

# Approach



**Effective date:** August 3, 2021

**Identifier:** No. GR0012APP

## Use of proceeds from enforcement under regulation “Money retained outside the consolidated revenue fund” Guidance

### Purpose

Ontario Regulation 554/21<sup>[1]</sup> (the “Regulation”) under the *Financial Services Regulatory Authority of Ontario Act, 2016* permits the Financial Services Regulatory Authority of Ontario (“FSRA”) to retain revenue from administrative monetary penalties (“AMPs”) and enforcement proceedings orders or settlements, other than orders for costs (collectively, “Proceeds from Enforcement”), which must be used for the purposes set out in the Regulation. Previously, FSRA paid Proceeds from Enforcement into the Government of Ontario’s Consolidated Revenue Fund.

The Regulation sets out the required purposes for the use of Proceeds from Enforcement by FSRA. The purpose of this Guidance is to inform the public of FSRA’s practices and approach with respect to its use and administration of Proceeds from Enforcement, including grants. These

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<sup>1</sup> See [O. Reg. 554/21](#)

practices and approach include information on applying for funding, eligibility considerations, and other information for applicants and potential applicants.

## Scope

This Guidance affects all FSRA regulated entities, consumers, members and beneficiaries.

This Guidance affects the aspects of FSRA's operations and regulatory activities that are related to the required purposes for use of Proceeds from Enforcement in accordance with the Regulation.

## Rationale and background

FSRA imposes, enforces and collects AMPs and settlement monies for violations of applicable regulatory obligations contained in the sector statutes, their regulations and certain FSRA Rules.

The Regulation requires that FSRA only use Proceeds from Enforcement for the following purposes:

- funding research or educational initiatives to enhance financial literacy, financial awareness, knowledge of rights and obligations or the informed decision making of consumers or pension plan beneficiaries
- funding research or educational initiatives that:
  - enhance the knowledge or understanding of persons or entities carrying on business in the regulated sectors, including activities, operations, regulatory obligations, or market trends in the regulated sectors
  - have the goal of:
    - improving the protection of consumers
    - protecting and safeguarding the pension benefits and rights of pension plan beneficiaries

- promoting the good administration of pension plans
- improving compliance by persons or entities carrying on business in the regulated sectors
- enhancing knowledge or information about the regulated sectors

Proceeds from Enforcement will not be used to fund normal FSRA operating costs, which are funded through assessments and fees collected by FSRA under FSRA Fee Rule.<sup>[2]</sup>

The Regulation requires that FSRA make all reasonable efforts to use Proceeds from Enforcement in relation to the specific regulated sector that the money came from, or proportionately across multiple regulated sectors including the regulated sector that the money came from.

The Regulation requires FSRA to report in its annual financial statements:

- a breakdown of the Proceeds from Enforcement from each regulated sector
- the purposes for which the Proceeds from Enforcement from each regulated sector was used by FSRA
- how those purposes for use were fulfilled or advanced

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<sup>2</sup> *Insurance Act*, R.S.O. 1990, c.18 section 441.6.  
*Compulsory Automobile Insurance Act*, R.S.O. 1990, c.C.25 section 14,7.  
*Credit Unions and Caisses Populaires Act*, 1994, S.O. 1994, c. 11 section 331.6.  
*Mortgage Brokerages, Lenders and Administrators Act*, 2006, S.O. 2006, c.29 Section 42.  
*Pension Benefits Act*, R.S.O. 1990, c. P.8 section 108.5.  
*Automobile Insurance Rate Stabilization Act*, 2003, S.O. 2003, c. 9 section 11.6.

## Approach

### Funding internal and third party initiatives

FSRA intends to use the Proceeds from Enforcement to fund internal and/or third party initiatives that are consistent with the purposes set out in the Regulation.

Internal proposals are defined as FSRA initiating, conceptualizing and proposing the initiative, and allocating Proceeds from Enforcement for use by FSRA. Internal proposals may involve FSRA retaining the services of appropriate third parties.

“Grants” or “Grant funding” refers to a funding vehicle that uses Proceeds from Enforcement for third party initiatives. This type of funding may include:

- Unsolicited Proposals – When FSRA indicates on its website that FSRA is open to accepting proposals for funding, third party applicants may submit proposals for project funding. Grants may be awarded in response to unsolicited funding requests from third party organizations for self-initiated projects (i.e., projects initiated and conceptualized by a third party); and/or
- Solicited Proposals – Grants may be awarded further to FSRA conceiving an opportunity and then identifying one or more third parties whose knowledge, experience and resources qualify them to pursue the initiative via invitation for proposal. FSRA, in its sole discretion, assesses and determines whether the third party’s knowledge, experience and resources qualify them for the initiative.

For Grant funding, FSRA may provide part of the funding, from Proceeds of Enforcement, necessary to accomplish the initiative’s objective. See “Funding Amount and Timing” in this Guidance for further information.

All proposals, including internal proposals and Grant funding proposals, may be subject to eligibility and project evaluation protocols and controls as FSRA in its discretion determines. Making a request or proposal for funding does not guarantee that a Grant or other allocation of Proceeds from Enforcement will be awarded by FSRA.

## Funding amount, duration and timing

The Grant funding program may be a shared-cost program. For example, FSRA may award 75% of total project costs while applicants contribute 25% of the total project costs in cash or in-kind.

FSRA may consider use of Proceeds from Enforcement to fund internal proposals or Grants on an annual basis. FSRA staff and third parties may submit proposals for Proceeds from Enforcement funding on an annual basis. FSRA will accept proposals for time limited periods and FSRA will disclose key dates and deadlines for applications. FSRA will consider the amount of funding that is available when assessing internal or external proposals. FSRA may decide not to open any window for internal proposals and/ or for Grant proposals in any given year. Consideration by FSRA as to whether to accept and fund proposals during any given year will be in FSRA's discretion and may depend on several factors including, without limitation, the availability of Proceeds from Enforcement that have not already been allocated; FSRA's plans (including annual plans); as well as the eligibility and quality of proposals received.

Using Proceeds from Enforcement to fund internal proposals or Grants may be considered and awarded for a single year period, for less than a year or for longer than a year, but not multiple years, in FSRA's discretion.

FSRA may decide, in its discretion, on the amount of funds, if any, to retain/ holdover, based on any relevant factors, such as organizational priorities, resource limitations and contingency planning.

Proceeds from Enforcement may vary from year to year. Annual variability may be considered by FSRA in decision-making on funding and on potential carry over of available funds from one period to the next. All requests will be considered based on actual funds received and available at the time of the request.

## Application process

The first step in applying for a funding, by an internal party or a third party, is the submission of a project concept proposal. The application form can be requested from FSRA. Certain applicants who make a proposal may be invited to submit additional information.

## Eligibility, proposal assessment and decision-making

Assessment of internal proposals and Grant funding proposals may consist of the following phases of review:

- eligibility assessment
- initiative assessment by an evaluation committee to evaluate and prioritize
- executive level review of evaluation committee's recommendations, including recommended prioritization, and proposed funding amounts

The first phase of a proposal's review process consists of an eligibility assessment. Under the direction of the Chief Consumer Officer, FSRA staff may review proposals to make an eligibility determination.

All proposals must present an eligible proposed initiative. Before applying, the applicant should determine if it meets the Grant funding parameters. Please consider whether your proposed initiative meets the eligibility criteria.

FSRA encourages entities who have the following elements, and who also have an eligible initiative in accordance with the required purposes of the Regulation, to apply for a Grant:

- not-for-profit organization structure
- incorporated in Ontario or Canada for at least one year
- for education projects, entities with reach across an industry or broad reach to consumers, or to certain consumer groups, such as vulnerable consumer groups or demographics
- entities with accountability procedures to administer, manage and oversee any funding it receives from FSRA
- Entities who maintain appropriate insurance coverage. Note that "appropriate" insurance coverage is determined by FSRA in its discretion by considering, amongst other

circumstances and factors, the nature of the event being funded by Proceeds of Enforcement.

There must be an eligible initiative proposed in the case of internal proposals and third party Grant proposals. For an initiative to be considered eligible for funding, an initiative must comply with the parameters set out in the Regulation for use of Proceeds from Enforcement. Only eligible proposals can move to the second phase of consideration: initiative assessment.

The second layer of review is initiative assessment. This will only apply to eligible initiatives. The initiative assessment phase of review will focus on, amongst other factors, the merits of the initiative and quality of the proposal. FSRA may also consider if the initiative addresses FSRA priorities. The Chief Consumer Officer will coordinate and select members for an evaluation committee for this review to be used any time eligible initiatives go through committee initiative assessment. The evaluation committee will:

- review and evaluate eligible proposals
- prioritize proposals of interest.

In assessing eligible initiatives' merits, the evaluation committee will consider the following attributes, and any additional ones that FSRA may, in its discretion consider relevant:

- ability to deliver, with a substantiated practical and detailed plan for initiative deliverables
- ability to deliver broadly to networks of industry or consumers
- understanding of challenges related to the sector(s) FSRA regulates
- track record of relevant experience or expertise to effectively develop the initiative
- offers a credible and feasible approach for reaching the intended audience(s)
- ability to deliver on time and on budget
- benefit to target audience beyond funding period and over the longer term

- access to relevant expertise related to FSRA sectors
- addresses a key FSRA priority

Based on the evaluation committee's evaluation and recommendations of prioritization of proposed initiatives, FSRA's Chief Executive Officer may, in his or her discretion, accept or reject a recommendation from the evaluation committee.

## Costs for Grant funding

FSRA may consider the types of costs associated with the Grant funding proposals. FSRA welcomes proposals that seek Grant funding to cover costs that are closely and directly (as opposed to indirectly or tenuously) tied to the work involved in the proposed initiative and the required purposes under the Regulation. For example, direct costs may include, non-exhaustively, project development and implementation costs, project administration and coordination, salaries for personnel and consultants/ contractors who are working on the initiative, translation, promotion and marketing that is necessary for or that supports the effectiveness of the initiative.

## Partnership

The Grants program encourages collaboration. At FSRA's sole discretion, applicants are permitted to partner with other organizations, acting in the capacity of co-applicants, to meet project objectives. Co-applicant organizations can be private, public or not-for-profit sector organizations.

## Distribution of Grant funds

An award of Grant funding is contingent upon successful negotiation of a Grant agreement with FSRA within a reasonable time. If a grantee and FSRA cannot successfully negotiate a Grant agreement within a reasonable time, as determined by FSRA, the funding will not be released. After a Grant agreement is executed, funds may be disbursed in installments contingent upon performance and not to exceed the Grant amount.

## Reporting

The Proceeds from Enforcement will be forecasted, collected, tracked, and reported in accordance with FSRA's fiscal management policies.<sup>[3]</sup>

In addition to the financial requirements outlined under "Rationale and background", projects using the Proceeds from Enforcement and unallocated funds may be described in FSRA's Annual Report, including:

- how much money FSRA collected from each regulated sector
- a list of projects by sector
- how much money from each sector/ or the total used for each purpose
- how aligned strategic initiatives were fulfilled or advanced with the use of these funds
- unallocated funds

## Effective date and future review

The predecessor Guidance to this guidance became effective on August 3, 2021 and was updated on October 12, 2023. This version of the Guidance became effective on October 12, 2023. FSRA expects to review the guidance by October 12, 2028.

## About this Guidance

This document is consistent with [FSRA's Guidance Framework](#). As Approach Guidance describes FSRA's internal principles, processes and practices for supervisory action and application of Chief Executive Officer discretion. Approach Guidance may refer to compliance

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<sup>3</sup> [See FSRA Fee Rule - Consolidated](#)

obligations but does not in and of itself create a compliance obligation. Visit [FSRA's Guidance Framework](#) to learn more.

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