FSRA
Financial Services Regulatory Authority of Ontario

5.4: Total Cost Reporting Rule – Approval of Final Rule

Summary of Stakeholder Comments

General Comments	
Comments	**Response**
FSRA published a prior version of Rule 2024 – 002 Total Cost Reporting (the "**Proposed Rule**") for public comment between May 27 and July 26, 2024. Overall, stakeholders expressed support for the requirements that will ensure individual variable insurance contract ("**IVIC**" or "segregated funds contract") owners have the information they need to make informed decisions about their investments.	FSRA appreciates stakeholder support for the goals and outcomes of the Proposed Rule.

Need for Harmonization	
Comments	**Response**
One industry association expressed that in order to achieve the goals and meet the proposed implementation timeline, it is critical to ensure harmonization with: **1.** The Canadian Council of Insurance Regulators (the "**CCIR**") cost and performance reporting guidance (the "**Insurance Guidance**") for IVICs. **2.** The investment fund industry requirements for total cost and performance reporting, **3.** The implementation by other provincial and territorial jurisdictions, including the Autorité de marchés financiers ("AMF")	FSRA recognizes the importance of harmonizing cost and performance reporting across Canada, in relation to both the securities and insurance sectors. This is reflected in the approach we have taken with the two new exceptions added to Rule 2024 – 002 Total Cost Reporting (the "**TCR Rule**"). As part of the rule-making work, FSRA has worked closely with other insurance regulators, particularly the AMF, who has been the only other jurisdiction to confirm that they have taken steps to implement the Insurance Guidance.

	FSRA has worked with the AMF to achieve as harmonized an outcome as possible.

Missing Historical Information Exception	
Comments	**Response**
One investor advocacy organization expressed concern about the lack of guidance or clarity regarding the "reasonable efforts" standard as each person or institution will have its own sense of what this means. The organization recommended that FSRA issue guidance to clarify what is meant by "reasonable efforts". One advocacy group said the exception for "missing historical data" should not apply to IVICs issued after the Proposed Rule comes into force as insurers should be prepared to maintain and report this information for new IVICs.	FSRA recognizes that there are certain historical contracts where the insurer does not have the necessary data. The exception in the TCR Rule is intended to address this challenge. The missing historical information exception is limited to information with respect to an IVIC before the TCR Rule comes into force.

Legacy System Challenges	
Comments	**Response**
<u>Stakeholder comments from the Insurance Sector</u> One industry association commented that the Proposed Rule should provide a clear exemption for legacy contracts on old systems and small closed blocks of business. However, in the absence of having express statutory authority to	The legacy system exception now included in the TCR Rule is intended to mitigate the cost impacts that could be passed, in specific and narrow circumstances, to IVIC owners. Under this exception, an insurer is not required to provide the owner with an annual statement containing information from Schedule A to the extent that this

provide exemptions from the proposed requirements, they agreed FSRA should adopt alternative approaches such as exceptions or forbearance. The stakeholder commented that the need for an exception is reinforced by the fact that the number and percentage of contracts administered on old systems continues to decline, currently representing about 1% of all IVIC contracts and is projected continue to decline to about 0.1% of all contracts by 2032. The stakeholder argued that the cost-benefit to the consumer is hard to justify. One industry association commented that including an additional exception in relation to the "cost to upgrade legacy system" would result in the fair treatment of customers. One stakeholder estimated that the costs of $1.4 million to update systems for 1,157 accounts for one of their products that has been closed to new business since 2010, would exceed the benefit customers would receive via enhanced annual statements. One industry association noted that they were in favor of an additional exception for the "cost to upgrade legacy systems" because any unique builds to accommodate the IVICs may be a lower priority for service providers versus the	information cannot be reasonably provided by the insurer's system, without it being upgraded or the system cannot be upgraded. In order to report in this manner, insurers must satisfy all the conditions set out in the exception.

securities sector, which could delay overall project timelines. <u>Stakeholder comments from Consumer Advocates</u> One advocacy group was opposed to allowing any exceptions in relation to “cost to upgrade legacy systems”. They argued that an organization that can calculate and collect a fee from customers should have the ability and obligation to report exactly what that fee was. One advocacy group said in relation to “cost to upgrade legacy systems”, vendors have cited this as an obstacle and cost would ultimately be passed on to customers which would not benefit them. However, the failure to upgrade legacy systems was a business decision and insurers should not be rewarded for lack of investment and stewardship by way of an exception. One advocacy group believed that there should not be a new exception for the “cost to upgrade legacy systems” because cost should be able to be streamlined as many firms that offer IVICs also offer mutual funds, and as such are already preparing to implement total cost reporting for those products.	

Event Changes Challenges	
Comments	**Response**
Stakeholder comments from the Insurance Sector One industry association noted that requiring insurers to report performance information “since the IVIC began” following specified event change scenarios would result in costly and complex IT system builds, may reduce IVIC comparability to investment funds, and may cause customer confusion from a de-harmonized approach with the securities sector. The same industry association estimates the cost to redesign systems to report information “since the IVIC began” following an event change could cost up to $28 million (including up to $14 Million for insurers and up to $14 Million for third party service providers). Furthermore, they commented that since the IVIC industry only amounts to approximately 6% of the total size of the investment fund industry, there is a disproportionately high cost for any system changes. One industry association said most insurers already provide year-end statements for the past policy record, meaning there is no additional	FSRA has included a further exception that allows insurers to report certain information in separate documents covering the year in which the specified event change occurs and to reset reporting thereafter from the date of the most recent event change. Under the exception, additional statements would be produced when one or more of the following events occur: • An ownership structure change • A tax registration change. • A dealer account/nominee change. FSRA believes that this exception will: • Enhance harmonization and comparability of IVICs with investment contracts so that consumers can make better informed decisions. • Achieve the intended outcomes as the customer still receives all information about fees and costs paid for the year. • Remove the disproportionate costs that would otherwise have been passed on to customers.

information that would be provided that would justify the cost increase. Additionally, they felt that customers still have access to historical performance information prior to the event change if they refer to prior statements. One industry association pointed to privacy concerns in relation to nominee dealer changes and ownership changes. One industry association noted that there is a risk with “system challenges” with regards to complex integration issues and potential errors which could push out project timelines. <u>Stakeholder comments from Consumer Advocates</u> One consumer advocate group raised concerns that providing historical performance information since the IVIC’s inception is critical to the new owner. This stakeholder commented that restarting reporting from the event change would eliminate this crucial information, providing only a limited snapshot of the contract’s performance. Specifically, they noted where there is a change in the owner or securities dealer, the TCR Rule should require insurers to report performance	

information from the date the IVIC was first issued.	

Consumer Education	
Comments	**Response**
One consumer advocacy group suggested customer-facing materials including annual statements, marketing materials, and any supporting documents should use plain language, be clear and accessible, and in simple formats so consumers can easily understand the information provided. One consumer advocacy group commented that FSRA should enhance consumer awareness and outreach including partnership with consumer groups, financial literacy organizations, and industry stakeholders to develop a multi-pronged education campaign.	FSRA agrees that customer-facing materials should be clear and simple so customers can fully understand the IVICs they own. FSRA appreciates the suggestion to work with industry stakeholder groups to develop future education campaigns.

How To Measure TCR Rule Success Post Implementation	
Comments	**Response**
One consumer advocacy group suggested that within the next 3-5 years, FSRA develop an evaluation framework to measure success against the goals of the Proposed Rule post implementation. As part of this evaluation, the stakeholder requested FSRA engage with industry, clients and life insurance advisors. They pointed out that advisors are at the forefront of delivering and explaining the	FSRA appreciates the stakeholder comment with respect to developing an evaluation framework.

reports, and well positioned to know whether clients are indeed benefiting from the changes in line with regulatory requirements.	

Enhanced Fees Disclosure	
Comments	**Response**
One industry stakeholder noted that the aim of the TCR Rule should be to make cost reporting comprehensive and standardized and consistent for both investment funds and IVICs. They urged that if IVIC's fee disclosures were more aligned with reporting requirements of CRM2, it would provide greater clarity and reduce customer confusion. The industry stakeholder was pleased to see that the following four recommended datapoints below were captured from a previous 2022 CSA/CCIR consultation on total cost reporting: 1. The value of the investor's account at the beginning of the year 2. The net amount of all of their net deposits to and withdrawals from the account (if any) during the year 3. The total of all direct and indirect costs they incurred during the year to buy, sell and hold their financial products, along with all annual cost incurred for administration of their account	FSRA agrees that adequate disclosure is needed to help ensure customers make better informed decisions about their investments. The TCR Rule aims, to the extent it is practical and appropriate to do so, to harmonize IVIC annual statement reporting requirements with the investment industry and the Insurance Guidance.

4. The value of their account at the end of the year after deduction of the year's costs In addition, the industry stakeholder believed that the minimum requirements should show a further breakout that includes dollar amounts paid for the management fees and amounts for distribution and advice (advice fees or trailing commissions) in a similar format to what is prescribed in the mutual fund industry. Overall, they felt that displaying more enhanced fee disclosers will allow investors to better appreciate how much they are paying for advice and to whom. One consumer advocacy group suggested that there needs to be stronger fee disclosures in order to provide a complete picture of costs to consumers. In particular, they suggested that the rule should explicitly require disclosure of *all* fees and compensation, including bonuses, commissions, and any other incentives paid to agents. One stakeholder suggested that there should be a fund performance comparison to an investable benchmark, such as an index-based ETF.	