



December 1, 2023

Ontario Ministry of Finance
Frost Building N, 4th Floor
95 Grosvenor St
Toronto ON M7A 1Z1

Attention: Hon. Peter Bethlenfalvy
Minister of Finance

Submitted by email: Minister.fin@ontario.ca

Dear Minister:

Subject: Proposed amendments to the Securities Act, Commodity Futures Act, and the Financial Services Regulatory Authority of Ontario Act, 2016, that would reduce the minimum consultation period for proposed rules made by the Financial Services Regulatory Authority of Ontario (FSRA) and the Ontario Securities Commission (OSC) from 90 days to 60 days

Independent Financial Brokers of Canada (IFB) appreciates the opportunity to comment on the proposed amendments to the above-noted Acts, which would reduce the minimum consultation period for rule changes from 90 days to 60 days. We have specific concerns about proceeding with this amendment, which we outline below.

As a general comment, we suggest that publishing notice of the consultation on the OSC and FSRA websites, as well as the Ministry's, would have improved its visibility among stakeholders.

About IFB

IFB is a national, not for profit association representing approximately 3,000 licensed financial professionals. The majority of IFB's members are licensed in the life/health insurance sector and/or are securities registrants. Many have earned additional credentials or licenses to be able to address the broader financial needs often required by today's clients - whether these clients are individuals, families, or businesses. They offer an important, community-based alternative to the advisory services provided by larger retail financial institutions, and firms restricted to offering only their proprietary products.

Preserving choice for consumers to the personalized advice that is typical of that provided by IFB members is central to IFB's advocacy and stakeholder relations. IFB frequently responds to consultations at the provincial and national levels on a wide variety of issues that affect our members' businesses, their clients, and the regulatory environment they operate within.

Proposed amendments to the Acts under which FSRA and the OSC operate are significant to IFB as the majority of IFB members are licensed in Ontario by FSRA and the OSC under CIRO, regardless of their province of residency.

Specific comments

The Ministry has cited several reasons for proposing the reduced timeframe, although there is no indication as to whether the OSC or FSRA has requested this change. We address each below.

Perhaps the most significant reason cited to lower the consultation period is to permit FSRA and the OSC *“to be able to respond quicker to market changes that would help Ontario's financial sector competitiveness and protect investors and consumers more promptly”*.

IFB agrees that FSRA and the OSC must have the ability to respond quickly to market changes and protect consumers. However, both the *Securities Act* and *FSRAO Act* have anticipated such extenuating circumstances and provide a legislative remedy,¹ that permits them to bypass the rule publication notice period.

Where such extenuating circumstances are not present, expediency must be balanced with the important goal of the public consultation process, which is to develop informed and balanced public policies, legislation, and regulations. Indeed, the CSA's response to Ontario's Task Force on Securities Modernization underscores this when it stated that *“providing a reasonable opportunity to market participants to comment on proposed rules is crucial to effective rule-making.”*²

We are concerned that reducing the consultation period will increase the risk that stakeholders will not be able to respond or respond in a meaningful way to important rule changes. This risk is heightened for stakeholders and public interest groups with limited resources. In our own case, IFB often responds to multiple consultations across jurisdictions and financial sectors, many of which already have 60 days or less for us to submit comments. Shortening the timeframe for rules may also limit our ability to reach out to our members, which can provide us with valuable insights when formulating our response.

It seems unlikely that FSRA or the OSC would develop a rule for comment without spending considerable stafftime and resources before its publication. It follows, then, that stakeholders must be provided with a reasonable opportunity to analyze the rule, its implications and prepare a response in which they may have an opposing view or can offer additional considerations. This process benefits regulators and stakeholders alike. If regulators do not take the time to consider the comments received and assess whether it is possible to improve or clarify the rule, then the consultation process and public confidence in the process is undermined. In short, the comments submitted to an initial consultation are imperative to massaging the rule, which then may be published for further comment. The consultation deadline for these follow-up consultations may well be manageable within a shorter time frame.

¹ [Financial Services Regulatory Authority of Ontario Act, 2016](#). Section 22(4) Representations and (5) Exceptions to notice requirement.

[Securities Act, R.S.O. 1990](#). Section 143.2(2) Notice and (5) Exception.

² [Canadian Securities Administrators' Comments on the Ontario Capital Markets Modernization Task Force Report, page 11. September 2020.](#)



IFB appreciates the proposed flexibility whereby the OSC and FSRA could set out longer consultation periods for more complex rules. We expect that the OSC and FSRA would be reasonable in evaluating what constitutes a “more complex rule”; however, there are no parameters around the definition.

Of further note is that FSRA is a more recently established regulator than the OSC. As such, it has been active in consulting on rules and guidance for each of its regulated sectors. Often these rules are new to the industry, and we anticipate this will continue throughout 2024 and beyond. The consultations which accompany these new rules are essential to developing effective rule-making, and their timing should not be driven by reducing the regulatory burden for the regulator.

Finally, we recognize that other jurisdictions may have shorter consultation periods, or even none, but given the size of these regulated sectors in Ontario, we suggest that there is merit in a different approach in Ontario. As an alternative to shortening the public consultation period, the Ministry could consider streamlining its “pre-clearance” review process that was introduced in 2018 and pointed to in the Attorney General’s *Value-for-Money Audit of the OSC*³, as being a significant factor in increasing the time to approve a rule.

In closing, IFB appreciates the opportunity to comment on this proposal, and trust our comments will be helpful to the Ministry in assessing how best to proceed. In short, we believe that reducing the consultation period will contribute to regulators not benefiting from the critical input that stakeholders bring to the discussion and increase the risk of unintended consequences arising from inadequate rule drafting.

Please contact the undersigned, or Susan Allemang, Director, Policy & Regulatory Affairs (E: sallemang@ifbc.ca), should you have questions or wish to discuss further.

Yours truly,

Nancy Allan

Per: Nancy Allan

Executive Director

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³[Ontario Value-for-Money Audit: Ontario Securities Commission. December 2021](#)