophy, Ontario can establish a titling system that builds on existing credentials so those who are already certified, and providing high-quality financial advice, can continue to serve their clients with minimal disruption. We believe there is a path forward that allows current advisors to receive credit for years of effort, examination, and compliance with regulatory frameworks already approved by FSRA.

## Consultation Questions

### FP & FA Credentials and Exemptions

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#### LLQP Course Providers & the Proposed Criteria and Duties for Credentialing Bodies

The LLQP requires a candidate to first certify before challenging each of the four LLQP exam modules. A candidate certifies by completing a course from an approved provider that is based on a standardized curriculum. To be approved, each course provider must comply with the criteria developed by CISRO, which was updated this year (2020).

We believe that the CISRO “LLQP Course Provider Accreditation Standards, Principles and Criteria” demonstrates alignment with FSRA’s proposed Rule. Specifically, the following tables sets out a comparison of the six sections and identifies the commensurate component of the corresponding “Criteria and Duties for Credentialing Bodies” from the proposed CISRO Rule.

**TABLE 1: COMPARISON OF CISRO COURSE PROVIDER AND FSRA CREDENTIALING BODY CRITERIA**

CISRO Course Provider Criteria	FSRA Credentialing Body Criteria
<ul style="list-style-type: none"><li>• <b>Eligibility Criteria:</b> This section describes the criteria for who can provide training. It restricts course providers to experienced educators. The purpose is to ensure that the curriculum is relayed in an understandable format that will eventually inform a candidate’s practice.</li></ul>	<ul style="list-style-type: none"><li>• <b>Personnel and Resources:</b> Similar to the CISRO requirement, this criterion specifically requires that a credentialing body have adequate capacity to run their programs.</li></ul>
<ul style="list-style-type: none"><li>• <b>Program Management:</b> Sets out what type of governance structure a course provider needs. This section also describes oversight of trainers by the designated program administrator and expectations for ethical program delivery. Further, it describes a requirement to have input from industry professionals throughout the program, student complaints handling, and compliance requirements for third-party trainers and clients. It also allows for CISRO investigations or audits to make sure ethical practices are being followed.</li></ul>	<ul style="list-style-type: none"><li>• <b>Governance and Administration &amp; Outsourcing:</b> The section of the proposed rule similarly requires that there be organizational structures in place to ensure the integrity of the program, and its ethical delivery. Both the CISRO, and the proposed the FSRA criteria require that there be an adequate level of oversight.</li></ul>
<ul style="list-style-type: none"><li>• <b>Education Planning and Learning Strategies:</b> The requirement to use the standardized LLQP curriculum is found here. The objective of standardization is so that all students build consistent knowledge and skills.</li></ul>	<ul style="list-style-type: none"><li>• <b>Course Content:</b> As with the LLQP materials, course content is expected to be kept up to date. Similarly, CISRO materials are periodically reviewed and updated.</li></ul>

CISRO Course Provider Criteria	FSRA Credentialing Body Criteria
<ul style="list-style-type: none"> <li>• <b>Program Delivery:</b> This section requires detailed upstream anti-cheating measures and sets expectations for who is eligible to be an instructor. Course providers must set qualifications for teachers based on industry experience, education, training licensing and certification, as well as teaching experience. Also included are further standards for program delivery, and educational supports that follow the required curriculum.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Ensuring only qualified individuals are granted a credential &amp; Professional standard for credentialing body employees:</b> Both CISRO and FSRA require that there be controls that limit who is eligible to be an instructor. Additionally, while CSIRO requires a student code of conduct, for its employees it requires that “The Provider shall verify that the professionals involved in its activities are in good standing with their professional or regulatory organization.”</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Certification:</b> To be certified as eligible to complete the LLQP examination, there needs to be a course examination. This section sets examination standards such as documenting the development of the exam, having enough versions of the exam, etc. There are strict exam administration guidelines, as well as requirements that students adhere to the program’s code of conduct.</li> </ul>	<ul style="list-style-type: none"> <li>• The CISRO certification requirements demonstrate alignment with the proposed FSRA criteria “ensuring that only qualified individuals are granted a credential”.</li> </ul>
<ul style="list-style-type: none"> <li>• <b>Program Evaluation:</b> Outlines how the provider can gather information to improve their course delivery on an ongoing basis. Additionally, CISRO undertakes periodic reviews of the course material to makes that they are up to date.</li> </ul>	<ul style="list-style-type: none"> <li>• CISRO’s “program evaluation” criterion set an expectation of ongoing program improvement similar to the proposed FSRA expectation above under “course content”.</li> </ul>

Public Information About Licensees

Previously, the Financial Service Commission of Ontario (FSCO), and now FSRA, maintain a publicly accessible database of those who are life licenced. It confirms the names of the licensee and provides the status of the licence. As well, rulings by the financial services tribunals, and licence suspensions are publicly available. We believe this would meet the proposed requirement that credentialing bodies provide “publicly available information” that consists of a list of individuals holding approved credentials and disciplinary action taken against them.

Who Oversees Licensees?

Oversight is connected to the provision and use of a license or credential. For those who are life licensed, oversight is therefore conducted by the insurers with which licensees are contracted, and provincial regulators such as FSRA. Both have the oversight, infrastructure, and financial means to ensure that consumers are treated fairly. This may be different from other sectors or industries where the credentialing body also grants licences and has structures in place for oversight. Shifting oversight from

insurers and FSRA to course providers does not make sense, as their scope of oversight is limited to their students. We do not believe there is a gap in oversight of those who are life licenced such that there need to be additional entities with oversight responsibilities. Moreover, as described below this may create a conflict of interest. In the section below entitled “oversight” we explain how our industry meets the requirement described in the proposed criteria under “conduct oversight of credential holders”, and “process for review and adjudication of complaints”.

### Conflicts-of-Interests & Credentialing Bodies

Aside from all current best practices in approving credentialing bodies such as ISO certification, it is important that they do not have real or perceived conflicts of interest. Financial conflicts of interest can be prevented by, for example, ensuring that any fees imposed by credentialing bodies are on a cost-recovery basis with clear transparency requirements. Further, consideration could be given to whether an entity that applies to be a credentialing body performs any other functions that could create a conflict of interest. For instance, the securities industry's Investment Dealers Association (IDA) of Canada decided in 2005 to separate the advocacy and credentialing functions. The Investment Industry Association of Canada (IIAC) was formed while the IDA retained its self-regulatory functions until it merged with Market Regulation Services Inc. (RS) and formed today's Investment Industry Regulatory Organization of Canada (IIROC).

### Course Content

The CISRO training materials follow the four modules of the LLQP examination:

- Life Insurance
- Segregated Funds and Annuities
- Accident and Sickness Insurance
- Ethics and Professional Practice (Common Law) or Ethics and Professional Practice (Civil Code - Quebec)

Below are a few examples of how the training aligns with FSRA’s proposed core baseline competencies based on the standardize CISRO LLQP exam preparatory material.

- **General Financial Services Knowledge:** Overall, the CISRO LLQP exam preparation material provides a detailed overview of financial services in Canada. Each of the following subcategories is studied through a lens of risk management and how Canadians can mitigate risks with insurance. The training covers FSRA’s three subsections as follows:
  - **Financial Services Marketplace:** Training covers a range of financial products. This includes detailed information about life insurance products, mutual funds, real estate, stocks, bonds, and other wealth accumulation vehicles where consumers may take on insurable risk. This training is further buttressed by information on key investing concepts, to support a licensee’s understanding of market economics and how this impacts financial risk.
  - **Fundamentals of Economics:** Training is provided on macroeconomic concepts such as inflation risks and currency risk. In terms of microeconomics, the training covers the value of how different type of funds are determined [ex. equity, balanced, income]. The training further includes key concepts such as investing, the time value of money, and annuitization. Overall, these topics are

at the core of understanding risk profiling for segregated funds and other life insurance products that have an investment component.

- **Regulatory environment:** The ethics module provides an overview of Canada’s financial regulatory framework. Chapter 1 reviews the “Legal Framework” governing life insurance. It explains what an insurance contract is, how it is formed, who can enter a contract, and its validity. Further explanation and training is provided about the pieces of legislation that are important to an advisor’s practice: the *Personal Information Protection and Electronic Documents Act (PIPEDA)*, *Proceeds of Crime (Money Laundering) and Terrorist Financing (PCMLTFA)*, *Canadian Anti-Span Legislation (CASL)*, and more. Additionally, Chapter 4 examines the specific “Rules and Principles Governing the Activities of Life Insurance Agents and Accident & Sickness Insurance Agents”. This section also explains who regulates licensees in each of the provinces, and reviews federal regulators, consumer groups, regulatory colleges [CCIR/CISRO], and other parties that support the oversight in the insurance sector. Overall, each section of the training explains the legal obligations of licensees, and expectations such as those included in the CCIR/CISRO “Conduct of Insurance Business and the Fair Treatment of Consumers”.
- **Ethics:** There is an entire training module specifically on ethics and advisor conduct. In addition, subject matter that relates to ethics is integrated throughout the curriculum. Examples of this training includes: acting in good faith, managing or avoiding conflicts of interest, refraining from unfair practices, making clear disclosure, complying with codes of conduct, and responding to complaints.
- **Client Outcomes:** A large portion of the training is focused on client outcomes and sales suitability. To support the application of this training, the industry has also established best practices on sales suitability.<sup>1</sup> Below, we have summarized some examples from the CISRO training materials that demonstrate alignment with FSRA’s competency profile:
  - **Gathering sufficient detailed personal and financial information about the client:** Advisors receive specific training about how to gather information about a client so that they can quantify risk. This includes examining family structure, the number of dependents, disabilities, employment, income, retirement timelines, taxes, debts, assets, business ownership and may other variables that are described in the CISRO materials. This information is then assessed by the advisor to determine what product will fit the client’s personal situation.
  - **Confirm a Client’s Risk Profile:** Advisors are trained to first quantify different kinds of risk that a client may experience against the cost of risk mitigation. For segregated funds, or life insurance products with investment components, advisors are also taught to understand the level of associated market risks, what each fund’s level of volatility is, and how that relates to their client’s comfort level with market risks.
  - **Establishing financial objectives, priorities and areas of need relevant to the scope of services being provided:** Similar to the other subject areas, this topic is covered in each of the product-specific sections of the CISRO material. Advisors are taught to aggregate numerous risk factors and provide advice based on each client’s unique situation. One example is Chapter10 “Assessing the Client’s Situation” where advisors are taught to assess someone’s family situation [number of dependents], income, job stability, future earning potential, assets, business ownership ,

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<sup>1</sup> “The Approach to Needs Based Sales Practices”

retirement expectations, debts, and existing insurance and other variables too numerous to mention. As well, in the context of permanent or term products the candidate is taught to assess priorities in the event of death. Regarding wealth products, advisors are taught to understand specific financial goals in terms of income, or investment time horizons.

- **Periodic Review & Ongoing Service:** This topic can be found throughout the CISRO materials, particularly chapter 12 of the “Life insurance” section entitled “ongoing service”. This section provides training on updating, reviewing, amending, replacing, and many other components of ongoing service. Ongoing service also underpins all product training as there may be junctures where a client will need advice about an existing product or adjusting their coverage.
- **Providing Suitable Recommendations:** Significant training is provided to advisors throughout the course about how to make recommendations based on the “client outcomes” information that they have gathered. Specifically, consider chapter 11 “Recommending an Insurance Policy” that examines how to recommend a life insurance product based on a fact find and needs analysis. For example, one approach may be to insure against lost income. To do so, an advisor would need to consider variables such as other income, a client’s investments, taxes, the impact of inflation, and numerous other factors. Another approach is to identify “capital needs” that may arise due to death [e.g. final expenses, estate expenses, and estate equalization to name a few].
- **Technical Knowledge (KYP):** In order to provide accurate advice, advisors are given detailed technical training on life and health insurance products to ensure suitable recommendations are provided in respect of the client’s overall financial needs. However, someone who is life licenced needs to have a broad understanding of the financial sector. As described above, the LLQP training reflects this need. While the knowledge and advice provided is through a lens of insurance and risk mitigation, insurance advice requires a subsequent knowledge of many different financial products. For consumers, the purchase of insurance may be a first step in terms of considering their financial future. It may lead to them seeking advice from someone who is licenced in another area such as an advisor that is mutual fund licenced, or a financial planner that will be licenced under the new regime. As well, it is important to consider that advisors are trained about segregated funds which are investment products. This training includes how to assess a client’s risk level, different types of funds, and how to assess the marketplace for different funds. Additionally, advisors are trained on income replacement insurance products such as annuities, that require an understanding of different types of risk in a retirement planning context.
- Using a product specific example, consider the detailed training that advisors receive about permanent life products that covers pricing options, death benefit options, investment components, the accumulating fund [UL policies], and differences between universal and whole life products.
  - To determine suitability of this product, the advisor is trained to consider the broader financial situation of the consumer. This includes how the product is integrated into their estate plan. Additionally, the advisor is trained to assess how this product impacts financial goals, and the tax implication it will have [please consider that there is an entire LLQP module on Life Insurance Taxation Principles]. Moreover, training on financial markets is needed to explain the investment component and assess broader suitability.

- Additionally, product-based training allows advisors to properly assess suitability. The advisor would be required to consider a range of insurance products in relation to the facts that they have gathered about the client. They would then share information about these products and identify those that are suitable. If a product is sold, it is an industry best practice to summarize the advice they gave in a reason why letter.

Once licenced, advisors are required to undertake continuing education (CE). In Ontario, this is 30 credits every two years.

### Oversight

A licensee is the subject of substantial oversight to ensure that they are competently applying their training, and that they are engaging in suitable market conduct.

- **Compliance Systems:** Oversight is the purpose of the compliance systems that insurers are required to have in place. Under Ontario Regulation 347/04 *Agents*, each insurer is required to have a compliance system that is composed of procedures that are reasonably designed to ensure that the advisors it authorizes to sell its products comply with the *Insurance Act*, regulations, regulatory guidance, and are suitable to carry on business.
- **Industry Standards for Screening and Monitoring:** The compliance systems are supported by industry standards for insurers to screen candidates prior to entering into a sales agreement and monitoring their advisors on an ongoing basis. Specifically, these standards are found in CLHIA Guideline G8 *Advisor Suitability*, which provides detailed advice on assessing the suitability of advisors. Among other things, suitability involves having the general and technical knowledge required to provide sound advice and recommend products suited to the needs of the customer.
- **Codes of Conduct:** Overall, an advisor who is life licenced is expected to comply with a course provider’s code of conduct while they are a student. Once licenced, they are the subject of insurer codes of conduct. Further, FSRA’s 2021-2022 priorities indicate a plan to make a code of conduct that will harmonize expectations for all intermediaries. Insurers codes of conduct promote fair outcomes for consumers, ethical practices, and are integrated into their advisor contracts. These codes outline insurer market conduct expectations, which include Fair Treatment of Consumers (FTC) principles. As indicated, work is being completed to ensure alignment with the FTC CCIR/CISRO Guidance. Moreover, advisor conduct is monitored against the codified requirements and noncompliance that may result in remedial action.
- **Monitoring:** Advisor practice reviews have become an integral component of insurer compliance programs. As these programs have matured, they have started to require advisors to demonstrate how they have implemented FTC processes through on-site practice reviews or “desk examinations”. For example, in addition to verifying licensing, E&O, and CE requirements are met, a typical practice review will seek to verify that:
  - the use of life insurance replacement disclosures (LIRDs);
  - clients are provided with written conflict of interest disclosure;
  - needs-based sales practices, including a fact find, written needs-analysis and “reason-why” letter are incorporated into their business activities and documented in client files;
  - how to use needs and risk assessment tools; and



- processes for handling complaints are in place.
- **Complaints Processes:** Insurers take complaints seriously, not only in response to legislative requirements, but in order to maintain consumer confidence and trust. For most life insurers this translates to sophisticated structures for complaint resolution, with many insurers having their own OmbudService, which can conduct detailed investigations, and an internal appeals process. Further, insurers typically set standards and strict timelines for resolving complaints.
- **Disciplinary Processes:** When a practice review detects non-compliance by an advisor, an insurer will respond proportionally. For example, a minor gap in a program may result in remedial assistance, while misconduct or persistent non-compliance can lead to contract termination.
  - Further licensing bodies, such as FSRA, have their own licensing process that can result in licence suspension, or administrative penalties. Therefore, poor conduct can result in both contract termination from a company, and a licence suspension from the regulator that granted the licence.

## Disclosure and Consumer Education

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### Conflict of Interest Disclosure

A key consumer education tool for credentials, licences, and ultimately titles is disclosure. This is where an advisor explains how their level of knowledge is certified, and on what subjects they are competent to advise.

The life and health insurance industry has well-established processes for advisors to explain their qualifications, their licences, and the companies they represent. As such, we support requirements that financial advisors, and financial planners, provide client-facing disclosure about their credentials.

Industry standards for disclosure are outlined in CLHIA Guideline G14, “Confirming Advisor Disclosure, for point-of-sale disclosure relating to conflicts of interest” and in the CLHIA Reference Document “Advisor Disclosure”. Disclosure refers to when advisors provide their clients with written descriptions of their credentials and any relationships that may create the perception of being a conflict of interest.

The Guidelines indicate that written disclosure should include seven elements that the advisor should review with their clients:

1. Licenses and jurisdictions where they practice
2. Company(ies) that the advisor represents: All companies an advisor sells products for, including both insurance and non-insurance products (ex. mutual funds)
3. Nature of the relationship between the advisor and the company(ies) that they represent
4. Compensation: The advisor should provide their client with information so that they understand the basic business relationship between an advisor and an insurer. For example, how an advisor is paid, if they are placing business through an MGA, and if they are eligible for bonuses
5. Additional compensation (cash or non-monetary, such as travel incentives, that can be based on volumes of business placed in a specific period)
6. Conflicts of interest: Anything that could impact the impartiality of an advisor, or give the perception of bias against the client’s needs
7. The right a client has to ask for additional information

## Fees and Assessments

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### Overlap

The life and health insurance industry agrees that any additional fees due to new regulatory undertakings by FSRA should not be duplicative. In other words, one sector should not subsidize FSRA's regulatory activities in another. Notably, there are already regulatory requirements that insurance companies have compliance programs that oversee advisors. As well, FSRA also reviews the conduct of those who sell insurance, which is reflected in our fees. If the industry is expected to take on enhanced oversight in place of FSRA, we would propose a reduction in the calculated fees that each insurer and advisors pays to FSRA.

### Conclusion

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We appreciate and support FSRA's effort to ensure there is an appropriate framework established for the use of the titles: "financial planner and financial advisor". Consumers need to know that anyone calling themselves a financial advisor has the appropriate expertise and education.

As demonstrated in our submission, we believe that the proposed Rule should reflect that the training and knowledge gained through the LLQP, and the services life licensees provide to their clients, meets the requirements to use the FA title. We believe that licensees should be able to use the title FA based on how:

- The LLQP comprehensively covers the competencies outlined in the proposed rules;
- The LLQP curriculum is standardized by CISRO;
- CISRO sets a comprehensive criteria for course providers;
- Insurers have regulatory oversight requirements that include disciplinary and complaints processes; and
- FSRA provides oversight, monitoring, complaints and disciplinary processes of licensees that will eventually be supported by FSRA's future codes of conduct for intermediaries.

If FSRA does not share our view, we would like to better understand where there might be a gap and how that gap could be addressed. This approach would be consistent with the stated goal of "accommodate[ing] the complex and diverse existing landscape of financial planners and advisors...without introducing unduly burdensome barriers."

If it would be helpful, we would be pleased to discuss this submission in a follow-up meeting.

Yours sincerely,

*Original signed by*

Stephen Frank