

## Chapter 13

# SROs, Marketplaces, Clearing Agencies and Trade Repositories

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### 13.3 Clearing Agencies

#### 13.3.1 Fundserv Inc. – New Rules for Service Providers Related to Access Standards – Notice of Approval

##### FUNDSERV INC.

##### NOTICE OF APPROVAL

##### NEW RULES FOR SERVICE PROVIDERS RELATED TO ACCESS STANDARDS

#### Introduction

In accordance with the Rule Protocol between the Ontario Securities Commission (Commission) and Fundserv Inc. (Fundserv), the Commission approved on January 8, 2019 new Fundserv rules in respect of processing applications by prospective service providers (Final Rules). Proposed rules were published for public comment in a Notice and Request for Comments on April 24, 2018 (Proposed Rules).

#### Reasons for the Rules

The Final Rules clearly establish Fundserv's processes for onboarding new service providers by way of written procedures to ensure that any industry participant, wishing to become a service provider that is connected to the Fundserv network, understands the onboarding process.

#### Summary of Comments and Final Rules

Fundserv received two (2) comment letters in response to the Proposed Rules published in the Notice and Request for Comments. A summary of the comments submitted, together with Fundserv's response, is attached at **Appendix A**.

Minor changes were made to the Proposed Rules. A copy of the Final Rules, as approved by the Commission, are published on our website at <http://www.osc.gov.on.ca>.

## APPENDIX A

## SUMMARY OF COMMENTS AND RESPONSES

Fundserv received two comment letters from: (i) Canadian ETF Association and (ii) Vexo Technologies Solution Corp.

Capitalized terms used and not otherwise defined shall have the meaning given in the Notice and Request for Comments published on our website on April 24, 2018.

Comment	Fundserv Response
<p>A commenter stated that Fundserv should allow new Service Providers to test their services prior to Service Providers marketing their solutions to the industry. Another commenter stated that there should not be a requirement for a new Service Provider Applicant to have a client signed up, at the time of the Application, who is a member of Fundserv.</p>	<p>The Rules do not establish a new process. All existing Service Provider Applicants have come to Fundserv with an application to use the Network with a client and Fundserv has been able to understand their proposed use of the Network. New Service Provider Applicants do not have to have a specific client at the time of the Application, but they must provide sufficient information about their proposed use of the Network. Access to the Network will be provided once the Applicant has satisfied all information requests of Fundserv and a client has agreed to use the Service Provider's system. Members wishing to use a Service Provider Applicant's system must agree to be responsible for all costs associated with the provision of access to the Network provided to the Service Provider.</p>
<p>A commenter stated that the proposed Rules are not fair and transparent; they impose a burden on competition and/or they will unduly discriminate against new Service Providers.</p>	<p>The Rules do not establish a new process, rather they are a codification of Fundserv's long-standing practice. The Rules are intended to provide complete transparency on Fundserv's requirements. Rather than being subjective and anti-competitive, the Rules set out necessary items of prudent due diligence for Fundserv, in accordance with the regulatory and contractual obligations of Fundserv, so that Fundserv can operate in the public interest and fulfil its regulatory obligations as a regulated clearing agency.</p> <p>Fundserv notes that Fundserv operates as a regulated clearing agency (in addition to its other functions) to connect fund manufacturers and dealers. Service Providers may provide services to either category of members, but it is not Fundserv's primary purpose to provide access to Fundserv and the Fundserv Standards to Service Providers.</p>
<p>A commenter stated that information which may be requested by Fundserv under the Rules is unnecessary, specifically regarding which products will be part of the Service Provider's system. In addition, the potential request for a legal opinion is unnecessary and should not be requested of Service Providers. Specifically, a business plan should not be required to be provided.</p>	<p>The information requested is necessary as due diligence for Fundserv, so it can understand the prospective new system which will use the Network and allow Fundserv to make a determination as to whether an applicant can be permitted to securely access the Network.</p> <p>Fundserv clarifies that a legal opinion may be requested, but it will focus on the Service Provider's proposed use of the Network through its system, not on its clients' use of the Network and general compliance with securities laws.</p> <p>Information about the Service Provider's business plan may be necessary to be provided to Fundserv, if the Service Provider has no clients. Fundserv does not intend that the Service Provider provide it with proprietary confidential information, but rather sufficient information so that Fundserv can understand the proposed use of the Network.</p>