

# **Financial Services Tribunal**

## 2019-20 Annual Report

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# 1.0 Message from the Chair



I am pleased to provide the 2019-20 Annual Report for the Financial Services Tribunal (FST/Tribunal). This report includes details relating to our key activities and achievements over the year.

The FST is an independent, adjudicative body responsible for conducting hearings and appeals arising from decisions and proposed decisions of the Financial Services Regulatory Authority of Ontario (FSRA). The Tribunal's mandate includes the promotion of public confidence in the regulated sectors and the protection of the public interest in accordance with its legislated authority.

FSRA was established in 2017 and launched on June 8, 2019 as Ontario's new financial services regulator, replacing the Financial Services Commission of Ontario (FSCO), created in 1998. In conjunction with this change, the FST was re-established as an independent tribunal under its own legislation, the *Financial Services Tribunal Act, 2017* (FST Act).

The FST's priorities this year included dealing with Tribunal changes arising out of the transition of FSRA from FSCO, including changes to Tribunal forms and Rules, as well as related new administrative support structures.

The FST also prioritized the recruitment of additional adjudicators, with broad expertise in the sectors regulated by FSRA, to ensure that everyone who requests a hearing or appeal receives timely, accessible and impartial judgements. The FST's focus in these and other areas will continue in 2020-21 as the Tribunal works on a number of new policy initiatives designed to improve its services, reinforce the quality of its decisions and increase the transparency of its operations in keeping with applicable public disclosure and privacy legislation.

As I hope you will see from this report, we have accomplished a lot in these areas; however, we are committed to continued improvement. The results we have achieved would not have been possible without the commitment and dedication of our people. To my colleagues on the Tribunal, in the Registrar's office and within the Ministry, who work tirelessly to support the success of our organization I extend my sincere thanks.

A stylized, handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

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Ian McSweeney

Chair

## 2.0 Overview of the FST

Established by the FST Act, the FST is an expert, independent adjudicative body. The FST conducts hearings and hears certain appeals on regulatory and disciplinary matters under statutes covering the sectors regulated by FSRA, including the:

- *Pension Benefits Act*;
- *Insurance Act*;
- *Mortgage Brokerages, Lenders and Administrators Act, 2006*;
- *Credit Unions and Caisses Populaires Act, 1994*;
- *Loan and Trust Corporations Act*; and
- *Prepaid Hospital and Medical Services Act*.

The FST has exclusive jurisdiction to exercise the powers conferred on it by legislation and to determine all questions of fact or law that arise in its hearings.

As an administrative adjudicative body, with powers similar to those of a court, the FST provides a fast and cost-effective way to request hearings and appeals of regulatory proposed orders and decisions.

### **Mandate**

The FST's mandate includes the promotion of public confidence in the regulated sectors and the protection of the public interest in accordance with its legislated authority.

## 3.0 Key Activities and Initiatives

In fiscal 2019-20, the FST continued to operate as an independent tribunal with respect to proceedings that arose in relation to past regulatory enforcement activities by the Superintendent of Financial Services under the *Financial Services Commission of Ontario Act, 1997* and the Deposit Insurance Corporation of Ontario (DICO) under the *Credit Unions and Caisses Populaires Act, 1994*, in addition to regulatory enforcement activities carried out by the Chief Executive Officer (CEO) of FSRA under the *Financial Reservices Regulatory Authority of Ontario Act* (FSRA Act). FST remains committed to providing an expert and impartial hearing process that is accessible, prompt and fair.

There were a total number of 20 new cases for 2019-20, in comparison with a total of 87 cases in 2018-19. The significant drop in the number of new cases in 2019-20 is likely attributed to the transitional period associated with the launch of FSRA as the new regulator for all non-security financial services and pensions.

The number of cases pending at the end of the year decreased in 2019-20. Specifically, there were 22 cases pending at the end of 2019-20, down from 67 cases pending in 2018-19 and 114 pending cases in 2017-18. The steady decline in the number of cases pending in the last three years is attributed to several factors including fewer number of new proceedings commenced and an increase in cases settled.

During 2019-20, the FST closed 65 cases across various sectors, compared to 69 cases closed in 2018-19. Table 3.0 below summarizes the FST's activities in 2019-2020.

**Table 3.0: Financial Services Tribunal Activities**

Activity	Pension Matters (Excluding Financial Hardship)	Pension Matters (Financial Hardship)	Mortgage Matters	Insurance Matters	Credit Union Matters	Service Provider Matters	Total 2019-20	Total 2018-19	Total 2017-18
Cases Pending at Beginning of Year	0	0	12	27	1	9	67	49	113
New Cases Received	11	0	32	50	0	6	20	87	49
Cases Closed	3	0	22	47	1	14	65	69	48
Cases Pending at End of Year	8	0	22	27	0	1	22	67	114
Oral Hearing Days	2	0	2	6	0	2	18	13	13
Written Hearings	1	0	6	8	0	1	8	14	14
Other Activity Days – Including: Pre-Hearing Conferences, Telephone Conferences, Settlement Conferences and Motions	13	0	62	102	5	8	116	152	85
Total Hearing (Oral and Written) and Activity Days before FST	16	0	70	116	5	11	142	179	112

**Notes:**

1. Table does not include FST quarterly meetings, days for deliberation or decision writing. Total member days worked were 406 for the period.
2. Numbers may reflect activity in respect of files opened prior to 2019-20 fiscal year.
3. Written hearings may relate to financial hardship matters, motions, requests for costs or requests for a review of a decision.

### 3.1 FST Appointments

The FST is composed of a minimum of nine members, including the Chair and two Vice-Chairs, all appointed by the Lieutenant Governor in Council. Appointments to the FST are made in accordance with the guidelines established by the Ontario's [Public Appointments Secretariat](#).

In 2019-20, a number of new members were appointed to the FST, in conjunction with the re-appointment of existing members to meet the FST's caseload requirements and to ensure the FST had adequate technical knowledge and resources to provide adjudicative services to the regulated sectors within FSRA's jurisdiction. In 2019-20, the total remuneration for the FST was \$219,528.00. Table 3.1 below provides details on FST memberships during the reporting period.

**Table 3.1: Financial Services Tribunal Members in 2019–2020**

Name	Position	Tenure (From-To)
Ian McSweeney	Chair	March 11, 2015 - September 13, 2021
Denis Boivin	Vice-Chair	December 1, 2004 - October 18, 2019
Bethune Whiston	Vice-Chair	December 17, 2013 - April 11, 2020
Craig Brown	Member	August 17, 2017 - August 16, 2019
Paul Farley	Member	January 5, 2015 - March 12, 2022
Anthony Fredericks	Member	April 11, 2018 - April 10, 2022
Caroline Hunt	Member	February 8, 2018 - February 8, 2022
Audrey Mak	Member	November 2, 2016 - November 2, 2021
Christopher Portner	Member	August 17, 2017 - September 13, 2020
Jeffery Richardson	Member	August 12, 2008 - August 9, 2019
Nicholas Savona	Member	March 18, 2020 - March 18, 2022
Mohammad Faisal Siddiqi	Member	March 18, 2020 - March 18, 2022
Edward Skwarek	Member	March 18, 2020 - March 18, 2022
John Solursh*	Member	September 12, 2018 - July 23, 2019
Jill Wagman	Member	December 17, 2013 - December 17, 2021

\*Special Appointment (temporary for a specific proceeding) under s.6(6) of the *FSCO Act*.

### 3.2 Rules, Practices, Procedures and Guidelines

The FST has established its own Rules of Practice and Procedure (Rules) to guide the conduct of its hearings. The *Statutory Powers Procedure Act* and the enabling legislation governing the regulated sectors also governs FST proceedings. To further assist hearing participants, the FST has also created and posted online a Guide to Regulatory Proceedings (Guide). The Guide provides detailed information regarding how the FST conducts its proceedings. For hearing participants' convenience, the FST's hearing schedule, decisions and Rules are posted on the [FST website](#), along with biographical sketches of current FST members.

### **3.3 Relocation to New Premises**

The FST currently occupies office space at 5160 Yonge Street, Toronto, ON. As the leasing arrangement for that space expires in the fall of 2020, the FST must relocate to new premises.

Planning for a new location began in 2019-20. In consultation with Infrastructure Ontario (IO), the Ministry of Finance has identified 25 Sheppard Avenue W, North York, as the new location for FST offices. Work is ongoing to ensure a seamless transition to the new location.

### **3.4 FST Transition**

On April 1, 2019, the majority of the FST Act came into force which separated the FST from FSCO and established the FST as a stand-alone entity, with administrative and corporate support provided by the Ministry of Finance.

As part of this transition, a new FST website was launched in July 2019 and a new case management system was successfully implemented in December 2019. Opportunities for cost efficiencies continue to be evaluated on an ongoing basis.

## **4.0 FST Public Service Standards**

In accordance with the OPS Service Directive, the FST has developed service standards to meet the Directive's mandatory requirements to:

- Establish and communicate to customers, program-specific service standards for services offered;
- Monitor and measure the quality of service provided; and
- Communicate to customers, the actual quality of service provided.

The OPS directive articulates and reinforces the need for service standards, processes and practices, roles and responsibilities to ensure accessible and quality services to customers. In 2019-20, the FST continued to focus on meeting its commitments and maintaining the highest standards of public service. Table 4.0 summarizes how the FST performed against its standards in 2019-20:

**Table 4.0: Financial Services Tribunal Service Standards in 2019–2020**

Performance measures	# of cases / decisions	Target # of cases	# of cases that met standard	# of cases that did not meet standard	Service Standard Achieved
% of cases in which the Tribunal sends the letter of acknowledgement within 5 calendar days	20	20	20	0	100%
% of cases in which the pre-hearing date is scheduled within 35 calendar days of filing a completed Request for Hearing or Notice of Appeal	19	17	17	2	100%
% of cases in which the Tribunal has issued a decision within 90 calendar days from the final day of the hearing	21	19	18	3	95%

Service excellence is a priority for the FST, and it highlights the FST's commitment to providing fair, effective and timely judgements. While the FST strives to meet the service standards for issuing decisions within 90 calendar days, the capacity to issue a decision may sometimes be affected by other services and factors that are beyond FST's control.

## 5.0 Financial Summary

**Table 5.0: FST Revenues in 2019-20**

Item	2019-20
Recovery from Sectors	\$591,750
<b>Total Revenue</b>	<b>\$591,750</b>

**Table 5.1: FST Expenditures in 2019-20**

Item	2019-20
Salaries and Wages	\$142,703
Employee Benefits	\$16,956
Transportation and Communications	\$4,769
Services	\$424,703
Supplies and Equipment	\$2,619
<b>Total Expenditures</b>	<b>\$591,750</b>

Notes:

1.FST financials prior to 2019-20 are included in the FSCO Annual Reports.



*2. Under subsection 15(1) of the FST Act, 2017, the Lieutenant Governor in Council may assess FSRA with respect to all expenses and expenditures that the FST and the Ministry of Finance have incurred and made under the FST Act or any other Act that confers powers or assigns duties to FST. This assessment is made in accordance with Order in Council 115/2020 and O. Reg. 144/19.*