IIAC ACCVM
Investment Industry Association of Canada Association canadienne du commerce des valeurs mobilières

September 20, 2022

Submitted via email
finplannerconsult@gov.sk.ca

Financial and Consumer Affairs Authority of Saskatchewan

Re: Proposed Rule Adds Regulatory Burden to Securities Registrants

Dear Sirs and Mesdames:

The Investment Industry Association of Canada (the "IIAC") welcomes the opportunity to provide comments to the Financial and Consumer Affairs Authority ("FCAA") on the *The Financial Planners and Financial Advisors Act*, Notice of Proposed Regulations and Request for Further Comment (the "Proposed Regulations").

The IIAC is the leading national industry association who represents approximately 110 investment firms that provide products and services to Canadian retail and institutional investors and therefore represents the vast majority of individuals and firms providing financial advice to Canadians. Our members manufacture and distribute a variety of securities such as mutual funds, exchange-traded funds, segregated fund contracts and other managed equity and fixed income funds, and provide a diverse array of portfolio management, advisory and non-advisory services. [1]

KEY RECOMMENDATIONS

Summary: The IIAC and our member firms fully support the need to regulate *unlicensed* individuals who provide financial advice to investors.

Recommendations:

1. The Proposed Regulations should include an exemption for individuals subject to Canadian Securities Administrators and self-regulatory organization oversight.
2. Harmonization of titling regulations and competency profiles across jurisdictions is critical.
3. The transition period should commence on the date the regulations come into force and be extended to four years for Financial Advisors.

[1] See www.iiac.ca for more information.

REPETITION AND RED TAPE

The IIAC and our member firms fully support the need to regulate *unlicensed* individuals who hold themselves out as a Financial Planner ("FP") or Financial Advisor ("FA") in Saskatchewan. Individuals who use these titles should be registered to provide financial advice.

The Canadian Securities Administrators ("CSA), and, through their oversight, the Investment Industry Regulatory Organization of Canada ("IIROC") and the Mutual Fund Dealers Association of Canada ("MFDA"), have long ensured that individuals must qualify to and be registered to provide financial advice and that these individuals are subject to their continual oversight. This has been achieved through an array of provincial securities legislation, National Instrument, rules, guidance and policy.

FPs and FAs licensed by the CSA, IIROC and/or MFDA do not need to be subject to additional oversight by a Credentialing Body ("CB").

CSA Staff Notice and Request for Comment 25-304 *Application for Recognition of New Self-Regulatory Organization,* published on May 12, 2022, proposes the amalgamation of IIROC and the MFDA to create a new self-regulatory organization ("New SRO"), subject to continued CSA oversight. A key benefit of the New SRO is a single, enhanced national regulator with harmonized rules and policies. New SRO will also provide a proficiency-based registration framework that maintains the high proficiency standards required of registrants.

In the Proposed Regulations, the FCAA rejects proposals from the first consultation to provide an exemption from the regulations for individuals with "certain qualifications". The FCAA bases this decision on the fact that a majority of responses do not support the idea of exemptions as it would undermine the intent of the legislation. We assume "certain qualifications" refers to FPs and FAs currently subject to CSA and SRO proficiency standards and oversight.

The IIAC has concerns with the FCAA's decision.

First, there can be no explanation to reasonably support an assertion that an exemption for securities regulated individuals would undermine the intent of the legislation. Given the CSA and SRO mandates to protect investors and their seasoned and rigorous oversight of registrants, their proficiency requirements for securities licensed individuals are appropriate. There is no systemic issue that requires additional regulation.

Second, policy decisions should be based on data, sound principle, and proportionality (a cost/benefit analysis), not public opinion. The FCAA has stated that the majority of comments were not supportive of an exemption without providing a merit-based analysis of the comments received including whether commentators had a conflict of interest or included incorrect and/or incomplete facts.

In this case, comment letters from a potential CB that does not support an exemption is conflicted as an exemption would reduce the number of FPs and FAs that would need a new designation or who have to pay membership fees to a CB. Thus, an exemption represents lost revenues to the CB. Specifically, The Financial Advisors Association of Canada ("Advocis") is clearly conflicted as they are actively advocating for establishing additional proficiency obligations in Saskatchewan and across the country while at the same time, they are a CB that offers approved designation courses. The Proposed Regulations and designation courses represent potential revenue for Advocis.

If the number of comment letters is the determining factor, please consider that IIAC comment letters represent the views of all our member firms. As such, when regulators assess the number of comments received in support of or in opposition to a proposed rule, they should not "count" IIAC comment as one but rather that of all 110 of our members, representing the vast majority of individuals and firms providing financial advice to Canadians.

Third, the Proposed Regulations result in increased costs and confusion for Saskatchewan investors that obtain advice from FPs and FAs that are regulated by the CSA and SROs. As discussed above, for securities licensed individuals, there is no systemic harm resulting from the proficiency standards required of FPs and FAs that the Proposed Regulations would resolve. While there is no investor benefit, there will be additional administrative costs for obtaining and administering the new designations. These costs are ultimately borne by the public.

CLASHING AND CONTRADICTORY

Baseline Competency Profile

The IIAC does not agree with the proposal to change the FAs Baseline Competency Profile ("BCP") as there is no evidence that the current competency requirements result in investor harm.

National Instrument 31-103, s. 13.3, requires securities registrants to make a suitability determination that puts the client's interest first. Before making a recommendation, a registrant must, among other obligations, take into consideration KYC, KYP, the impact of costs, and a reasonable range of alternatives. These obligations require an FA to consider more than "product" when determining what is in the client's best interest. Therefore, the current "product focused" BCP for FAs is appropriate for the financial advice provided by FAs and is aligned to the BCP implemented by FSRA in Ontario.

Harmonization of regulations across jurisdictions is a critical component of efficient and cost-effective capital markets. Maintaining harmonization should be the first objective when proposing new regulations unless there are compelling reasons to do otherwise. No compelling reason has been provided.

Disclosure

Disclosure obligations of the Proposed Regulations should be aligned to the obligations of securities registrants in National Instrument 31-103. Specifically, section 13.18 *Misleading Communications* and section 14.2 *Relationship disclosure information* set out the obligations required of individuals and firms, including obligations to not provide misleading information with respect to proficiency, experience, qualifications, and category of registration. We believe these are the disclosure obligations that should apply to anyone proving financial advice who uses the FP and FA titles. Such disclosure would also align the Proposed Regulations with those of the FSRA.

Further disclosure would serve only to increase investor confusion (with regard also to the likelihood of multiple CBs and approved designations) and administrative costs without corresponding benefit.

TRANSITION AND IMPLEMENTATION

To prevent unnecessary confusion for investors and disruption to the capital markets, it is important to allow individuals using the FA and FP titles an adequate amount of time to obtain the required designations. The transition period for FAs should be the same four-year period as provided for FPs who use the titles before or after the regulation comes into force (the "Effective Date") and the transition period should commence after expiry of the implementation period noted below. Using an earlier date only causes confusion for investors if their FP or FA is obligated to change a title while they complete a designation course.

An implementation period of at least 18 months after the Effective Date is required to provide CB with time to prepare and submit applications and for the FCAA review and approve the CB and their designations.

Thank you for your consideration of the concerns raised in this response.

Sincerely,

Tim Currie

Tim Currie
Managing Director
IIAC