



Submission on Notice of Rule Under the Financial Services Regulatory Authority of Ontario Act, 2016 Rule 2022 – 001

01/31/2023

Submission to the Financial
Services Regulatory Authority
of Ontario

The Canadian Bankers Association (**CBA**) appreciates the opportunity to provide input on the Financial Services Regulatory Authority of Ontario's (**FSRA**) Notice of Rule Under the *Financial Services Regulatory Authority of Ontario Act, 2016*, Rule 2022 – 001 (the **2022 Fee Rule** and, collectively, the **Consultation Paper**).

Our suggestions and considerations in relation to the Consultation Paper are provided below:

- We recommend FSRA provide published guidance regarding its expectations with respect to the fees Credentialing Bodies (**CBs**) charge an individual credential holder under Part 8 of the 2022 Fee Rule. This includes guidance on the acceptable amount of such fees and circumstances in which CBs would be expected to provide fee exemptions for individuals in order to avoid duplicative charges. Such guidance would provide much needed clarity that will help individuals and their employers understand and prepare for any downstream cost impacts.
- We note that the principle of Predictability has been removed from the 2019 Fee Rule's Vision and Principles. In our view, this principle is a fundamental aspect of a fair and transparent regulatory fee assessment regime and should be retained in the 2022 Fee Rule.

Our suggestions are further detailed in the following submission.

Fees charged to individual credential holders

As currently structured, Ontario's financial professionals title protection framework gives CBs unfettered discretion as to how they recoup their costs associated with participating in the framework. FSRA has provided estimates on what this cost might be on a per-credential holder basis (annual average of approximately \$22 for the first five years of the framework). However, there are no formal mechanisms in place to ensure that the actual cost charged to credential holders will not be significantly higher than this estimate.

It also remains unclear as to whether individuals who hold multiple approved credentials will be subject to duplicative fees under the framework. Again, this will depend on how CBs choose to exercise their discretion.

In its *Financial Professionals Title Protection Framework Fees Consultation Summary Report*, FSRA confirmed that it is “not contemplating prescribing a process that CBs must follow with respect to the

amount of fees imposed on individual credential holders or how those fees will be recovered.”¹ Further, FSRA indicated that it will “monitor the conduct of approved CBs under the framework with respect to fees associated with the title protection framework.”²

We appreciate the need for flexibility in allowing CBs to recover their costs and the benefit of minimising their “administrative burden.” However, from the perspective of individual credential holders and the firms that employ them, the lack of specifics in terms of fees creates its own set of budgeting and planning challenges.

We therefore do not agree with the extent of discretion provided to CBs to impose fees on credential holders. We believe FSRA should, at a minimum, publish guidance setting out its expectations in terms of:

- The range of fees that would be considered reasonable for a CB to impose on an individual credential holder based on a consideration of specified factors; and
- The circumstances under which a CB would be expected to exempt an individual from fees if the individual holds multiple approved credentials and/or an equivalent credential under another province’s financial professional title protection framework.

Clearly setting out such expectations is necessary to ensure that FSRA can effectively conduct its planned monitoring of CB conduct in this regard –it would not be fair to CBs if they are monitored against unpublished expectations or standards. We also believe such an approach is called for under the Transparency, Fairness and Predictability principles that underlie the 2019 Fee Rule.

Removal of the Predictability principle

We note that the principle of Predictability has been removed from the 2019 Fee Rule’s Vision and Principles. Although a specific rationale for this removal is not provided, the Consultation Paper notes that changes to the Principles were made to “provide clarity”, “reduce redundancies”, and “better reflect operational realities”.

¹ [Financial Professionals Title Protection Framework Fees Consultation Summary Report](#) (FSRA, 2021).

² Ibid.

In our view, the principle of Predictability is a cornerstone of any fair and transparent regulatory fee assessment regime.³ Moreover, as noted in our comments above regarding the impact of fees on individuals and their employers, fee predictability is crucial from a planning and budgeting perspective.

We note that Predictability is also one of the guiding principles in Ontario's *Burden Reduction Directive*, a Ministry-wide imperative that "sets out the Ontario Government's burden reduction and regulatory modernization expectations, requirements, and responsibilities":

Predictable: regulations are introduced in a predictable manner to **encourage greater compliance** and **help affected entities plan for change** [emphasis added].⁴

Finally, Predictability does not appear to be covered by any of the other Principles in the 2022 Fee Rule and so we do not see how it can be considered "redundant".

We are therefore concerned with the effect the removal of the Predictability principle will have on the ongoing operation of the 2022 Fee Rule and would strongly encourage FSRA to retain it.

Conclusion

Thank you for considering our comments on the Consultation Paper. We welcome any questions you may have.

³ See, for example, the following explanation of the [Government of Canada's approach to service fees](#), which underscores the importance of predictability in this process. A second example at the federal level is provided by [Canada Energy Regulator – Cost Recovery Regulations – Regulatory Proposal](#) (2021), at page 2: Predictability/Certainty is identified as one of the guiding regulatory objectives in the effort to design a regulatory cost recovery scheme: "Predictability/Certainty: The costs should be reasonably predictable by industry, for inclusion in company budget/cost planning."

⁴ [Burden Reduction Directive](#) (Government of Ontario, March 31, 2022).