

Consumer Advisory Panel

June 1, 2023

Delivered electronically

Financial Services Regulatory Authority of Ontario
25 Sheppard Ave W, Suite 100
Toronto, ON
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Re: Second Consultation: Proposed 2022 Fee Rule

The Consumer Advisory Panel (CAP) welcomes the opportunity to comment on the Proposed 2022 Fee Rule (the Proposed Rule). The CAP is recommending amendments to the Proposed Rule that would clearly give FSRA the scope and authority to properly fund its consumer awareness and protection responsibilities. Our recommendation is intended to apply both to the Financial Professionals Sector, which is the subject of FSRA's current consultation, as well as the other sectors covered by the Proposed Rule.

It is appropriate, as the Financial Services Regulatory Authority (FSRA) evolves, to reassess the fees and their allocation to better ensure that they reflect past experiences and anticipate future requirements. This is particularly true since the Proposed Rule validates FSRA's ability to fund its full range of activities, including protecting consumers, providing guidance, enforcing regulations, financing operational needs, and increasing public awareness of FSRA.

The CAP recognizes that financial regulators, like FSRA, that operate on a cost recovery basis must balance the importance of public awareness and consumer education with the costs of regulation. The CAP is concerned that the Proposed Rule, as currently drafted, does not adequately reflect this balance. It makes no explicit allowance for FSRA to levy fees or assessments that are earmarked for raising public awareness or promoting consumer education. The CAP believes that consistent with its public interest mandate and its commitment to consumer protection, the Proposed Rule should provide FSRA with clear authority to, at its discretion, levy or direct fees or assessments to support public awareness and consumer education initiatives.

The current consultation is focused on aligning fees and assessments payable by approved credentialing bodies under FSRA's Financial Professionals Title Protection Framework. Given both the novelty and consumer focus of this legislation, the CAP believes that the Proposed Rule should include clear authority for FSRA to levy fees and assessments to fund public awareness and consumer education initiatives related to the titling legislation. Credentialing bodies receive a significant benefit from FSRA recognition, and it is reasonable to

expect that in exchange for that benefit they should be required to fund these types of initiatives that are, from the CAP's perspective, critical to the success of the framework.

We encourage FSRA not to dismiss our recommendation on the basis that it already has the capacity to fund public awareness and consumer education initiatives through variable assessments set in its annual budgeting process. We believe that the funding of public awareness and consumer education is so fundamental to FSRA's public interest mandate that explicit provision for its funding should be included in its Fee Rule. The consequence of the absence of this type of explicit provision is that to date FSRA has not prioritized the resourcing of awareness and education initiatives, particularly for the Financial Professionals Title Protection Framework, in its business planning. Also, FSRA has not yet delivered on its 2023-24 commitment to build processes to use revenues retained outside of the Consolidated Revenue Fund under the FSRA Act for educational, research and knowledge or information-enhancement activities. In other jurisdictions, financial regulators operating on a cost recovery basis, like FSRA, demonstrate both creativity and a commitment to funding public awareness and consumer education initiatives. Appendix A provides a compilation of the approaches adopted by these regulators, offering examples of the types of initiatives FSRA could consider adopting going forward.

Sincerely,

Consumer Advisory Panel

Appendix:

Fee or Levy: The Financial Industry Regulatory Authority (FINRA) in the United States operates on a cost recovery basis and funds its investor education programs through fees and assessments imposed on securities firms. A portion of these fees is dedicated to supporting initiatives such as the FINRA Investor Education Foundation, which provides educational resources and programs to empower investors and protect their interests.

Compliance Training Charges: The Financial Conduct Authority (FCA) in the United Kingdom charges financial institutions for attending regulatory compliance training programs. These charges contribute to the funding of various initiatives aimed at educating industry professionals and raising awareness about regulatory requirements.

Enforcement Penalties: The Consumer Financial Protection Bureau (CFPB) in the United States, which operates on a cost recovery basis, collects enforcement penalties from financial institutions that violate consumer protection regulations. A portion of these penalties is used to fund public awareness campaigns, educational initiatives, and financial literacy programs to protect and educate consumers.

Specific Consumer Education Charges: The Financial Services Commission (FSC) in South Korea mandates that financial institutions allocate a specific portion of their budget for consumer education initiatives. This dedicated allocation ensures that financial institutions proactively contribute to funding educational programs focused on improving financial literacy and consumer protection.

Sponsorships and Partnerships: The Financial Services Authority (FSA) in Japan partners with financial institutions to sponsor and support consumer education initiatives. These partnerships involve financial contributions from the institutions to fund educational campaigns, workshops, and materials.

Public-Private Collaborations: The Australian Securities and Investments Commission (ASIC) collaborates with government agencies, consumer organizations, and educational institutions to jointly fund and deliver consumer education programs. Through these collaborations, ASIC leverages resources, expertise, and networks to enhance the effectiveness of its educational initiatives.

Grant Programs: The Financial Supervisory Service (FSS) in South Korea operates grant programs to fund consumer education projects developed by non-profit organizations, research institutions, and educational entities. These grants provide financial support for initiatives that contribute to improving financial literacy and consumer protection.