

Principles-Based Regulation Approach Guidance

Webinar

The logo for the Financial Services Regulatory Authority of Ontario (FSRA) consists of the letters "FSRA" in a large, bold, blue, sans-serif font.

Financial Services Regulatory
Authority of Ontario

Date: Monday, October 7, 2024, 11:00 AM – 12:00 PM

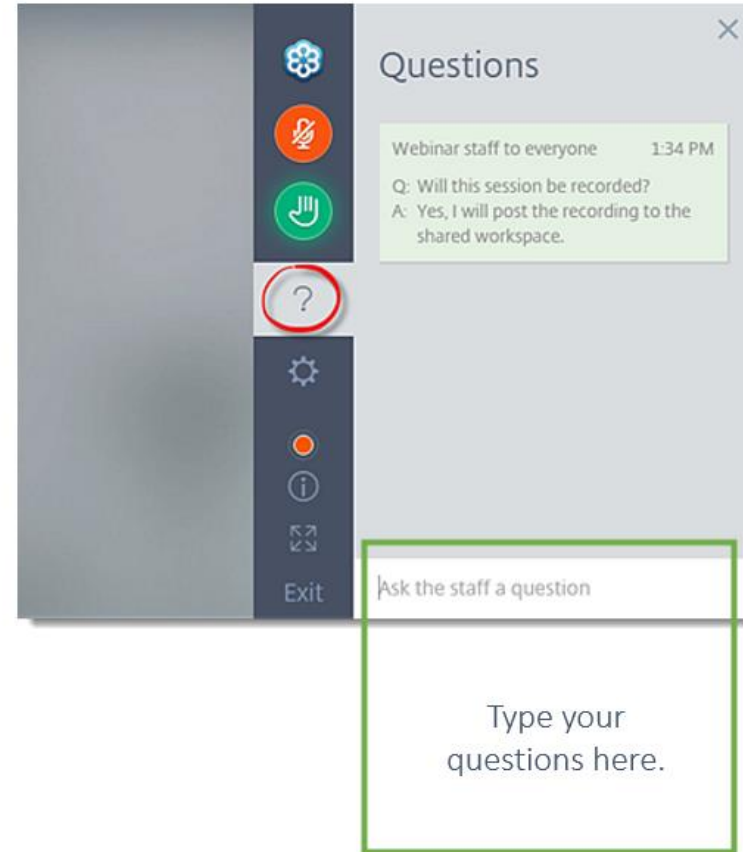
Speakers: Jordan Solway, EVP Legal and Enforcement
Reesha Hosein, Director, Deputy General Counsel, Legal Services



Ontario

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Participating in today's Webcast
Attendee Control Panel



Agenda

- Introductions
- Land Acknowledgement
- Introduction
- Deposit Insurance Reserve Fund
- Next Steps
- Questions



FSRA

Financial Services Regulatory
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SPEAKER & MODERATOR

- **Jordan Solway, EVP Legal and Enforcement**
- **Reesha Hosein, Director, Deputy General Counsel, Legal Services**

We acknowledge the land we are on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples. We acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit and the Williams Treaties signed with multiple Mississaugas and Chippewa bands.

Background

Purpose:

- To launch the Principles-based Regulation (PBR) Approach Guidance and answer questions.

Context:

- Guidance is the “tool” FSRA uses to explain how it goes about its work (the approach) and FSRA will use identified principles to support specific outcomes that it expects regulated entities and licensed individuals to achieve.
- FSRA has adopted a principles-based, outcomes-focused approach to the supervision and regulation of financial services in Ontario. Since our inception in 2019, we have been implementing this approach, consistent with our statutory objects in the FSRA Act.
- This Guidance is designed as an essential resource for all regulated entities, licensed individuals and stakeholders about how we go about executing against our mandate.
- All regulated entities and licensed individuals should become familiar with this Guidance and have a basic understanding of how PBR works.

PBR is:

- A regulatory and supervisory approach used by leading financial services regulators around the world.
- Consistent with FSRA's Mission of "public service through dynamic, principles-based and outcomes-focused regulation."
- Reflected in FSRA's statutory objects in the *FSRA Act* which identifies specific outcomes that FSRA should achieve in executing its supervisor and enforcement mandate.

PBR enables FSRA to:

- Respond quickly to technological changes, consumer and beneficiary needs, and innovation in the financial services sector.
- Focus effectively on intended regulatory outcomes and objectives to be achieved.
- Ultimately reduce regulatory burden for those institutions and individuals able to integrate the desired outcomes into their business and operations through a more flexible regulatory approach. Regulated entities and individuals determine how they can best achieve intended regulatory outcomes.

The Guidance: Key points

The *Principles-based Regulation Guidance* sets out:

- FSRA's Framework Principles,
- FSRA's statutory objects: how PBR is reflected in FSRA's approach to regulation and supervision,
- How FSRA's PBR approach and Framework Principles will impact FSRA regulated entities and individuals.

Outcomes-focused

FSRA will focus our regulatory and supervisory activities on the outcomes we seek to achieve for consumers, pension plan beneficiaries, regulated entities and the sectors based on the statutory objects in the *FSRA Act*.

Innovative

FSRA facilitates and encourages responsible innovation for its regulated sectors and itself. One size does not fit all: FSRA will be responsive and adaptive when monitoring practices, circumstances and expectations.

Consumer-centric

In formulating our regulatory approach, FSRA will focus on the impact on consumers (and in the case of pensions, safeguarding the rights/entitlements of plan beneficiaries) in accordance with our statutory objects.



Risk-based

FSRA will direct resources to issues, entities and individuals that pose the highest risk, and will focus on matters where non-compliance or the inability to achieve intended regulatory outcomes will result in the most harm to consumers or pose the greatest threat to FSRA's ability to execute against our statutory objects.

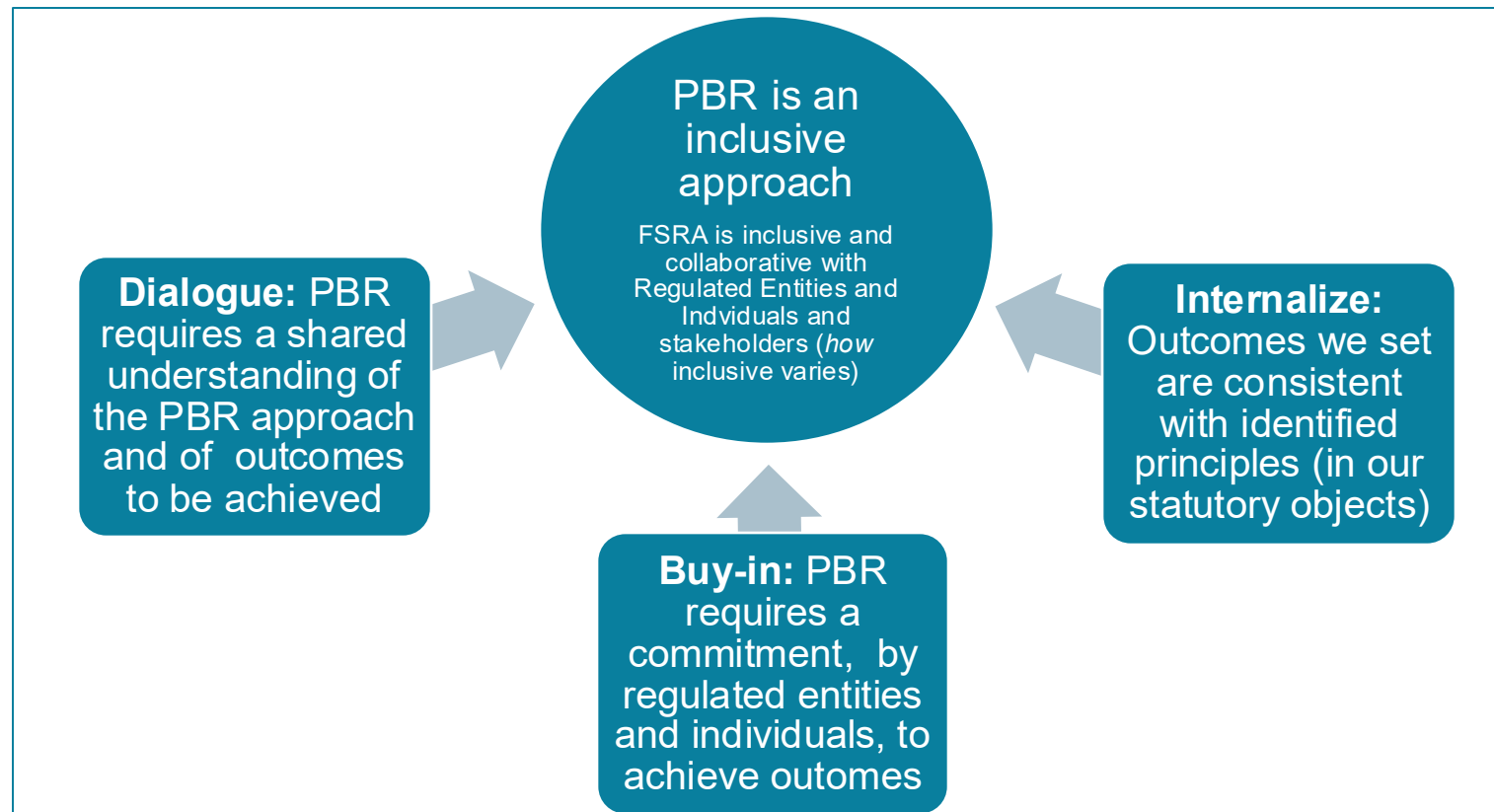
Transparent

FSRA communicates its expectations, approaches, and information in an open and transparent manner. Our rules and guidance will reference the principles against which we will supervise and identify outcomes we aim to achieve.

Collaborative

FSRA will engage with relevant stakeholders, appreciating their differences and roles, and leverage public consultations to ensure that our regulatory activities consider the viewpoints and needs of our stakeholders, which include the interests of consumers and pension plan beneficiaries.

PBR is an inclusive approach to supervision and regulation which requires shared understanding and commitment by the regulator and the regulated entities and individuals to achieve outcomes consistent with identified principles.*



*Professor C Ford

PBR expects:

PBR is an *approach* to supervision and regulation which focuses on outcomes.

PBR needs to be a "dialogue", not a "monologue"; **shared understanding is key**.

PBR requires regulated entities and individuals to understand the approach, and to collaborate with FSRA with a goal of achieving outcomes we identify.

Focusing on outcomes is intended to be **more efficient and less burdensome** than a purely rules-based regulation, leaving space for flexibility, innovation and facilitating more cost-effective ways to solve regulatory problems.

PBR is not intended to be “light touch”(left market forces determine regulatory outcome) or deregulation.

PBR is “a journey, not a destination.” The PBR approach has the capacity to **constantly iterate and adjust** as the regulated sectors evolve and change.

FSRA Objects*: our PBR mandate



To foster strong, sustainable, competitive and innovative financial services sectors



To regulate and generally supervise the regulated sectors



To promote high standards of business conduct



Promote transparency and disclosure of information



To protect the rights and interests of consumers

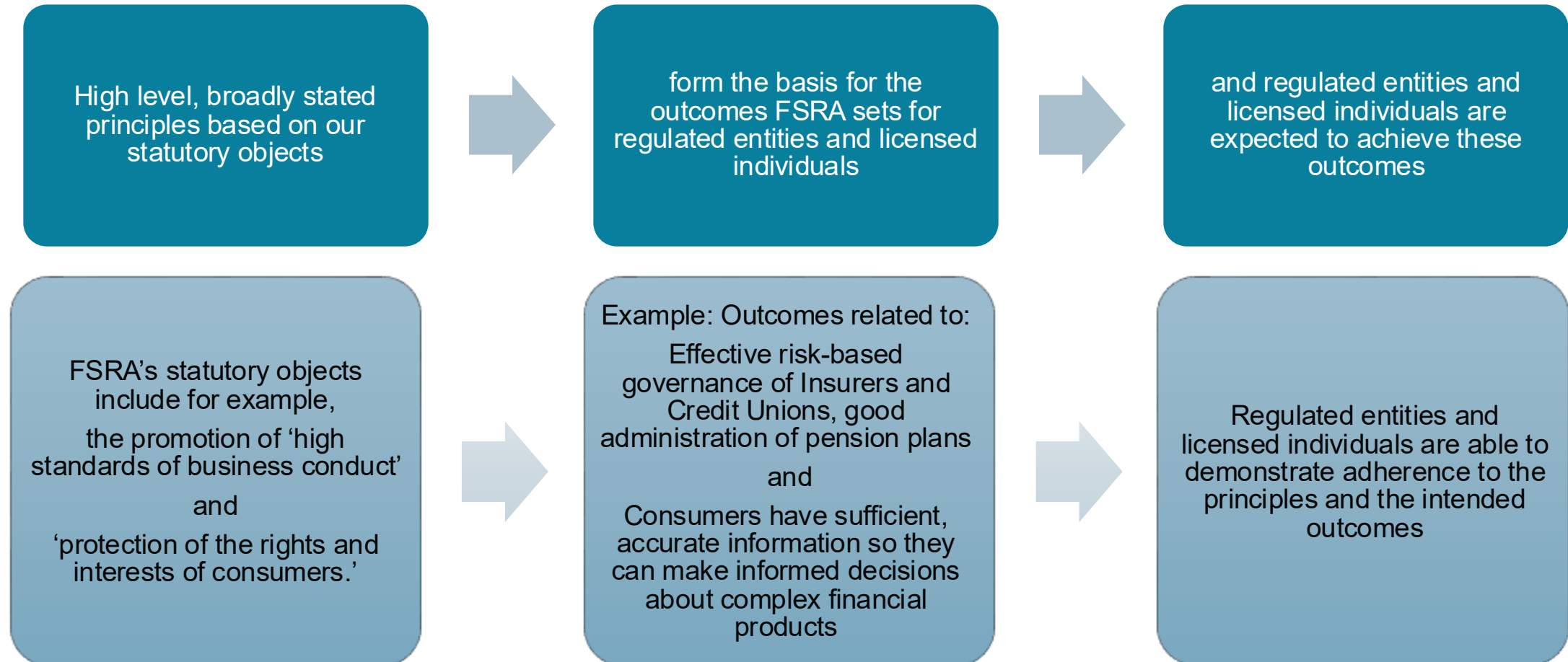


To promote public education and knowledge about the regulated sectors

PBR is “an inclusive approach to regulation and supervision which requires **shared understanding** and **commitment to achieve outcomes** consistent with **identified principles**”

*See the *FSRAO Act*, 2016, s. 3, which sets out 16 statutory objects

How PBR is reflected in FSRA's approach to regulation and supervision



How FSRA's PBR approach and Framework Principles will impact FSRA regulated entities and individuals

Demonstrate:

Regulated entities and individuals demonstrate how their approach is effective in achieving outcomes (don't tell me, show me)

Achieve and validate:

Example: Senior management, boards of directors or trustees **communicate** - transparently and timely - the **policies, processes, and practices** which have been adopted and implemented to achieve outcomes **AND how it is validating** that they are being achieved.

FSRA's assessment

of the extent to which the regulated entity or individual has achieved outcomes includes whether they have taken reasonable and good faith efforts.

Collaborate and remediate:

Where a regulated entity or individual identifies potential issues which may result in an inability to achieve outcomes, open and early communication with FSRA will better enable both parties to identify and develop appropriate solutions, mitigate risks or develop remediation strategies.

How FSRA's PBR approach and Framework Principles will impact FSRA regulated entities and individuals

Individuals and well-controlled, well-governed and effectively managed regulated entities who engage in an open and productive manner with FSRA should realize real benefits from FSRA's PBR and outcomes-focused approach.

Less intensive supervision can result where a regulated entity is fully engaged, works with FSRA to achieve intended outcomes, demonstrates that its oversight and controls are functioning effectively and evidences that the intended regulatory outcomes are being achieved.

Data, evidence and information are the basis of the shared understanding. They are essential to sound business practices and can demonstrate the integration of the principled basis of PBR into business operations.

How FSRA's PBR approach and Framework Principles will impact FSRA regulated entities and individuals

A PBR approach does not mean the absence of prescriptive requirements.

In certain circumstances and areas prescriptive requirements will be relied on to ensure adequate consumer and pension beneficiary protection.



Framework Principles will guide our approach to regulatory and supervisory issues.

Factors that will impact the approach include

- the legal framework,
- the complexity, impact and severity of the issue, and
- the sophistication and resources of the regulated entity or individual to effectively address the issue.



Each sector-specific regulatory area within FSRA may develop and implement a supervisory methodology which reflects

- the unique regulatory issues and
- the size, complexity, and risk profile of the regulated entities, persons and sectors it regulates

How FSRA's PBR approach and Framework Principles will impact FSRA regulated entities and licensed individuals:

Enforcement remains an integral component of FSRA's principles-based and outcomes-focused approach. FSRA will utilize Interpretation Guidance to identify the principles and relevant statutory objects that relate to our interpretation of sector statutes and regulations, or a FSRA Rule. Framework Principles inform FSRA's approach to enforcement. FSRA takes a progressive, measured, and proportional approach to enforcement.

Please take time to read the Guidance.

FSRA welcomes any questions you may have about this Guidance at any time.

Questions?