



**Mutual Fund Dealers Association of Canada**  
Association canadienne des courtiers de fonds mutuels

November 12, 2020

Financial Services Regulatory Authority  
5160 Yonge St., 17th Floor  
North York  
ON M2N 6L9

**Re: PROPOSED RULE 2020 – 001 - FINANCIAL PROFESSIONALS TITLE PROTECTION**

The Mutual Fund Dealers Association of Canada (“MFDA”) thanks the Financial Services Regulatory Authority of Ontario (“FSRA”) for this opportunity to provide our comments on Proposed Rule 2020-001 Financial Professionals Title Protection under the *Financial Professionals Title Protection Act, 2019* (the “Proposed Rule”).

Establishing minimum standards for the use of the Financial Planner (“FP”) and Financial Adviser (“FA”) titles will assist in reducing investor confusion and promote greater confidence in the quality of service investors receive from individuals using these titles. The MFDA strongly supports these objectives.

The comments in our submission primarily relate to the design and implementation of the Proposed Rule having regard to the current oversight of self-regulatory organizations (“SRO”) by the statutory securities regulators, the direct regulation of mutual fund dealers and their representatives by the MFDA and the objective of avoiding the potential for duplication and overlap of regulatory efforts.

**Background**

The MFDA is the national SRO that oversees mutual fund dealers in Canada. MFDA Members are licensed with provincial securities regulatory authorities. MFDA Members administer approximately \$730 billion in assets and employ 80,000 Approved Persons in over 20,000 branch locations across Canada. MFDA Members service 9.1 million households, representing 56% of Canada’s households. Of these MFDA serviced households, 81% are mass market clients (with less than \$100,000 in financial wealth) and they account for 26% of the financial wealth managed by MFDA Members.

***MFDA Regulatory Regime and Oversight***

As a regulator with an investor protection mandate, the MFDA has an established regulatory framework with robust policy, compliance, and enforcement functions. The MFDA is responsible for regulating the operations, standards of practice and business conduct of its Members and their Approved Persons with a view to enhancing investor protection and strengthening public confidence in the Canadian mutual fund industry. MFDA Members and Approved Persons are required to adhere to comprehensive requirements with respect to: business conduct, Know-Your-Product (“KYP”), Know-Your-Client (“KYC”), suitability, marketing and advertising, conflict of interest and outside activities. MFDA Members are subject to extensive sales and financial compliance

reviews, which cover every aspect of the Member's operations. When it becomes apparent, through compliance reviews or investor complaints that standards have not been met, Members and their Approved Persons may be subject to discipline through enforcement proceedings, which may result in fines, suspensions or permanent prohibitions. With respect to proficiency, MFDA Approved Persons are subject to proficiency requirements under MFDA Rules as well as National Instrument 31-103 – *Registrant Requirements, Exemptions and Ongoing Registrant Obligations*. MFDA Members are also required to participate in an ombudservice and protection plan.

### ***Public Interest Mandate***

The MFDA is not-for-profit with a public interest mandate and, as a SRO, is subject to the oversight of the provincial securities regulators pursuant to Recognition Orders. Under the Recognition Orders, each of the Recognizing Regulators has imposed terms and conditions on the recognition of the MFDA. Oversight by the Recognizing Regulators includes reviewing information filed by the MFDA under its Recognition Orders, reviewing and approving new and amended regulatory instruments, and performing periodic reviews of the MFDA's regulatory functions.

### **MFDA Comments on Proposed Rule**

The MFDA supports the Proposed Rule as a means to improve and enhance proficiency standards within the financial services industry and provide transparency to consumers regarding the expertise and knowledge of individuals providing financial planning and advisory services. We also support greater collaboration and coordination between regulators and credentialing bodies to ensure that individual title holders with multiple registrations and/or credentials are subject to consistent standards and oversight.

We understand that industry stakeholders have advocated for an exemption for Approved Persons of SRO Members from the Proposed Rule to avoid duplicative oversight, unnecessary regulatory burden for registrants and consumer confusion. If FSRA does not agree with such an approach, in order for Approved Persons to use the FA and FP titles, the MFDA would be required to apply for recognition as a credentialing body under sections 2 and 3 of the Proposed Rule. To avoid duplicative oversight, unnecessary regulatory burden for registrants and consumer confusion, it is important that the title framework be implemented in a manner that recognizes the comprehensive SRO regulatory framework already in place and the role that SROs currently play in overseeing the conduct of SRO Members and their Approved Persons. In particular, to the extent that SROs are approved as credentialing bodies under the Proposed Rule, a clear distinction should be made between the broader responsibility and role of the SROs as comprehensive business conduct regulators, and the role of credentialing bodies in overseeing the use of the credential. For example, where an MFDA Approved Person holds a credential from another credentialing body and there are alleged violations of MFDA Rules in respect of an individual title holder, SRO regulatory requirements must prevail. In light of the more robust complaint handling regimes of SROs compared to those of credentialing bodies and the availability of an ombudservice and protection plan coverage, consumers must clearly understand and be directed to the regulatory body responsible for handling their complaint.

In recognition of the robust oversight of SROs by the provincial securities regulators, consideration should also be given to a more streamlined application and oversight process focusing solely on specific matters related to use of the titles and the credentials.

**Transition Periods**

The Notice to the Proposed Rule states that the transition periods proposed by FSRA of three years for FA title users and five years for FP title users will allow time for entities that already provide financial planning and advising designations or licenses to apply to become approved credentialing bodies and allow individuals who are already using the titles to obtain the approved credential, if required. The proposed transition periods appear to be quite lengthy and we are concerned that allowing individuals to use the titles while not meeting the credentialing criteria would undermine the objectives of the Proposed Rule. Based on the proposed competency profiles set for use of the FA and FP titles and the fact that the title regime relates to use of the titles and not registration or licensing to offer products and services, we are uncertain as to why lengthy transition periods are necessary or appropriate.


**Consumer Education**

We support collaborative and coordinated efforts with government, other regulators, credentialing bodies and industry to educate consumers on the new title regulations. Consumer education is a critical component to ensuring consumer protection and confidence. Confusion over titles will not be fully addressed unless consumers understand the qualifications and services provided by individuals using the titles and that such titles are subject to regulatory oversight. In addition, the establishment of a searchable, online, comprehensive, central title registry would help to promote consumer confidence, and understanding. Such a registry would provide a “one-stop” location for consumers, from which they could access information needed to make informed decisions on the individuals and firms they choose to manage their financial assets.

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We appreciate the consultation FSRA has engaged in to date with stakeholders, including the MFDA, in developing the Proposed Rule and look forward to working together on this important initiative.

Yours truly,



Paige L. Ward  
General Counsel, Corporate Secretary & Vice-President, Policy

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