



Stephen Frank
President and CEO

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Mr. Mark White
Chief Executive Officer
Financial Services Regulatory Authority of Ontario (FSRA)
25 Sheppard Avenue West, Suite 100
Toronto, ON, M2N 6S6

Dear Mr. White,

Re: Financial professionals title protection rule and guidance second consultation

On behalf of the Canadian life and health insurance industry we are pleased to provide our comments in response to FSRA's second consultation on Financial Professionals title protection. We appreciate the opportunity to provide our industry's perspective and support the overall objectives of this important initiative. However, as set out in our first submission, the life and health insurance industry is concerned that the proposed training and oversight provided by credentialing bodies may overlap with existing training, rules, regulations, and guidance that govern life licensees. From our perspective, licensing shares the same public policy objectives as credentialing. The requirements to attain a credential should complement rather than duplicate existing licensing requirements. It is important that any gaps in the Life Licenced Qualification Program (LLQP) that would preclude a life licensee from continuing to use the term Financial Advisor (FA) be identified so that the industry and curriculum providers can resolve them.

About the CLHIA

The CLHIA is a voluntary association whose member companies account for 99 per cent of the life and health insurance business in Canada. These insurers are significant contributors to Ontario and its economy. They provide financial security to about 11 million Ontarians and make over \$45 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 \$340 billion invested in Ontario's economy. A large majority of life and health insurance providers are licensed to operate in Ontario, with sixty-six headquartered in the province.

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General Comments

We agree that a title should signal to consumers where they can receive competent advice from qualified practitioners. To protect consumers, everyone using the FA title should both receive similar baseline training and oversight. However, we believe the adequacy of training, certification of knowledge, and oversight is achieved through licensing in the life and health insurance industry.

For example, life licensed advisors complete the LLQP, are required to complete subsequent continuing education, and are then subject to ongoing oversight by Insurers, MGAs, and FSRA.

Below, we have set out some of our concerns about possible duplication, and unnecessary regulatory burden in more detail. We would like to:

- Understand what the gap is between credentialing and being life licenced so that steps can be taken such that a life licence allows a life licensee to use the FA title (see **Appendix A**).
- Confirm that the term advisor can continue to be used on its own, or in the context of the provision of life and health insurance advice (life insurance advisor, advisor for life insurance, etc.). Where an advisor is dual licenced (MFDA or IROC) we would like to confirm that they may refer to themselves as a “Life insurance and investments advisor”.
- Retain the longer transition period for those advisors that hold licenses recognizing their existing training and expertise, including existing oversight. Many advisors have been practicing for years, have successful practices, and will need time to complete any additional training. On the other hand, we support a short transition period for those using the FP/FA title without any training.

Leveraging existing licensing as an alternative path

FSRA’s Jurisdiction

In FSRA’s response to the first consultation it was noted that FSRA does not have the authority to determine if licences or designations meet the minimum standard for title use. As FSRA is creating standards for title use, it is unclear what would limit FSRA’s ability to set minimum standards, which we would like to better understand.

Licensing requirements are set by FSRA, along with the proposed credentialing requirements. Making credentialing bodies responsible for assessing the sufficiency of the training associated with licensing runs counter to the policy objective of creating a base-line competency for those using the FA title as the regulator would no longer be setting the baseline requirements and any gap analysis of this training could be arbitrarily completed. How comprehensive the training would then be is left to the credentialing body to determine.

Leveraging Existing Training

FSRA’s responses to the previous consultation indicated an openness to alternative paths to receiving a credential, or otherwise being able to use the FA title. We are seeking to better define the following approach to leveraging the existing training that advisors receive:

- **Dual licensing:** It is common for life licenced advisors to also be licenced to sell mutual funds or securities (MFDA/ IIROC). Where an SRO becomes a credentialing body, we would expect that the attached licensees will have already met the requirements to now become eligible for the credential that corresponds with the use of the FA title.
- **Top-up Courses:** FSRA has indicated there may be an opportunity for those who are life licenced to complete a “top-up” course to continue to use the FA title. The life and health insurance industry would generally support this approach assuming it would build on the training licensees currently receive. It may be more efficient to offer a top up course as part of existing continuing education requirements, rather than having to prove equivalency of courses.
- **CISRO updating the LLQP course modules:** The existing LLQP modules should be updated, or a financial advisor module added, such that completing the licensing process would entitle someone to call themselves a FA. While we understand that this is a longer-term solution, we would encourage FSRA to explore this option as soon as practicable.

Holding out as someone who provides life insurance advice

Use of the term advisor in the context of life insurance distribution

We would like to confirm that the term advisor can be used to describe life licensees when it is used in the context of life and health insurance distribution. Examples may be life and health insurance advisors, advisors for life and health insurance products, or similar descriptions. Holding out this way accurately identifies where consumers can seek specialized advice on life and health insurance products.

As well, those who are life licenced in Quebec face a legislative requirement to hold themselves out as financial security advisors. This will prove problematic for Ontario agents who are also licensed in Quebec.

Licensing certifies knowledge of advisors

Licensing protects consumers from receiving advice from someone who is not qualified to offer advice in a given area. For example, an advisor that is singularly life licensed would not advise on the sale of non-insurance products like mutual funds or securities because they would not be able to process these transactions. Insurers, much like other manufacturers, have compliance systems in place to ensure that those who are making sales are maintaining their licences in good standing.

Generally, we would note that it is typical for a compliance program to actively monitor how advisors hold themselves out to reduce the risk of confusion. Historically, the term advisor has been used to describe someone who provides specialized product advice.

The use of credentialing bodies vs a “one-size-fits-all” solution

Oversight capacity

Insurers have well established oversight structures and systems in place as part of their compliance programs as per Ontario regulatory requirements. Credentialing bodies, on the other hand, do not currently have oversight capacity, or a legislative mandate, to oversee advisors selling life insurance and therefore do not have the infrastructure to provide oversight that is as comprehensive as insurers or MGAs. Where self-regulatory organizations (SROs) become credentialing bodies, market conduct

oversight for a licence and a credential would be completed by the same organization thereby minimizing duplication. As there is not an SRO for insurance, new entities would take on oversight responsibilities that are already required of insurers. As a result, their compliance systems would overlap with those of insurers. We are unsure of how oversight, noncompliance, or findings of misconduct by a credentialing body will impact an advisor's licence and ability to sell products.

Potential conflicts of Interest for credentialing bodies

Consideration should be given to the different functions of a credentialing body. For example, there may be a real or perceived conflict of interest when the same entity advocates for the people that they train and oversee.

As stated in our previous submission, the Investment Dealers Association (IDA) of Canada separated its advocacy and credentialing function in 2005. 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. and then formed today's Investment Industry Regulatory Organization of Canada IIROC.

Licensing protects titles and consumers

Duplication

We are concerned that the proposed rule assumes that the use of a credentialing body is the only way to certify that someone is qualified to provide financial advice and use the FA title. Our understanding is that the policy objective of the *Financial Professionals Title Protection Act* is to ensure that someone holding themselves out as a FA is:

- trained by someone who provides education and tests candidates,
- trained on core subject matter,
- monitored on an ongoing basis, and
- that there are mechanisms to both detect and respond to misconduct.

The life and health insurance industry training and oversight is not centralized in one entity, but nevertheless is comprehensively achieved. CISRO sets standards for who can provide training courses and further standardizes training materials to provide a general understanding of personal finance and investment. Ongoing oversight is a regulatory requirement for insurers and also provided by FSRA. More specifically:

- Requirements for certification course providers ensure licence candidates are trained by someone who provides education and tests candidates:
 - “LLQP Course Provider Accreditation Standards, Principles and Criteria” outlines baseline requirements for those that can offer the LLQP training course that certifies a candidate to be able to challenge the LLQP exam.

- Examination and Educational Content ensures licensees are trained on core course material:
 - The LLQP training material consists of four modules, and four exams, that train an advisor to advise on insurance products in relation to the market for financial products generally. This is because the provision of advice requires an advisor to understand their client’s entire financial situation.
 - The modules not only include insurance related product information, but they also cover personal finance and investing more generally. This is because some insurance products have an investment component. As well, products like segregated funds are market dependent, and therefore the training is analogous to what is required to become mutual fund licenced. Advisors need to understand numerous factors that impact financial markets. For example, the value of a segregated funds may depend on the share value of publicly traded companies in sectors such as natural resources, science and technology, manufacturing etc.
 - In Ontario, advisors are required to complete continuing education that consists of 30 credits every two years, on top of their initial training.
 - We agree with the subject matter proposed for FA training. We would note that these topics are covered in the LLQP materials as explained in the CLHIA’s previous submission (page 5-8) excerpted in **Appendix A**. Consider that annuities and segregated funds are often the backbone of retirement plans and that someone’s need for a life and health insurance product is determined in the context of their entire financial situation.
- Ongoing Monitoring of market conduct is provided by Insurers, MGAs, and Regulators:
 - Insurers are required by Ontario Regulations to monitor the conduct of advisors on an ongoing basis through an insurer’s compliance system as set out in O. Reg. 347/04. Monitoring is also defined in the CCIR/CIRO “Guidance of Insurance Business and the Fair Treatment of Customers” s. 6 “Customer Outcomes and Expectations”, and it is an industry standard in CLHIA Guideline G8 “Advisor Suitability”. Additional monitoring includes:
 - FSRA compliance reviews and surveys to examine insurer compliance systems, and advisor conduct,
 - Insurers monitoring based on their own codes of conduct, and
 - Intermediaries that have oversight capacity such as MGAs may have contractual monitoring requirements set out by insurers in addition to regulatory expectations to engage advisors.
- Misconduct and Complaints Reporting are well established by insurers such that they detect and respond to misconduct:
 - Through monitoring insurers may detect misconduct. Depending on the circumstances, if there is consumer harm, contracts with advisors will be terminated. Major misconduct is reported to FSRA (or the applicable regulator) using a Life Agent Reporting Form (LARF).
 - FSRA has systems and processes in place for reviewing misconduct and revoking a licence.

- Insurer complaint processes are well established as they are a legislated requirement under the *Insurance Companies Act* (s. 486). Adding a complaints avenue in addition to existing insurer complaints processes would delay timelines. Most complaints are resolved by insurers, and insurer first dispute resolution has proven to be timely and effective.

Burden associated with reducing the implementation period

Where people are using the FA/FP titles without a licence or formal training, it may make sense to reduce the implementation period. However, for those who are life licenced and have training on the baseline subject matter, shortening the implementation period from four to two years would be unduly burdensome. These advisors are competently providing service to their customers and running small businesses. It is important that they be provided with enough time to plan and acquire the required credential. In these circumstances, the four-year implementation period is appropriate.

Fees & double payment risk

Double payment

Where life insurers decide to become credentialing bodies, they would pay FSRA for regulatory oversight both as an insurer on a cost recovery basis, and then again as a credentialing body. We believe credentialing related fees should be reduced, or offset, for those already regulated by FSRA and paying fees.

As well, advisors selling life insurance are also already paying fees to FSRA for licensing. It seems duplicative to pay a credentialing body on an ongoing basis for oversight which is provided through licensing. This is particularly concerning if the training is not limited to specific gaps identified by FSRA.

High Cost

We have generally supported FSRA's cost recovery approach to self-funding. However, the costs for credentialing bodies are significant. The impact will likely be higher costs for FPs or FAs in terms of tuition or membership dues. This then risks having an exclusionary impact.

Conclusion

The life and health insurance industry support FSRA's overall objectives of this important initiative. Licensing plays an important public policy role and provides consumer protection, in a manner similar to credentialing. In this regard, it is important to leverage existing licensing training and oversight, particularly where advisors hold more than one licence (e.g. someone who is life licenced and mutual fund licensed) to avoid any overlap between existing licensing and the proposed credentialing system.

We are also seeking to understand where there are any gaps for someone who is life licensed in meeting the minimum requirements to use the FA title. To this end, we are keenly interested in what steps could be taken to address any identified gaps. In addressing any gaps, we would like to ensure that there is a sufficient transition period so that life licensees can complete top up courses or additional training required.

As well, for those who are life licensed but not able to use the FA title, we would like to confirm that the term advisor can be used as part of their title that conveys their training and expertise in the provision of life and health insurance advice (e.g., life insurance advisor, advisor for life insurance, etc.).

Thank you again for the opportunity to share the industry's views on FSRA's proposed rule on titling. If it would be helpful, we would be pleased to discuss this submission in a follow-up meeting.

Yours sincerely,

Stephen Frank

Encl:



APPENDIX A

Below is a key part of the CLHIA’s submission to “Financial professionals title protection rule and guidance first consultation” outlining training to become life licenced explaining how it coincides with advisor qualifications.

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 CISRO LLQP training aligns with FSRA’s proposed core baseline competencies.

- **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.¹ 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 Chapter 10 “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, 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.

¹ “The Approach to Needs Based Sales Practices”

- **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. 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 a 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.