

# Summary of Consultation on Fraud Reporting Service Rule and Guidance

## Purpose of consultation:

Auto insurance fraud is often cited as a major problem by consumers and stakeholders, but there is currently a gap in reporting of information related to fraud that makes it difficult to define the problem and create accountability for solving it.

FSRA's proposed Fraud Reporting Service (FRS) Rule and Guidance will seek to create a baseline of data that will quantify the amount of fraud in the industry.

Section 101.3 of the Insurance Act, passed in the 2022 Budget Bill, gives FSRA authority to prescribe in a rule any information that insurers must provide, as long as it relates to automobile insurance fraud.

The proposed FRS Rule and Guidance is intended to:

- Quantify the prevalence of automobile insurance fraud in Ontario;
- Create a baseline for fraud detection; and
- Identify trends throughout the automobile insurance industry.

The proposed Rule reflects section 101.3 and sets out:

- The threshold and scope of information that insurers are required to report about automobile insurance fraud; and
- The timing and process requirements regarding how an insurer shall report the prescribed information.

The Proposed interpretation/approach Guidance:

- Sets out the prescribed information/data points to be collected based on FSRA's interpretation of automobile insurance fraud; and
- Outlines FSRA's approach in collecting the required information regarding the timing and form requirements of providing information.

**Outcome of consultation:**

As a result of the consultation, the following changes have been reflected in the proposed Rule and Guidance:

FRS Rule Section	Original Wording	Revised Wording
<p><b>Section 1 Definitions - 1(1)(e): “Fraud Event”</b></p>	<p>“fraud event” means a deceptive act or omission, or series of deceptive acts or omissions intentionally committed by a person(s) to obtain advantage, financial gain, or benefits beyond that to which one is entitled to with regard to any policy, claim, provision of goods or services or other occurrence related to automobile insurance, and for greater clarity includes instances of:</p> <p>a) Obtaining an automobile insurance policy through fraudulent means, including underwriting fraud.</p>	<p>“fraud event” means a deceptive act or omission, or series of deceptive acts or omissions intentionally committed by a person(s) to obtain advantage, financial gain, or benefits beyond that to which one is entitled to with regard to any policy, claim, provision of goods or services or other occurrence related to automobile insurance, and for greater clarity includes instances of:</p> <p>a) obtaining or modifying an automobile insurance policy through fraudulent means, including with respect to underwriting, such as fraudulent misrepresentation;</p>
<p><b>Section 3 Prescribed information under subsection 101.3(1) of the Act</b></p>	<p>3(1) Prescribed information includes all information, including personal information, in the insurer’s possession, control or power related to any policy, claim, provision of goods or services or any other occurrence or event where the information provides reasonable grounds for the insurer to believe that a fraud event has occurred or is likely to occur.</p> <p>3(2) An insurer shall within thirty days after the close of each quarter of the calendar year provide the information prescribed in subsection 3(1) of this Rule with respect to fraud events which in the preceding quarter the insurer has taken action or made a decision based on reasonable grounds for the insurer to believe that a fraud event has occurred or is likely to occur</p>	<p>3(1) Prescribed information includes all relevant information, including personal information, in the insurer’s possession, control or power related to any policy, claim, provision of goods or services or any other occurrence or event where the information provides reasonable grounds for the insurer to believe that a fraud event has occurred.</p> <p>3(2) An insurer shall within 45 days after the close of each quarter of the calendar year provide the information prescribed in subsection 3(1) of this Rule with respect to fraud events which in the preceding quarter the insurer has taken action or made a decision based on reasonable grounds for the insurer to believe that a fraud event has occurred.</p>
<p><b>Section 4 Reporting requirements – Prescribed information</b></p>	<p>4(2) Every insurer who provides prescribed information that subsequently becomes aware that the information the insurer provided is or has become incomplete, out-of-date, or factually incorrect shall in the quarter following their becoming aware:</p> <p>(a) inform the Chief Executive Officer of the deficiencies in the prescribed information provided; and</p>	<p>4(2) Every insurer who provides prescribed information that subsequently becomes aware that the information the insurer provided is or has become incomplete, out-of-date, or factually incorrect shall in the quarter following their becoming aware:</p> <p>i. inform the Chief Executive Officer of the deficiencies in the prescribed information provided; and</p>

FRS Rule Section	Original Wording	Revised Wording
	<p>(a) take reasonable steps to remedy the deficiencies in the prescribed information provided to bring the information into compliance with subsection 5(1) of this Rule.</p> <p>4(3) If an insurer provides information to the Chief Executive Officer and subsequently discovers that the information either:</p> <p>(a) includes deficiencies that cannot be remedied as required by subsection 5(2)(b) of this Rule; or</p> <p>(b) fails to meet the threshold of the reporting requirement outlined in subsection 3(1) of this Rule,</p> <p>then the insurer must immediately give notice and recommend the Chief Executive Officer to withdraw the information provided.</p>	<p>ii. take reasonable steps to remedy the deficiencies in the prescribed information provided to bring the information into compliance with subsection 4(1) of this Rule.</p> <p>4(3) If an insurer provides information to the Chief Executive Officer and subsequently discovers that the information either:</p> <p>i. includes deficiencies that cannot be remedied as required by subsection 4(2)(ii) of this Rule; or</p> <p>ii. fails to meet the threshold of the reporting requirement outlined in subsection 4(1) of this Rule,</p> <p>then the insurer must promptly give notice and recommend the Chief Executive Officer to withdraw the information provided.</p>

FRS Guidance Section	Original Wording	Revised Wording
<p><b>Interpretation, Section 3: “Reasonable Grounds to Believe” (RGB)</b></p>	<p>FSRA interprets “reasonable grounds [...] to believe” to include evidence, verified facts, context, or indicators that support a high degree of certainty that a fraud event has occurred or is likely to occur, warranting further action by the insurer but not allowing the insurer to conclude that a fraud event has occurred.</p>	<p>FSRA interprets “reasonable grounds [...] to believe” to include evidence, verified facts, context, or indicators that indicate that it is more likely than not that a fraud event has occurred, warranting further action by the insurer but not necessarily allowing the insurer to conclude that a fraud event has occurred.</p>
<p><b>Interpretation, Section 5:</b></p>	<p>FSRA anticipates a second phase where information collected in phase one will enable insurers to use the information. The personal information listed in the Appendix may be necessary to include in phase two reporting.</p> <p>FSRA will work with insurers to create unique identifiers for each instance of reporting. These unique identifiers will allow insurers to update information provided in</p>	<p>FSRA anticipates a second phase where information collected in phase one will enable insurers to use the information.</p> <ul style="list-style-type: none"> <li>• Appendix A provides a non-exhaustive list of the types of fraud events that insurers must report to the FRS.</li> <li>• Appendix B provides a non-exhaustive list of the data elements that may be necessary for the purposes of assessing and detecting fraud for phase one.</li> </ul>

FRS Guidance Section	Original Wording	Revised Wording
	<p>phase one with personal information where necessary for phase two. This Guidance will need to be updated before proceeding to this second phase.</p>	<ul style="list-style-type: none"> <li>Appendix C provides a non-exhaustive list of potential data points that may be necessary for the purposes of a future phase two.</li> </ul> <p>FSRA will work with insurers to ensure that the level of data submitted to the FRS is appropriate for each instance of reporting. This Guidance will need to be updated before proceeding to the second phase.</p>
<p><b>Appendix B: Data Elements</b></p>	<p>Appendix B a non-exhaustive list of the data elements that may be necessary for the purposes of assessing and detecting fraud. To the extent that the following list includes personal information that is not necessary for the purposes of assessing and detecting fraud, an insurer should not report the personal information during phase one of the FRS.</p>	<ul style="list-style-type: none"> <li>Appendix B provides a non-exhaustive list of the data elements that may be necessary for the purposes of assessing and detecting fraud for phase one.</li> <li>Appendix C provides a non-exhaustive list of potential data points that may be necessary for the purposes of a future phase two.</li> </ul>

## Feedback from the sector:

FSRA received 15 submissions during the consultation period, which began on July 15<sup>th</sup>, 2024, and ended on October 15<sup>th</sup>, 2024. The [submissions and comments](#) are also available on FSRA's website.

FSRA thanks all commenters. FSRA carefully considered all comments before finalizing and issuing the Rule and Guidance.

## Contributors:

The following stakeholders took the time to share their perspectives with FSRA:

	Organization	Commenter
1	Ontario Mutual Insurance Association (OMIA)	John L. Taylor, President
2	Ontario Psychological Association (OPA)	Ralph Palumbo - The Hillcrest Consulting Group Inc.
3	Co-operators	Craig Bran, Vice President Claims
4	Definity	Stuart Oliver, Vice-President, Enterprise Fraud & Special Investigations Unit
5	Ontario Rehab Alliance (ORA)	Laurie Davis, Executive Director
6	Équité Association	Danielle Wilkinson, VP - General Counsel, Chief Privacy Officer, and Corporate Secretary
7	FAIR Association	Rhona DesRoches, Chair
8	Insurance Bureau of Canada (IBC)	Amanda Dean, Vice-President, Ontario and Atlantic Regions
9	CAA Insurance Company	Elliott Silverstein, Director, Government Relations
10	TD Insurance (TDI)	Andrew Papadimitropoulos – Legal Counsel
11	Travelers Insurance	Sarah Fong, AVP, Government Relations
12	Desjardins Insurance	Giuseppina Marra, Senior Director Regulatory Affairs
13	Aviva Insurance	Karin Ots, Senior Vice-President, Regulatory and Government Relations
14	Heartland Mutual Insurance	Derrick Ajmo, Vice-President Claims
15	Unica	Guy Lecours, Chief Operating Officer

**Summarized Consultation Feedback on Fraud Reporting Service Rule and Guidance (Sort by Themes)**

Themes	Stakeholder(s)	Summarized Comment	FSRA's Responses
<p><b>1. General views on the FRS Rule</b></p>	<p>Aviva CAA Co-operators Desjardins IBC TDI Unica</p>	<ul style="list-style-type: none"> <li>• Generally, stakeholders were pleased with the proposed Rule but had feedback on certain aspects.</li> <li>• Feedback received centred around clarifying certain terms in the “fraud event” definition, and the amount of time and information needed to meet obligations for the proposed Rule.</li> <li>• Stakeholders also had feedback to remove reporting of information that could be seen as future facing or speculative in nature.</li> </ul>	<ul style="list-style-type: none"> <li>• FSRA reviewed the submissions provided and made the necessary updates to clarify the specific areas of feedback stakeholders provided.</li> </ul>
<p><b>2. General views on the FRS Guidance</b></p>	<p>Aviva CAA Co-operators Desjardins IBC Unica</p>	<ul style="list-style-type: none"> <li>• Generally, stakeholders were pleased with the Guidance, although they raised some issues with certain aspects.</li> <li>• Stakeholders wanted FSRA to clarify the definition of the “Reasonable grounds to believe” (RGB) as they viewed the standard of proof as too high and not aligned with the proposed Rule.</li> <li>• Stakeholders also wanted further clarity on the categories/data elements proposed to be collected as they viewed some data elements to include personal information.</li> </ul>	<ul style="list-style-type: none"> <li>• FSRA reviewed the submissions and made the necessary updates to clarify the areas identified by stakeholders</li> <li>• FSRA updated the definition of “Reasonable grounds to believe” to reflect a moderate approach to the RGB standard.</li> <li>• FSRA also updated the appendix of the guidance to delineate data elements required for phase one and potential phase two.</li> </ul>
<p align="center"><b>Other comments beyond the scope of the Rule and Guidance</b></p>			

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<b>1. Cost burden to insurers</b>	Aviva Co-operators Definity Desjardins IBC OMIA Travelers	<ul style="list-style-type: none"> <li>Stakeholders expressed concerns that the FRS requirements will create additional cost to insurers that will require additional resources, administration, programming, and analysis to ensure compliance with the FRS Rule. Some indicated that insurers will bear the cost of the creation and implementation of the FRS through regulatory fee assessments.</li> <li>Stakeholders also advised that costs involved with fraud reporting will not be a one-time cost, but any potential event reported will take on the requirement of longer-term monitoring and maintenance and this could go on for a considerable number of quarters.</li> <li>Stakeholders also expressed concerns that the costs and time to undertake the development of the FRS could outweigh the potential benefits, particularly as insurers already undertake significant initiatives to address fraud. The FRS could duplicate efforts with existing initiatives.</li> </ul>	<ul style="list-style-type: none"> <li>FSRA will consider costs of implementing a new software/IT system for setting up the FRS and for stakeholders who will be required to interact with it.</li> </ul>
<b>2. Limited liability protections</b>	Aviva Co-operators Desjardins IBC OMIA Travelers	<ul style="list-style-type: none"> <li>Stakeholders stated that the current legislative framework does not provide an adequate litigation shield or safe haven for the reporting insurer.</li> <li>Stakeholders wanted a guarantee that reporting to FRS in good faith would include limited liability protections. Many advised that there is a risk of litigation from reporting to the FRS and were not comfortable that information reported may become subjected to potential Freedom of Information (FOI) requests.</li> </ul>	<ul style="list-style-type: none"> <li>The scope of phase one reporting limits reporting of personal information and information collected will not be shared with insurers. The purpose of phase one is to collect information only. This scope of phase one reporting limits the risk that the limited liability protections are intended to mitigate.</li> <li>FSRA understands stakeholders' recommendation to amend the legislative framework to include limited liability protections and will consider this aspect for phase two.</li> </ul>
<b>3. Phase two details</b>	Aviva Co-operators IBC OMIA Unica	<ul style="list-style-type: none"> <li>Stakeholders wanted clarification and defined objectives on phase two of the FRS and how it would impact insurers. Feedback from stakeholders centred on potential opportunities for phase two such as on sharing information between insurers. Another area of feedback was concerns around implementation of phase two with the inclusion of personal information to identify specific bad actors.</li> </ul>	<ul style="list-style-type: none"> <li>FSRA is taking a two-phased approach to this project. Phase one focuses on creating the FRS as a repository of information for use by FSRA. Phase two proposes to enable insurers to access the information reported to the FRS for the purpose of assessing and detecting fraud. Phase two is subject to approval</li> </ul>

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		<ul style="list-style-type: none"> <li>Stakeholders stated that clarity around phase two goals, especially regarding how the data will be used to empower fraud prevention will be essential for the FRS to aid in reducing fraud and protecting consumers.</li> <li>Stakeholders also wanted FSRA to incorporate the prospective future applications of the data in the proposed Guidance, explicitly noting that insurers will have the capability to obtain information regarding malicious individuals to pursue further investigations within their respective organizations.</li> </ul>	<p>from the Ministry of Finance and will depend on the implementation of and outcomes achieved in phase one.</p>
<p><b>4. Leverage Équité Association reporting</b></p>	<p>Aviva CAA Desjardins Équité Association IBC TDI Travelers Unica</p>	<ul style="list-style-type: none"> <li>Majority of stakeholders felt that the Équité Association would be the best suited/equipped service provider to manage the FRS.</li> <li>Stakeholders indicated that certain insurers are already reporting similar information to Équité and see that it is already playing a role in fraud data collection which makes it the ideal partner to gather, analyze, and report fraud information.</li> <li>Stakeholders noted that if Équité is the service provider then that would create efficiencies, avoid duplication of time and expense, and mirror models in other jurisdictions like the United States, where insurers collaborate with the National Insurance Crime Bureau (NICB). Importantly, this reporting process would minimize disruption for insurers, helping to prevent cost pressures which ultimately impact consumers.</li> </ul>	<ul style="list-style-type: none"> <li>To implement the FRS, FSRA issued a Request for Information (RFI) and will issue a Request for Proposals (RFP) in 2025.</li> </ul>
<p><b>5. Providing insurer tools</b></p>	<p>Aviva CAA Desjardins TDI Travelers</p>	<ul style="list-style-type: none"> <li>Stakeholders requested that insurers should have the tools to be able to cancel or refuse to renew a policy under appropriate circumstances, where fraud is suspected/confirmed.</li> <li>Stakeholders advised there is a noticeable lack of resources allocated to investigating and prosecuting insurance fraud cases. This underfunding hampers the ability of law enforcement and regulatory bodies to effectively combat fraud.</li> <li>Stakeholders would like the ability to create a suspicious provider list that identifies bad actors. A step further would be to amend the Statutory</li> </ul>	<ul style="list-style-type: none"> <li>FSRA has developed the Fraud and Abuse Strategy, of which, a key outcome is to better detect, prevent and ultimately deter the prevalence of automobile insurance fraud and abuse.</li> <li>One pillar of this strategy is to modernize insurers fraud management tools (such as de-listing). This strategy, and the pillars outlined within, include a multi-year/multi-phase approach and are subject to outcomes of the FRS.</li> </ul>

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		<p>Accident Benefits Schedule (SABS) to allow insurers to de-list or stop doing business with fraudulent or abusive health care providers.</p>	<ul style="list-style-type: none"> <li>The aim is to analyze data from the FRS to inform other pillars of the strategy.</li> </ul>
<b>6. Implementation concerns</b>	Aviva IBC TDI	<ul style="list-style-type: none"> <li>A few stakeholders had concerns regarding implementation of the FRS, including but not limited to: <ul style="list-style-type: none"> <li>Standardization and Ease of Use: standardized processes for data entry across all insurers in terms of consistency in data format, field edits, and communication and support. Ease of use should be a primary consideration to facilitate compliance and reduce the administrative burden.</li> <li>Data Structure and Rollout Timelines: Development and centralization of the required data. Important to account for differences in insurer size, lines of business, and operational structures to ensure a smooth and manageable transition across the industry.</li> <li>Penalties for Late Reporting: Clarification on flexibility in the event of unforeseen circumstances that impact the ability to meet reporting requirements.</li> <li>Data/Cyber security. Ensure robust protections are in place including sharing security measures FRS will implement to safeguard data.</li> </ul> </li> <li>Stakeholders also wanted more information on FSRA data retention and data security standards policies.</li> </ul>	<ul style="list-style-type: none"> <li>FSRA will consider these concerns when implementing the FRS. FSRA intends to procure a solution that would decrease barriers and costs to insurers when reporting.</li> </ul>
<b>7. Consultation approach</b>	Aviva Co-operators Definity	<ul style="list-style-type: none"> <li>A few stakeholders advised that FSRA's consultation approach should include the formation of a technical advisory committee when implementing the FRS. The project is complex and to understand the different areas such as insurer fraud, claims, and the use of analytics requires a committee approach. The technical advisory committee could discuss ways of improving the fraud reporting service as well as identify other</li> </ul>	<ul style="list-style-type: none"> <li>As part of its implementation approach, FSRA will consider establishing a Technical Advisory Committee dedicated to implementation of the FRS.</li> </ul>

Themes	Stakeholder(s)	Summarized Comment	FSRA's Responses
		<p>initiatives that FSRA can undertake to complement insurers' fraud fighting efforts.</p>	
<p><b>8. Inclusion of auto theft reporting</b></p>	<p>Co-operators</p>	<ul style="list-style-type: none"> <li>A stakeholder felt that the FRS could play a role in addressing the auto theft crisis affecting Ontario. If, in addition to "fraud events" insurers reported "auto theft events".</li> </ul>	<ul style="list-style-type: none"> <li>The legislative purpose of the FRS is to assess and detect automobile insurance fraud. FRS will achieve this purpose by collecting information related to automobile insurance fraud from insurers.</li> </ul>
<p><b>9. Consider the adoption of an 'Adverse Contractual Action Regulation' (ACAR) to complement FSRA's existing 'Take-All-Comers' (TAC) rule</b></p>	<p>Aviva Co-operators Équité Association IBC Travelers Unica</p>	<ul style="list-style-type: none"> <li>Many stakeholders recommended that FSRA adopt the Adverse Contractual Action Regulation ("ACAR") to complement FSRA's existing Take-All-Comers (TAC) rule.</li> <li>Stakeholders stated that identifying and qualifying fraud is an important first step, but that fraud will persist if insurers are unable to take action against confirmed fraud. The ACAR will allow the ability for insurers to decline coverage for fraud risk when there are reasonable grounds or the applicant has a history of fraud, however it will complement the TAC by still continuing to protect the rights and interests of consumers. This would allow insurers to impact automobile insurance fraud at the organizational level and enhance consumer confidence in the industry by ensuring premiums are being used for the funding of legitimate claims.</li> </ul>	<ul style="list-style-type: none"> <li>FSRA understands stakeholders' recommendation to introduce new regulation.</li> <li>FSRA works closely with the Ministry of Finance regarding issues in the auto insurance sector, and the Ministry is responsible for proposing any draft legislative amendments that would amend legislation. Legislative changes are within the authority of the Ministry of Finance.</li> </ul>
<p><b>10. Misuse of data – "insurer denials and claims adjudication policies and practices"</b></p>	<p>OPA ORA</p>	<ul style="list-style-type: none"> <li>A couple of stakeholders advised that insurers should not misuse data for their own purposes to deny coverage to insurers or unfairly target HSPs.</li> </ul>	<ul style="list-style-type: none"> <li>FSRA's compliance approach to the FRS will ensure there is no misuse of data. Phase one is focused on collecting data. This data will not be shared or used by insurers in this phase.</li> </ul>