Kenmar Associates
Investor Education and Protection

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Financial Services Regulatory Authority of Ontario
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Financial Services Regulatory Authority of Ontario (FSRA) Notice of Proposed Rule and Request for Comment Proposed Rule Second Consultation Financial Professionals Title Protection https://www.fsrao.ca/engagement-and-consultations/financial-professionals-title-protection-rule-and-guidance-second-consultation

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EXECUTIVE SUMMARY

1. The rule will protect the FP and FA titles but will not prevent individuals from practising or offering financial planning or advising services to Ontarians
2. The tools for enforcing the rule are inadequate to deter wrongdoers
3. A large catalogue of alternate titles and designations will be permitted that will continue to confuse Ontario financial consumers
4. One benefit of the rule would be **IF** the FSRA conduct standard is " Best interests"
5. A positive is that the FP designation (title) will come under a form of regulation in Ontario
6. The CB's are self-regulating "private actors" whose governance and regulatory oversight must be robust
7. Multiple CB's adds unnecessary complexity, regulatory burden and confusion
8. The OSC and SRO's in the securities sector should be granted a blanket exemption as long as the FSRA FA standard is met
9. There is a concern that consumer fees will increase without corresponding benefit
10. The transition periods are excessive

Introduction

Kenmar Associates welcomes the opportunity to comment on the updated proposed Rule changes. The updated version of the consultation suggests that the FSRA is listening to commenters.

The Financial Professionals Title Protection (FPTP) Rule sets out the requirements and standards that persons or entities must meet in order to obtain FSRA approval as a credentialing body and to obtain FSRA approval of a "financial planner" (FP) or "financial

advisor" (FA) credential. This consultation sets out how the FSRA will approach the administration of applications under the Financial Professionals Title Protection Act, 2019 (FPTPA) and the provisions of Rule [2020-001] ("FPTP Rule") – Financial Professionals Title Protection under the FPTPA (Title Protection Framework).

Meaningful credentialing of professional financial planners and advisors could potentially reduce the negative impact of misleading titling practices on financial consumer outcomes. In this Comment letter we explain why we do not believe the Act or its rules will be adequate to contain the deception, especially in non-securities financial sectors.

A number of our administrative concerns were addressed by the FSRA revisions https://www.fsrao.ca/industry/financial-planners-and-advisors-sector/summary-revisions but some core issues still remain.

The framework includes minimum proficiency, competency and knowledge standards for persons approved to use the titles through the credentialing requirements. In the framework consultation summary report containing responses to comments made on the original August 2020 consultation, FSRA noted its intention to include SROs as credentialing bodies under the framework and confirmed that the framework is not intended to introduce new conduct standards for firms registered with IIROC or the MFDA. From our perspective, the CSA approved IIROC proficiency/conduct standards and the Client Focused Reforms (CFR) should be adequate to reasonably protect investors from unqualified financial advisors but it will not move the advice profession forward. We note that the Ontario Securities Act and related rules, are focussed on the distribution of securities (investments), not the provision of holistic financial advice. A distribution model runs counter to the modern, professional vision of financial advice and planning that puts the client relationship at its core and makes transactions incidental to the advice.

FSRA also expects that credentialing bodies will share information with other such entities to ensure that only qualified persons obtain and keep an approved credential (and don't credential-hop). Further, FSRA expects that CB's will have a process in place to review the good standing of their own credential holders in the event regulatory action is taken by another credentialing body or regulatory body. Kenmar remain constructively critical of CB's capabilities, resources and motivation concerning these expectations.

In truth, the real problem has not been limited to protecting titles but protecting investors from misrepresentations of advice and conduct standards. Anyone holding themselves out as a financial planner or financial advisor should be required to hold the FP/FA title. The fact that the Rule does not require this, severely limits its impact.

The CSA Client Focused Reforms deal with the misleading communications issue reasonably effectively. Registered Firms must not hold themselves or their registered individuals out in a manner that could reasonably be expected to deceive or mislead a

client or prospective client as to:

- The proficiency, experience, qualifications or category of registration of the Firm or its individuals;
- The nature of the client's relationship, or potential relationship, with the Firm or its individuals; or
- The products or services provided, or to be provided, by the Firm or its individuals.

Under CFR, all titles must be approved in advance by the Firm, which means investment Firms will have to not only set criteria for the use of titles and designations within the organization, but also monitor their use going forward. This makes it clear that Firms are accountable for any titles or designations or service offerings provided by their representatives. There is no comparable requirement in the FSRA proposal. The proposed Rule does not contain any FSRA sanction provisions that address the case where Firms knowingly permit (or even encourage) their representatives to use the FP title when they are not entitled to. It is our view that non-securities industry Firms should not be immunized from title or designation abuse accountability.

Business Titles versus professional designations

It is important to distinguish between business titles and professional designations. Both must be regulated. The legislation fails as a consumer protection legislation as a result of leaving Firms and their representatives to use misleading business titles. Contrived titles like "Seniors Expert" that are not based on specialized training and specific standards can deceive elderly financial consumers. Titles are intended to convey some measure of professional development, proficiency, transparency and standards of conduct.

To provide the necessary financial consumer protections, ANY title (or designation) used must be supported by a rigorous curriculum, examination process and experience requirements issued by an accredited organization when deciding whether or not to approve the title/designation's use.

Limitations of the rule

To avoid confusion and misleading consumers, the objective should be to limit the use of titles to the least number of titles in the marketplace as possible. The update addresses variations on the regulated titles -such as "financial advisor consultant" and "financial planning manager"- which could reasonably cause confusion, The FSRA will review complaints about such misleading titles on a case-by-case basis.

However, misleading titles that would likely remain acceptable include "wealth manager," and "asset manager," "investment manager" to "wealth coach." Some Firms award titles based upon sales production, such titles commonly include Vice President and Director. Titles related to seniors such as "retirement counsellor," "Seniors specialist" and "retirement coach" are demonstrably misleading and harmful. Based on our many years

of experience, we must respectfully disagree with the proposal – **most of the permitted titles do and will mislead retail financial consumers.** Individuals offering to provide financial advice and providing financial advice are taken to be *advisors* by Main Street. See *Advisor Title trickery:* Small Investor Protection Association https://www.sipa.ca/library/SIPAsubmissions/500%20SIPA%20REPORT%20-%20Advisor%20Title%20Trickery%20October%202016.pdf .

The FSRA's own research (in APPENDIX C to the consultation) revealed that (a) only 31% of consumers are confident that they can explain the difference between FPs and FAs, and only 6% are completely confident and (b) 56% of consumers assume that FP and FA title users hold credentials which are regulated by a government regulator, and 46% believe that the individuals themselves are regulated by the government. A September 2015 OSC mystery shop survey found a whopping 48 titles in use across the four platforms shopped. It is clear from this and other empirical research that retail financial consumers do not have sufficient knowledge or information to distinguish between titles. That is in fact why so many misleading titles are fabricated by the financial services industry.

We can foresee the FRFI's developing a title(s) to suit their needs without being in non-compliance with FPTPA guidelines. This would, in one stroke, circumvent FPTPA. Kenmar therefore believe the FPTPA /rule is insufficient to contain misleading titles in the marketplace.

Kenmar urge the FSRA to take a consumer -focused approach to interpreting sections 2 and 3 of the FPTPA; in particular the, "could reasonably be confused with" provisions of the protected titles regime. It is critically important that these provisions be interpreted broadly to achieve the FPTPA's intended legislative purpose. Specifically, the provisions in the Act aimed at reducing public confusion should capture all titles that are likely to evoke, in the minds of the typical retail financial consumer, a belief that the title holder is qualified to provide personalized financial advice and services as an FA or FP credentialed person.

The proposed FSRA FA proficiency/conduct standard appears to be lower than the CFR provisions applicable to all OSC/CSA registrants effective January 1, 2022 that will impact over 100,000 individuals across Canada. We recommend that the FSRA harmonize with the CSA's CFR provisions relating to standards /titles in order to eliminate regulatory arbitrage and provide Ontario financial consumers a consistent level of protection in the financial services industry.

The FPTPA may prevent non-credentialed people from using the FP or FA title, but it will not stop them from selling their services based on promises to perform work that involves financial advising/planning or asserting that they provide financial plans. This is a fatal flaw.

To address misleading titles in the financial services industry, one would need to establish

rules authorizing only credentialed persons to practice financial planning as is the case, say, for professional engineers practicing engineering under the P.Eng. designation. This Rule does not do that, so the confusion over misleading titles will continue under this proposal.

To eliminate confusion on planning, we are convinced that Quebec's approach to financial planning professionalism is the superior path to professionalism in financial planning.

Approval of Credentialing Bodies (CB)

We believe 4. (1) https://www.fsrao.ca/media/3506/download is broad and general. We urge the FSRA to adopt an internationally recognized standard, the **ISO 17024 Conformity assessment- General requirements for bodies operating certification of persons** See https://www.ihf-fih.org/resources/pdf/Conformity_assessment-General_requirements_for_bodies_operating_certification_of_persons.pdf (28 pages) and https://www.iasonline.org/wp-content/uploads/2017/04/474-Sep-2018-1.pdf as the baseline, supplemented by any tailoring needed for the Canadian regulatory environment.

An approved CB must be responsible for the impartiality of its certification activities and shall not allow commercial, financial or other pressures to compromise impartiality. Entities that engage in political lobbying on behalf of investment industry interests or for their members and pursue advantages for them is incongruent with acting in the Public interest. Accordingly, such entities should be barred from being approved as CB's. CB's must behave like industry-independent, not-for-profit educational institutions per the ISO 17024 standard.

We welcome the CB application revisions, including strengthened language for CBs to describe how they serve the Public interest by identifying, addressing and managing conflicts. To ensure the Public interest is protected, it is essential that before any credentialing body is approved, it must exhibit a governance structure that avoids conflicts regarding the Public interest, and has sufficient expertise, human and financial resources and infrastructure to fulfil its mandate. The Ontario Taskforce to modernize securities regulation has proposed strong measures to improve existing SRO governance. Similar proposals are appropriate for FSRA-approved credentialing bodies which, in effect, are SRO's. A key point is consumer representation on the Board of directors.

Only CB's whose practice standards, ethics codes and codes of conduct explicitly require their credential holders to adhere to 'Best interest' duties and practices free from conflicts-of-interests, at least equivalent to the ones articulated in the CSA CFRs should be approved. If this is not done, the intent of the FPTPA to increase professionalism will not be met.

Examinations should be sufficiently robust to test the knowledge of applicants. CB's must provide concrete evidence that the pass/fail standard for examination(s) fairly and

objectively reflects competence which is required for practice.

We agree that an approved CB shall require that any individual to whom it has issued an approved financial advising credential must comply with (a) a code of ethics and professional standards that is consistent with the standard of care described in clause (1) (a), and (b) continuing education requirements that reinforce the requirements described in clause (1) (b) of the requirements. If there are going to be multiple CB's, we again recommend that there be a single Code of Ethics for all CB's; one approved by the FSRA in conjunction with other regulators. The Quebec model appears to be use-ready.

CB's should have an obligation to promptly report suspected or demonstrated criminal activity to the FSRA (and law enforcement) for follow up action.

MFDA and IIROC Member Firms generally preclude their registered representatives from using the FP title unless they have obtained a recognized (albeit unregulated) financial planning designation. These Firms do permit qualified individuals to effect financial planning but do not necessarily require the use of the FP title. It is important to note that, while the updated Rule seeks to regulate only the use of the FP and FA titles, the IIROC/MFDA rules look beyond the title to address both how an individual holds themselves out as well as the activities actually being conducted. While enforcement has been light-touch, we are, at least for now, cautiously optimistic that title supervisory controls will tighten up under CFR

It just doesn't feel right that one regulator would oversee another regulator. We recommend that SRO's and the OSC be given blanket exemption under the FPTPA commencing January 1, 2022 as long as the registrant standard meets the minimum FSRA FA proficiency standard , one that also incorporates a Best interests duty. The rationale for this is that, while a small number of different titles for advice givers could be used, all registrants could be trusted by the Public to have appropriate proficiency and meet minimum conduct standards. The FA title would not be protected per se but the anticipated regulatory intent of the FPTPA would be achieved.

If blanket exemption is not granted, then there is the issue of a SRO or the OSC being a CB who largely depends on a for-profit, US owned entity for course development, implementation and exam proctoring. We expect that the SRO's would need to make adjustments to their organizational structure and governance to meet the ISO 17024 standard for a Credentialing Body.

While our preference is, as stated in our earlier comment letters, that the FSRA directly regulate financial planners, we understand the difficult position that the FSRA finds itself in. That being said however, we do not support there being more than one credentialing body for financial planners. A single credentialing agency would better guarantee consistency, would be easier for the FSRA to monitor, would eliminate CB- hopping and would reduce complexity and confusion for financial consumers.

CB Oversight

Per the update, Credentialing Bodies are required to submit complaints data to FSRA on an annual basis that it will use to help inform its monitoring approach. We do not believe this frequency is adequate to provide assurance that the CB system is functioning well. The FSRA should ensure that reliance on complaints as primary indicators of consumer detriment does not serve as an excuse to abandon proactive surveillance and compliance inspection.

CB oversight is a second best option, but given that it is the policy choice of the legislature, we make the following points:

- Oversight framework lacks detail and rigour
- Oversight in the first 5 years or so must be rigorous to watch for gaps in the framework and potential duplication
- CBs cannot be assumed to be competent, they must demonstrate competence through the tool of regulatory oversight.

It is vital to capture any issues early and prevent a small problem becoming a big one. Risk-based oversight may be appropriate after the CB has a demonstrated track record of complying with its obligations.

We are not comfortable to see that FSRA will conduct annual compliance reviews, based on required information returns. Consumers expect FSRA to monitor the compliance of approved credentialing bodies on an ongoing basis to ensure their credentialing program continues to meet the minimum standards outlined in the FPTP Rule, and the terms and conditions of their approval. In any event, we look forward to public consultation with respect to the template for annual compliance reviews.

With respect to CB governance, Kenmar recommend that (a) the FSRA have the right to nominate at least one Member of the CB Board of Directors and (b) have veto power over CB Director selection in accordance with defined criteria.

FP and FA Credentials

The updated credentialing criteria for financial advisors appear to be below the existing standards in force by the Ontario Securities Commission and the SRO's. For example, the FSRA refers to acting competently, professionally, fairly, honestly and in good faith, with clients. The OSC has more robust language with the recently adopted Client-Focussed-Reforms that require representatives to resolve conflicts-of-interest in the best interest of their clients along with other provisions such as putting clients' interests first. Kenmar are of the firm conviction that individuals providing personalized financial advice should be held to a Best interests standard.

We cannot fully comment on whether the FP or FA title will be useful for Main Street based on the information provided. Do students have to prepare a research paper, are exams multiple choice, what are passing grades, how effective is CB monitoring...?

ISO 22222:2005 *Personal financial planning — Requirements for personal financial planners* defines the personal financial planning process and specifies ethical behaviour, competences and experience requirements for personal financial planners. https://www.iso.org/standard/43033.html . We recommend that this proven international standard be the baseline used by the FSRA, modified only by any conditions unique to Ontario/Canada. We expect that the use of the FP title would be limited to those individuals registered with a regulator since unregulated FP (or FA) title holders can cause consumer harm without the consumer protections linked to a regulator. In the securities sector, investors have access to OBSI while clients of an unregulated FP title holder individual would not. In addition, registrants associated with the MFDA and IIROC would have access to a $1M investor protection fund.

FP Canada and IQPF (FPSC [now FP Canada] sister organization in Quebec) released a joint publication Canadian *Financial Planning Designations, Standards & Competencies* which provides a good starting point for financial planning definitions and professional financial standards in Canada. This appears to be congruent with the ISO standard. Kenmar recommend that consideration be given to adopting these standards to avoid duplication of effort, accelerate implementation and demonstrate credibility.

The FA proficiency requirement: *Providing suitable financial and investment recommendations to a client* raises an issue. The OSC/CSA has moved beyond the suitability standard- in 2021, all individuals advising retail investors must comply with the Client-Focussed Reforms (CFR), a higher standard than suitability but lower than an overarching Best interests standard. An FA title holder should be required to at least meet the IIROC CFR 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 professional designation FA (or FP). See IIROC consultation paper *IIROC to consult on competency profiles for registered investment representatives* https://www.iiroc.ca/Documents/2020/a396b71f-06bd-4bb8-b524-362b604d5dfa_en.pdf While MFDA representatives have lesser proficiency standards due to product restrictions, conduct and other CFR standards/processes apply equally to MFDA and IIROC registrants.

An excellent summary of the CSA Client Focused Reforms can be found at. https://aumlaw.com/wp-content/uploads/2020/09/Client-Focused-Reforms-in-a-Nutshell-October-19-2020.pdf It should be noted that CFR is not a fiduciary standard, does not prohibit conflicts-of-interest or the payment of sales commissions or ban dealer representatives with restricted product shelves. CFR does not require an annual update of KYC, restrict an advisory Firm from offering only proprietary investment products and relies on "professional judgement" in a number of key client touch points. The term "Best interests" is not defined; time will tell how CFR works out in achieving better outcomes for retail investors.

The FA title must not become a rubber stamp that will give politicians a headline that says they did something when they did not.

Central registry

The update requires approved credentialing bodies to provide FSRA with information needed to maintain a public registry. This is a positive step if multiple CB's are to be approved. However, of most benefit to financial consumers would be a national centralized registry for securities and insurance licensed advisors. This would require collaboration amongst provincial insurance and securities regulators. The CSA already has a centralized registration database. We encourage the FSRA to work with its other provincial counterparts to create a national database for insurance advisors which could be combined with the CSA national registration database.

Kenmar wish to point out that a person's name on the registry could be misinterpreted by consumers that the person is registered with the OSC or Recognized SRO.

Disclosure of credentials

If credential disclosure is not mandatory, some of the benefits of the FPTPA will not be achieved. For instance, consumers will not be able to seek out FA title holders or complain to a CB about advice if they are unaware of the advisor's credentialing. We appreciate that some financial institutions, such as banks, may not want their representatives to put in writing their employees' credentials as that might provide evidence that the bank represented to its clients a higher standard of proficiency/ conduct (and associated liability) than the institution wishes to be held to.

Enforcement

We welcome the added guidance for CBs to demonstrate how they will assess the suitability of a prospective credential holder, should disciplinary action or enforcement action be taken by another approved CB or regulatory body. The key issue is the process on how they will remain informed of these disciplinary/enforcement actions.

FSRA's disciplinary processes for approved credentialing bodies and individuals include warning and caution letters, remediation plans, compliance orders and revocation of approval. We question whether these measures are a sufficient deterrent for violation of the rules. Without monetary penalties, deterrence may be low since such a person could simply change their title to one of the many titles that the FSRA do not intend to enforce and carry on business as usual. If a person ignores these actions, what can the FSRA or CB do about it? Unless the individual is subject to enforceable fines, loss of practice license /registration and/or loss of employment, the individual need not fear the CB or FSRA.
https://www.fsrao.ca/industry/financial-planners-and-advisors-sector/proposed-financial-professionals-title-protection-supervisory-framework

The FSRA can play an important supporting role by ensuring that individuals banned by the OSC, MFDA and IIROC are not licensed to practice in the Ontario insurance sector. In addition, the FSRA should not license any individual that has not fully paid a fine to another regulator. This would eliminate or reduce access of such "advisors" to trusting consumers no matter what title or credential they hold.

Established securities regulators have many more tools and protections than existing or proposed CB's. They can compel witnesses, obtain remuneration, end careers, etc. For example, a CB can only take away the FA title. Would it be possible that an individual banned from the industry could continue to use the FA title? They might, because proposed enforcement provisions and tools are very limited.

Transition time

The FSRA proposal shortening the transition periods for those who actively use the titles but didn't hold approved credentials on or before Jan. 1, 2020 is an improvement. The proposed transition was two years for FA title users and four for FP title users (from the date the rule comes into force, and only if the title was already in use as of January 1, 2020). Previously, these periods were three and five years, respectively. Shortening the amount of time that individuals who do not hold an approved credential can use the FA/FP titles will reduce the potential for misuse/abuse of titles. Still, 2/4 years respectively is a long time to coast on an unearned title given the number of years this issue has been around. We recommend a 2/4 transition starting from January 1, 2020, not from some future date. Serious title users have had more than fair advance notice to obtain their credentials.

If transitioning is to be permitted, we recommend that the title have a qualifier such as *Pending or Candidate* that would alert clients that their "advisor" is not yet fully credentialed but is driving toward accreditation. If such individuals are sanctioned for wrongdoing during the transition period, the right to use the title should immediately cease.

Consumer Education

To make the rule effective, the FSRA will need processes detailing how government, regulators, credentialing bodies and industry can educate financial consumers on financial planning and financial advising services in Ontario and on the significance of FP and FA title usage. The FSRA should establish an appropriate continuing budget for title promotion.

A key success factor of the Act and accompanying Rules will be how well the FSRA and other regulators educate the public on the unique benefits of working with individuals using the FP and FA title (designation) .If this is well done, the increased awareness could lead to a shift away, over time, from individuals who are not members of an FSRA

approved credentialing body. Conversely , if the CB's do not live up to the ISO credentialing body standard and FSRA CB approval criteria , this well-intentioned initiative will not succeed and may in fact, be counter-productive.
Kenmar believe online guides written plainly in both official languages explaining the exceptional value of FA and FP titles will be necessary. The FSRA could run various campaigns throughout the year to keep the importance of CB approved professional credentials top of mind among financial consumers.

In the FSRA's educational promotion of the new titles rule, it will need to be forthright as to the limitations to which financial consumers can rely on titles and their supporting professional competency and ethical standards, including regulatory oversight.

Interprovincial Relationships

It is highly desirable that there is harmonization of titling rules across provinces.

We recommend that the education, training, credentialing and licensing of individuals engaged in the provision of financial planning be harmonized and subject to one set of regulatory standards across Canada. Kenmar urge liaison with Quebec authorities to avoid duplication of effort.

As regards the FA title, it could prove very expensive and burdensome for CB's to be ultimately subject to oversight by 13 jurisdictions in the securities sector. One thing is for sure, any increased costs will end up being placed on the shoulders of financial consumers.

Conduct Standard

As discussed in our prior Comment letter, 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 includes: 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 designation (title). This is an opportunity the FSRA should not miss. It would move the ball forward towards increased professionalism in the financial advice industry in Ontario.

In the initial report for its Horizon Project https://www.osc.ca/sites/default/files/2021-06/iap_20210610_iap-horizon-executive-summary.pdf , the OSC Investor Advisory Panel said it had spoken with several industry groups about a "looming advisor shortage" caused by imminent retirements and persistent deficits in recruitment. While advisors in

some segments are pushing 59 years old on average, many also see declining interest among younger generations in pursuing financial advice as a profession. "This is being managed currently by finding efficiencies through adoption of new technologies," the IAP said in its report. However, the IAP said the delegations it engaged with expressed concerns that new models of advice "are not translating into a better customer experience and, in fact, often result in less advice and lower quality of touch." The lack of professional standards and meaningful designations appear to be a major factor keeping individuals away from the advice business. The FSRA title rules can reverse this trend by making the title (designation) FA, a meaningful professional career choice. It is an opportunity that should not be missed .It would be a real shame if all this effort amounted to a rubber stamping of the status quo.

Fees

In the latest notice accompanying the proposed rule, FSRA has set out its perspective for its intended collection and remittance of fees, for which a separate consultation will be launched in the next few months. FSRA is currently proposing a framework that would include a very modest fixed application fee ($10,000 for approval of a credentialing body and $5,000 for each application for approval of a credential) to recover direct costs of reviewing such applications. Each credentialing body would also be subject to an annual fee in order to help FSRA recover its annual oversight costs/ registry administration, as well as its start-up costs to implement the title protection framework. Such costs would be recovered through a mixture of fixed annual fees of $25,000, variable fees based on each credentialing body's number of credential holders, as well as a third amount related to recovery of start-up costs over a five-year period. It remains to be seen how this translates into unit costs for individual FP / FA certificate holders AND impact on consumers. We hope it is a nominal amount given our view that the FPTPA and its proposed rules will have questionable value-add in the securities sector and our concern that other confusing and misleading titles will remain in use throughout the Ontario banking and insurance services sectors.

SUMMARY and CONCLUSION

Given that all securities registrants in Canada will be regulated under CFR , including in particular its enhanced titling rules, on January 1, 2022 , there appears to be little or no incremental benefit of having individuals carry the FSRA approved FA title in that financial sector. The FSRA framework does not effectively respond to concerns among consumer/investor advocates and industry about the currently unregulated use of titles in the financial services market because dozens of misleading titles will still be permitted. Studies that have shown that financial consumers put trust in titles, even those disconnected from the substance of a person's experience, qualifications or role.

In the less regulated insurance and banking sectors there potentially could be a consumer protection benefit of constraining the usage of the FA title if there was individual uptake. If the proposed accommodative standard for FA is adopted, it could hinder or delay the true professionalism of financial advice givers.

As to the FP title, there would be a some benefit to financial consumers by regulating (albeit indirectly) the unregulated (except for Quebec) FP title (professional designation) , although those holding themselves out as offering financial planning services will still be able to practice financial planning as long as they do not cross FSRA `s relatively easy to circumvent titling guidelines.

Nevertheless, we support the initiative for the FP designation since the "financial planner" title and financial planning is not regulated at all in Ontario. This is a gap that the FPTPA and FSRA rules could potentially fill **if** the proficiency and conduct standards are at an elevated level and a credible and independent CB is approved and overseen by FSRA.

Kenmar believe that only those who accept a duty of loyalty, prudence and care for their advice to clients should be allowed to hold themselves out to clients as "financial advisors". Approved CB's should not endorse lower standards of care if the goal is to build retail financial consumer trust in the FA title.

We are also concerned that multiple CB's will be created in Ontario and that the costs and red tape associated with FA titling will ultimately be paid by Ontario consumers without a material net tangible benefit.

Kenmar appreciate the difficulty the FSRA has in trying to convert a flawed Act into a meaningful consumer protection mechanism. The old saying - *you can't make a silk purse out of a sow's ear* comes to mind. The updated rule, while an administrative improvement, is still unable to mold the FPTPA into something it should be.

We would like to make it very clear that it remains our conviction that financial services Firms must be held accountable for the actions, negligence or misconduct of their representatives no matter what title or designation, individual representatives employ.

The Ontario government demonstrated wisdom and forthrightness when it publicly backed down from its opposition to a CSA decision to ban DSC mutual funds in Canada. That same wisdom and integrity should apply to this seriously flawed Act. That would be in the Public interest.

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,

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REFERENCES

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The Canadian Financial Planning Definitions, Standards & Competencies. https://fpcanada.ca/docs/default-source/archive/fpsc_definitions_en_web.pdf These standards are at a high level, are not proprietary and could, along with other standards, form the basis for FSRA FP credentialing baseline criteria.

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