

June 2, 2023

Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

SENT VIA ONLINE SUBMISSION SYSTEM

Dear Sirs/Mesdames,

**Re: [2023-005] Notice of Changes and Request for Further Comment:
Proposed Rule 2022 – 001 Assessment and Fees**

On behalf of Advocis, The Financial Advisors Association of Canada, we are pleased to provide our comments to the Financial Services Regulatory Authority of Ontario (“FSRA”) in regard to its second consultation [2023-005], Proposed Rule 2022 – 001 Assessment and Fees (the “Proposal”).

1. ABOUT ADVOCIS

Advocis is the association of choice for financial advisors and planners. With over 17,000 member-clients across the country, we are the definitive voice of the profession. Advocis champions professionalism, consumer protection, and the value of financial advice. We advocate for an environment where all Canadians have access to the professional advice they need.

Advocis members advise consumers on wealth management; risk management; estate, retirement and tax planning; employee benefits; and life, accident and sickness, critical illness and disability insurance. In doing so, Advocis members help consumers make sound financial decisions, ultimately leading to greater financial stability and independence. In all that they do, our members are driven by Advocis’ motto: *non solis nobis* – not for ourselves alone.

2. OUR COMMENTS

We appreciate FSRA for conducting a public consultation with respect to the proposed amendments to its assessment and fee rule (Fee Rule). In our comments below, we share our concerns regarding the Proposal and explain why the Proposal is not aligned with FSRA’s guiding principles of “Fairness”, “Consistency” and “Transparency”. We also discuss the significance of maintaining FSRA’s original approach to the Fee Rule and how it can better accomplish consumer protection, which is a fundamental goal within the title protection framework.



Exemptions to the Framework

We welcome the introduction of the New Self-Regulatory Organization – CIRO – as a credentialing body under the Financial Professionals Title Protection Act (FPTPA) framework. However, we are concerned about exempting CIRO from paying the variable element of FSRA’s annual oversight fee while requiring all other credentialing bodies (CBs) to pay. We believe that this policy position diverges from FSRA’s original approach with respect to the Fee Rule.

Originally, FSRA took a position against any exemption or special fee treatment. In its FAQ document, FSRA stated that the title protection framework does not grant exemptions for any class of individual or entity.¹ In developing the Fee Rule, FSRA articulated that direct and common costs must be allocated based on the benefit received by the CB under the framework. FSRA further indicated that the number of credential holders is appropriate to establish the benefit received from the framework as this benefit is distributed equally amongst all credential holders.²

Providing preferential treatment for CIRO can set a precedent for future CBs seeking exemptions for the benefit of receiving special treatment. A full or partial exemption to the framework can risk undermining the value of the legislation and its underlying goals of transparency and consumer confidence in financial services. When certain CBs receive preferential treatment, it raises concerns about their accountability and potential conflicts of interest. Consumers may question whether their best interests are truly being prioritized, leading to a loss of confidence in the integrity of the financial services industry. In turn, consumers may become hesitant to use the services of financial professionals.

Unequal Playing Field

Exempting CIRO from paying the variable portion provides it with an advantage to charge its licensees lower fees compared to the other approved CBs. This creates an uncompetitive market where individuals seeking to obtain an approved credential are incentivized to choose CIRO over other approved CBs.

The Proposal suggests that the exemption would mitigate duplication and the regulatory burden for CIRO since it is already subject to Ontario Securities Commission oversight. We agree that if supervision activities drive FSRA’s costs, it would be inconsistent with FSRA’s fairness principle to charge CIRO for work it is not conducting. This said, we would highlight that the variable portion of the fees include the cost of IT, FSRA’s operations and consumer

¹ For more information see: www.fsrao.ca/industry/financial-planners-and-financial-advisors/frequently-asked-questions-faq.

² For more information see: www.fsrao.ca/industry/financial-planners-and-advisors/notice-rule-and-request-comment-fpfa-fees-consultation#proposed.

education activities. So, while CIRO is not directly being overseen by FSRA, it will benefit from the framework on equal footing as other credentialing bodies and their licensees.

Under the Proposal, approved CBs and their credential holders bear the burden of paying these costs while CIRO and its licensees can benefit from the framework without having to contribute financially to the associated costs. It is only reasonable to expect that all beneficiaries of the framework, including CIRO and their licensees contribute equally to the successful implementation and operation of the framework. This is aligned with FSRA’s original policy position and its commitment to the principle of “Consistency”. In the Fee Consultation documents FSRA indicates that the variable annual assessment will only vary based on the extent that FSRA’s budget and CBs’ number of credential holders change each year.³ By applying consistency in the regulatory framework, consumers can effectively rely on fair standards and processes and ensure that they are being treated fairly and equitably.

Bearing the Burden of Costs

We also believe that the Proposal disproportionately disadvantages non-CIRO CBs. FSRA suggests that existing CBs will experience an overall reduction in fees payable to FSRA with the addition of thousands of more credential holders under the framework. However, the CBs that participated in the framework from the beginning ended up paying significantly more than FSRA originally anticipated.

FSRA initially predicted an estimated fee of \$22 per credential holder per year.⁴ In practice, this fee turned out to be almost three times more expensive, coming to around \$65 for each credential holder. We recognize that this increase was not entirely within FSRA’s control and was largely due to CIRO not participating in the framework at the time. However, CBs relied on FSRA’s calculations in good faith as a clear indication of the regulator’s equal approach to the participation of CIRO. These calculations were made based on the assumption that CIRO’s licensees would be participating in the framework and assume the same financial obligations as other non-CIRO licensees. With CIRO being exempt from paying the variable portion, non-CIRO approved CBs bear the burden of covering the full costs amongst themselves.

We believe it is necessary that FSRA maintain its original Fee Rule to support and promote healthy competition. Disincentivizing non-CIRO CBs from entering and remaining in the market would limit competition, increase prices and reduce innovation among certification entities. Ultimately, it is consumers who bear the financial and non-financial costs resulting from the absence of competition in the market.

Enhancing FA Competency Profile

³ *Ibid.*

⁴ See Table 1. [Notice of rule and request for comment on FP/FA fees consultation | Financial Services Regulatory Authority of Ontario \(fsrao.ca\)](#)

The introduction of CIRO into the framework can provide a great opportunity to raise standards for financial professionals and enable consumers to have access to knowledgeable and qualified advisors across the province. However, we are concerned about the current product-focused baseline competency profile (BCP) for financial advisors (FAs) within the FPTPA framework. In the absence of meaningful improvement to the competency profile, bringing CIRO under FSRA's current product-focused approach may reinforce the flaw in the BCP for FAs and undermine the consumer protection goals of the title protection framework.

We believe that the true source of duplication in regulatory oversight is the low standard of the BCP for FA title use that exists within the product-centric approach. A product-centric approach is not aligned with the modern vision of the advisor-client financial advice relationship, which focuses on the consumers' needs and expectations. To properly serve consumers, the FA BCP within the title protection framework must be responsive to their needs. Consumers seek qualified and professional financial advice that prioritizes their needs and interests, while making product transactions ancillary to that advice. The FA BCP within the title protection framework fails to recognize the centrality of this professional relationship.

We urge FSRA to address the FA BCP issue, as it is the root cause of duplication, prior to bringing in thousands of credential holders through CIRO. Dealing with the problem in an effective manner would also ensure that consumers receive appropriate financial advice based on the skills and competencies of their advisors.

3. CONCLUSION

We thank FSRA for the opportunity to provide our comments on the proposed amendments to its assessment and fee rule. While we welcome including CIRO in the title protection framework, we have significant concerns about exempting CIRO from paying the variable portion of the fee. We look forward to continuing to work with FSRA to address the issues raised in this submission. Should you have any questions, please do not hesitate to contact the undersigned, or Paniz Ghazanfari, Associate Director, Legal & Regulatory Affairs at pghazanfari@advocis.ca.

Sincerely,

"original signed by"

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