

Approach



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Test and Learn Environments for Financial Services Innovation

Purpose

This Guidance on the Test and Learn Environments (TLEs) for Financial Services Innovation outlines the Financial Services Regulatory Authority of Ontario (FSRA) 's general approach, guided by FSRA's Innovation Framework, to using different types of TLEs to validate and assess novel non-capital market financial services products, services, or business models in the following FSRA's regulated sectors (for greater certainty, in this Guidance, all non-specifically defined 'regulated financial services sectors' mean the following list of financial services sectors). All TLE testing will be geared toward accommodating responsible innovation in Ontario's non-capital market financial services sectors (as defined below):

- Property and Casualty Insurance
- Life and Health Insurance
- Credit Unions and Caisses Populaires
- Loan and Trust
- Mortgage Brokers
- Health Service Providers as they relate to Auto Insurance
- Financial Planners and Advisors

Scope

Throughout this Guidance, FSRA is describing a general test and learn approach that applies to an entity or person licensed in a regulated financial services sector, or an entity or person which is not licensed with FSRA but operating in a FSRA regulated financial services sector.

FSRA will establish specific TLEs with more detailed configurations for specific sectors or activities, where appropriate and subject to FSRA's regulatory authority. Such specific TLEs will be defined in appendices to this Guidance. S. 15.1(1) of the *Insurance Act* enables the CEO of FSRA to issue exemption orders in specified areas on the application of a person or entity if, in the CEO's opinion, it would not be prejudicial to the public interest. In light of this, the first specific TLE will exclusively focus on the automobile insurance sector leveraging such exemptive authorities. For more information, see Appendix 2 – Guide to Applications for Auto Insurance Exemptive Authority TLE.

Rationale and background

FSRA is mandated in accordance with its statutory objects to, amongst other things, foster strong, sustainable, competitive, and innovative financial services sectors, promote high standards of business conduct, and protect the rights and interests of the consumers. (*FSRA Act, 2016*). The pursuit of innovative new products, services, or business models often requires that innovators pursue a 'test and learn' approach, which permits an opportunity to assess the viability of the new product, service or business model while ensuring that it provides a sustainable innovation while not creating undesirable outcomes for consumers.

To that end, FSRA has developed this Guidance as a tool to facilitate innovation in alignment with the common 'test and learn' approach as it supports Ontario's continued development as an environment conducive to innovation through TLEs' adaptive regulatory scheme while protecting Ontario's consumers. The TLEs established by this Guidance will act as testing environments for validating the commercial viability and regulatory implications to innovative products, services, or business models while building appropriate and adaptive regulatory protections prior to deployment in the open market.

The development and operation of the TLEs have been and will be guided by a commitment by FSRA to continue to adopt a principles-based approach to administering the regulator schemes

under the sector statutes while maintaining a more contextual and outcomes-focused regulatory mindset which reflects FSRA's statutory objects under the *FSRA Act, 2016*.

Principles

The creation, deployment, and operation of the TLEs will be guided by the following principles:

- **Safe:** The testing environment will set parameters that protect consumers and markets from unreasonable risk and avoidable harm.
- **Directly beneficial to the public:** The opportunity must ultimately benefit the public and consumers through innovation and modernization.
- **Adaptable:** The testing environment is adaptable to each sector FSRA regulates that has been identified for TLE.
- **Deliberate:** The testing environment will expand and adjust FSRA's risk tolerance consciously to encourage innovation and modernization by the applicable sector.
- **Fair:** The testing environment will ensure that regulatory solutions are made available to incumbents and startups alike.
- **Feasible:** Innovation opportunities must have a bona fide, ready-to-test solution and will be examined through the most feasible solution in FSRA's innovation and regulatory toolbox.
- **Collaborative:** The testing environment will support cross-jurisdictional and cross-sectoral partnerships with provincial, national, and international jurisdictions, industry associations, and innovation hubs.
- **Transparent:** The testing environment will be based on clearly defined processes that are knowable by Market Participants and the public. FSRA will develop clear reporting methods on innovation allowed and how those innovation opportunities are working.

- **Accountable:** FSRA will maintain accountability to the public and the sectors by reporting on how it has used its tools to support innovation, where innovation has been successful and not successful and why and where additional innovation or tools may be needed to allow innovation to operate properly in a sector.

Processes and practices

Eligibility

The TLEs are open to all Market Participants that are in good standing with FSRA and other applicable regulators, or who otherwise agree to be subject to FSRA's jurisdiction, including both incumbents registered within FSRA-regulated financial services sectors and new entrants that plan to conduct FSRA-regulated financial services activities. Market Participants that plan on launching a new product, service, or business model should apply to FSRA as a potential 'Innovation Opportunity' for assessment based on TLE principles and criteria for intake and prioritization (i.e. the impact of opportunity, alignment with priorities, and level of difficulty). If an Applicant intends to apply to a specific TLE vehicle intended for a specific sector, that should be indicated in the application.

In this Guidance, the following terms are used to refer to the TLE-eligible or participating entities:

- **Market Participants:** an entity or person licensed by FSRA to engage in the business of a FSRA regulated financial services sector, or an entity or person which is not licensed by FSRA but is operating in a FSRA regulated financial services sector
- **Applicants:** Market Participants that are in the process of applying to or have submitted application for a TLE
- **TLE (or Test) Participants:** Applicants that have been admitted into a TLE

Types of TLEs

There are broadly two categories of TLEs:

- “Activity TLEs” means a contractually established environment where FSRA is comfortable exercising its exemptive authority¹ or discretion to test otherwise non-permitted business activities under the current regulatory framework through deliberate utilization of available and appropriate regulatory tools on a strictly as-needed basis.
- “Status TLEs” means a contractually established environment where FSRA is comfortable exercising its exemptive authority or discretion to issue time-limited and scope-restricted conditional licensing of a Market Participant to enable controlled market validation of innovative products and services. Status TLEs are designed to ensure regulatory oversight and level the playing field for all market participants’ proposed innovation opportunities to be carried out. Status TLEs will not accept applications intended to bypass the regulatory requirements and standards on knowledge, examination, and professional conduct required of licensees within a regulated sector.

For a Status TLE project that would include testing on matters that would fall under the Activity TLEs, a corresponding Activity TLE test spin-off project will be created to allow the product, service, or business model to be tested following the Activity TLE requirements and post-test learnings applied accordingly.

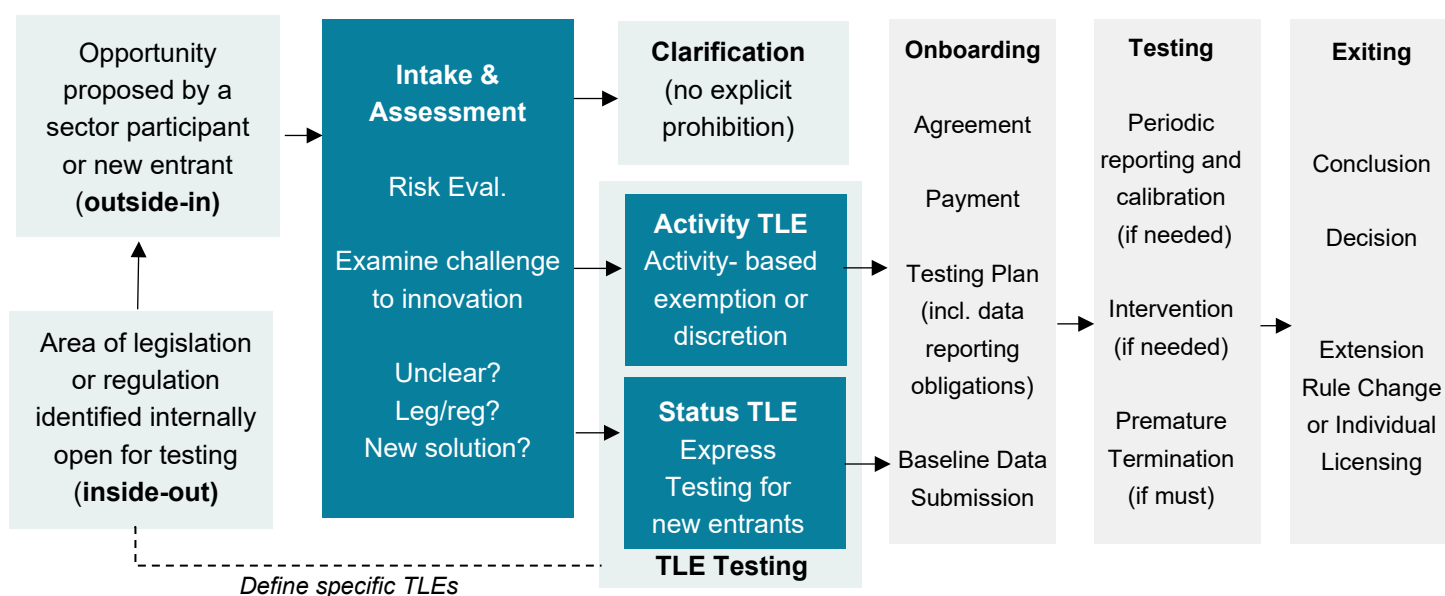
FSRA’s TLEs are available to all FSRA-regulated financial services sectors as an adaptable yet customizable innovation validation mechanism. Specific TLE vehicles that suit sector-specific objectives and leverage regulatory tools available to the sector must be established individually to ensure the most relevant procedures and safeguards are put in place. FSRA may use exemptive authority pursuant to s. 15.1 of the *Insurance Act* and, where appropriate, exercise regulatory discretion to facilitate innovation. The use of such tools will be a case-by-case decision by FSRA consistent with the overall statutory objects and not prejudicial to the public interest.

¹ Both the CEO of FSRA and FSRA may exercise regulatory authority under the Act. However, for the purposes of this Guidance, reference will only be made to FSRA as the CEO may delegate his/her regulatory authority to FSRA staff, as permitted by s. 10(2.3) of the *Financial Services Regulatory Authority of Ontario Act*.

Market Participants should be advised that admission into a TLE does not provide exclusivity for the activity tested nor immunity for the TLE participant and its innovation from competitive barriers imposed by other participants in the market.

TLE process

FSRA will use its innovation process to conduct innovation opportunity intake and assessment and evaluate risks associated with any innovation opportunity proposed by Market Participants.



Once an innovation opportunity is filed, FSRA will process it and notify applicants regarding how it will be handled based on different regulatory considerations and legal issues, risk assessment results, and other relevant factors. Not all innovation opportunities will result in entry to a TLE; a TLE is one of several tools FSRA may use to support an innovation opportunity depending on context and the nature of the opportunity.

Application

An intake form template (see Appendix 1 – Additional Information) will be accessible through a dedicated page on FSRA’s website with application instructions. Market Participants may be directed to the TLE intake form as a part of FSRA’s general innovation process when:

- a novel (non-business as usual) issue is proposed to FSRA for contemplation and approval or review
- this opportunity, though likely to be approved following the current statutory and regulatory requirements, entails intrinsic risks that need to be validated following a more formal process
- under the current regulatory framework, the proposed opportunity is likely to be rejected but has clear merit

Assessment

FSRA will assess all innovation opportunity applications and provide feedback to Applicants on addressing any gaps. Applicants will be given time to reflect on this feedback and improve their final application for assessment, with appropriate deadlines determined by FSRA in the context of the specific TLE.

Applications will be reviewed for completeness and alignment with the TLE principles and criteria for intake and prioritization. If an application is intended for a specific TLE vehicle, the vehicle-specific criteria must also be satisfied.

Risk evaluation

FSRA is committed to supporting responsible innovation in Ontario's non-capital market financial services sectors, balancing the need to enable sustainable and innovative products, services, and business models with the imperative to ensure that consumers are protected from unnecessary risk.

FSRA's risk assessment control has been developed as part of the innovation process to achieve this balance. Properly assessing the risk requires meaningful and ongoing dialogue with applicants, with conversations between FSRA and applicants being used to elaborate on potential risks to consumers.

FSRA will work with applicants on regulatory guardrails to manage potential risks to the consumer. This collaborative approach is intended to comprehensively identify and mitigate intrinsic risks, weighing proportionality and risk-benefit alignment for each risk actor, and defining

uncertainties in proposed innovation opportunities, ensuring that undesirable consumer outcomes are avoided and appropriate safeguards are developed to protect the Ontario public.

Admission decisions

FSRA will notify successful Applicants and announce TLE admission decisions on the FSRA website.

Following the feedback and revision in the assessment, if an opportunity does not meet the minimum criteria to be processed, the opportunity will be archived. If an opportunity is archived, the Applicant will be notified with reasoning and provided with feedback on improving the application for potential future admission.

Onboarding: Establishing testing parameters and preparing for the test

Key documents

There are three key documents that TLE Participants must abide by while testing their innovation:

- TLE Terms and Conditions, created by FSRA and to which all TLE Participants must agree
- Testing Agreements, setting out the rules that the TLE Participant and FSRA must abide by while participating in the TLE and which all TLE Participants must enter into with FSRA before any testing can commence
- Testing Plans (see Appendix 1 – Additional Information for required information in a Testing Plan), a collaboratively-developed and periodically-recalibrated technical document that stipulates necessary testing parameters, success measurement criteria, data collection and analytics requirements, and consumer protection measures and precautions (see Appendix 1 – Additional Information for the Consumer Protection Control Parameters)

Each TLE will have its own Terms and Conditions; each TLE project is required to have its own Testing Agreement and Testing Plan.

Data collection and analytics

FSRA will collect operational data and algorithms from TLE Participants for analytics and visualization. The binding data reporting obligations and method will be set out in the Testing Plan for each test. TLE Participants must have adequate data collection and processing capabilities to satisfy the reporting requirements. Each test runs independently, i.e. any data or algorithm provided by a TLE Participant to FSRA following the data reporting obligations will only be accessible by the very TLE Participant and FSRA alone and exclusively used for test validation and supervision purposes.

On or before the agreed-upon date, TLE Participants must sign a declaration on data authenticity and no-tampering guarantees and submit the baseline data elements so the test can start on the designated date.

Fee structure (ineffective until the issuance of corresponding notice to rule)

Subject to FSRA's authority to impose the fee under the FSRA Fee Rule, the following fee approaches will be considered for TLE Participants utilizing the TLEs, depending on the type of TLE utilized and their registration status:

- For projects admitted into Activity TLEs: an application fee that would reflect the consistency and fairness principles in accordance with FSRA Fee Rule's visions and principles at the point of application:
 - For an entity or person licensed to engage in the business of a regulated financial services sector: a quota to use TLEs will be allocated each fiscal year. Any applications after the quota are used up are subject to the application fee.
 - For an entity or person which is not licensed with FSRA but is operating in a FSRA regulated financial services sector: any applications (spin-off from Status TLE) are subject to the application fee.
- For projects admitted into Status TLEs:

- Any TLE Participant that does not currently hold the necessary FSRA approval or license to carry out the intended business may be charged a fee to receive a conditional license. The fee amount will be determined by the FSRA resources allocated to address the request, as the benefits of such approvals accrue to the Applicant.
- The business activity will be examined in an Activity TLE and is subject to Activity TLE fees.

Payment

Once determined through the TLE application assessment process, applicable fees will be charged upfront, either at admission or as a prerequisite for further processing.

Testing journey

TLE Participants must follow the agreed-upon data and evidence submission requirements in the Testing Plan. Late submission or failure to report essential data and evidence could trigger varying degrees of intervention actions, up to and including the declaration that the test has ended.

FSRA will analyze reported data and evidence. Based on the trajectory, projection, deviation, or anomalies detected, FSRA will communicate with the TLE Participant about the observations and take appropriate actions.

A plan to implement the corrections and to prevent similar contraventions will need to be developed by the TLE Participant and be submitted to FSRA for approval within a set deadline. The progress of implementing the correction and prevention plan must be regularly reported by the TLE Participant. FSRA may designate an intensive supervision period and require additional reporting. FSRA may also conduct interviews or investigations if such measures are necessary.

Exiting

Premature termination

Either the TLE Participant or FSRA can terminate the test prior to the end of the testing period upon provision of the requisite written notice pursuant to the Testing Agreement (with an exception for FSRA terminating a test without notice because of public interest concerns, e.g. consumer complaints, severe anomalies or contraventions to the testing parameters detected from data analytics).

If a test is terminated, the TLE Participant shall activate the precautions set out in the Testing Plan to migrate affected consumers to a pre-selected alternative product or service or take other necessary remedial or impact minimizing measures. The plan and progress of such actions need to be reported to FSRA.

Mature conclusion

A mature conclusion is when a test concludes following the expiry of the testing period as stipulated in the Testing Plan. A maturely concluded test can lead to the following outcomes:

- Approving for future use: all the critical success metrics in the Testing Plan are met:
 - For Activity TLE Participants: the otherwise prohibited practice being tested should be allowed to be continued to carry out by the TLE Participant. The test-related regulatory certificate (e.g. an exemption order) should be renewed with:
 - a new expiry date (subject to the maximum allowed duration of the relevant regulatory certificate)
 - the same conditions (limitations and restrictions)
 - appropriate safeguarding measures learned from the test
 - In parallel, FSRA will recommend changes to applicable laws or regulations for contemplation.
 - For Status TLE Participants: the temporarily granted conditional licensee or registrant status pertaining to the test cannot be carried over or transferred and is now invalid. The product/service being tested through the corresponding Activity

TLE spin-off will be treated as an Activity TLE project and if the said business activity can be continued is contingent on the Market Participant pursuing regular licensing itself or an FSRA-approved outcome transferal to another licensee in certain circumstances. If needed, FSRA may recommend changes to applicable laws or regulations for contemplation.

- Not approving for future use: subject to FSRA's final decision
 - For Activity TLE Participants: the previously prohibited practice being tested remains banned with renewed and clarifying safeguard measures proposed, and the test-related regulatory certificate is invalidated.
 - For Status TLE Participants: the product/service being tested ceases. Whether or not the entity would seek regular licensing/authorization is not contemplated by the TLE.

Transparency and consumer protection

Transparency

Transparency is an essential component of the TLEs, helping ensure that TLEs are used in a manner that inspires trust in the fairness and consistency of their use. FSRA will develop clear reporting methods and regularly share with a variety of stakeholders on which innovation opportunities have been admitted, how they're working, and which are approved to a variety of stakeholders, including competitors and consumer advocates, while protecting business secrets and intellectual properties. Please see Appendix 1 – Additional Information for the items FSRA will make public and through what method.

Aggregated market conduct scan

FSRA will conduct proactive and cross-jurisdictional market scans to understand innovative practices and business models now being proposed and contemplated by global financial services regulators to inform future areas of attention and set up reporting channels for industry and the public to report novel market practices impermissible under the current regime and should be validated through the TLEs.

FSRA will work with Market Participants responsible for such unauthorized activities to validate their innovation or modernization through the proper TLE channels.

Mandatory consumer disclosure

TLE Participants must provide necessary disclosure to consumers on the products or services consumers have purchased or received in the TLE. Please see Appendix 1 – Additional Information for the requirements for the mandatory consumer disclosure.

Consumer feedback on TLE test projects

FSRA expects the complaints mechanisms established by TLE Participants to be accessible, fair, timely, transparent, and effective. In addition to the regular complaints process established by TLE Participants, consumers will have the opportunity to directly contact FSRA to provide feedback.

Intervention steps

FSRA would detect anomalies, contraventions, and unintended situations through regularly reported data and evidence tailored to each test, as well as through TLE consumer complaints filed through FSRA. Given the importance of data being regularly reported, any late reporting or failure to report required information as per the Testing Plan would be deemed an anomaly.

If an anomaly is detected, FSRA will contact the TLE Participant and provide an opportunity for it to explain the anomaly. If an anomaly is caused by a contravention of any parameters in the Testing Plan, FSRA will determine the necessary course of action, including any required potential correction and remediation actions.

A plan to implement the corrections and to prevent similar contraventions will need to be developed by the TLE Participant and be submitted to FSRA for approval within a set deadline. The progress of implementing the correction and prevention plan must be regularly reported by the TLE Participant. FSRA may designate an intensive supervision period and require additional reporting. FSRA may also conduct interviews or investigations as necessary.

Continued monitoring for TLE projects after decision

Considering issues may arise that were not surfaced during the TLE and the newly summarized and announced safeguards would need to be validated, out of an abundance of caution FSRA may continue to require TLE Participants to report data and reports with reasonable frequency to FSRA for supervision and intervention purposes.

Effective date and future review

This Guidance will take effect on January 1st, 2022. This Guidance is published following the test and learn approach: FSRA will continually improve and ameliorate our TLEs based on data and feedback from our initial cohorts, with a dedicated review at least once a year.

About this guidance

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

Appendices and reference

Appendices

- Appendix 1 – Additional Information
- [Appendix 2 – Guide to Applications for Auto Insurance Exemptive Authority TLE](#)

Reference

- FSRA Innovation Framework

Appendix 1 – Additional information

Information required for application

Intake for Innovation Opportunities will require that applicants provide the following information:

Field	Description
Opportunity Name	A brief description of the essence of the opportunity
Organization	The legal entity name AND trade name of the organization making the application
Sector	Select from the FSRA regulated financial services sectors (if multiple apply, select all relevant sectors, please ensure to indicate the primary sector)
Organization Registration	Indicate if the organization has completed the statutory registration requirements for the specific (primary) sector with FSRA. If not, the opportunity may be eligible for Status TLE.
Opportunity Statement	<p>The main body of the proposal must include the following details:</p> <ul style="list-style-type: none"> • issues/problem/friction the organization is trying to address (including the Applicant's legal analysis of friction caused by the relevant regulation/legislation) • the solution being proposed • outcomes the Applicant is hoping to achieve through the testing (if admitted)
Value Proposition	The value proposition must include the following:

- how will the proposed opportunity promote innovation or achieve improvement?
- how is the proposed opportunity beneficial to consumers in Ontario?
- what risks, especially potential harms to consumers, would the proposed solution entail, and what are the mitigation plans?

Targeted Consumer Segment	<p>Describe the ideal consumer segment(s) for the test to be conducted (if applicable) and explain the reason for selecting/prioritizing such group(s).</p> <p>Preference or prioritization can be based on behavioural traits. Discrimination based on protected grounds pursuant to OHRC is not permissible (limited exemptions apply).</p>
Specific TLE/Inquiry Relevance and Required Details	<p>Indicate if the application is intended for a specific TLE vehicle available at the time or a novel inquiry channel established. If so, additional information should be provided in accordance with the corresponding Specific TLE Appendix or the Instructions pertaining to the Novel Inquiry Channel.</p>
Operational Mechanisms	<p>How the product/service/business model would work (from user perspective) and an estimated timeline for the testing.</p>
Pricing Plan and Rationale	<p>If a consumer is charged to participate in the product or service pertaining to the proposed innovation opportunity a rationale should be provided why this is appropriate and required. Additionally, how much and how the entity plans to charge consumers should also be outlined (detailed actuarial calculation not required, provide descriptive information on the business model).</p>

Confirmation of Readiness

By checking this box, the Applicant confirms that relevant personnel have reviewed this Appendix and the body of the Guidance, and the Applicant, if admitted to a TLE, will dedicate the resources required to work with FSRA in subsequent stages of the Innovation Process.

Contacts

Provide contact information (name, position, email, telephone *direct/extension/mobile choose one) of the personnel responsible for the below affairs:

- Project Owner
- Technical Lead (or Data Scientist)
- Legal/Solicitor (or Compliance Officer)
- Day-to-day Project Contact (if different from Project Owner)

Required information for testing plans

A Testing Plan must include the below items:

Category	Item	Description
1. Basics	Test Digest	<ul style="list-style-type: none"> • project name • TLE type • participating organization • product/service/business model digest • requirements being tested
	Duration and Key Milestones	<ul style="list-style-type: none"> • proposed and approved test duration • key milestones and checkpoints

	Innovation and Consumer Benefits	<ul style="list-style-type: none"> from the Value Proposition
	Risk and Mitigation	<ul style="list-style-type: none"> from the Risk Assessment
2. Validation	Hypothesis	<ul style="list-style-type: none"> areas of attention that need to be validated through data analytics
	Data Analytics and Evidence Collection	<ul style="list-style-type: none"> data that must be collected and reported, with format and frequency
	Success Measurement Criteria	<ul style="list-style-type: none"> quantitative and qualitative metrics for success of the test
3. Safeguards	Restrictions and Safeguards Imposed by FSRA	<ul style="list-style-type: none"> list the restrictions and safeguards imposed on the test and the participant by FSRA if a participant has multiple tests approved and ongoing, limitations on individual tests cannot be accumulated a shared set of constraints will be active for the same participant
	Alternative Product Information	<ul style="list-style-type: none"> list an alternative product to migrate consumers to in case of the product being tested gets prematurely terminated
	Emergency Precautions	<ul style="list-style-type: none"> list a set of emergencies and corresponding precautions

Transparency: Proactive and per-request disclosures

Throughout the five-stage process, the below items will be made public or can be provided based on written requests for transparency:

Category	Item	Description
1. Application	<ul style="list-style-type: none"> list of received applications (List 1) name/theme of the application organization value proposition (innovation / consumer values) specific TLE vehicle affiliation date of submission processing status 	Direct, updated once every 2-4 weeks
2. Assessment and Admission	<ul style="list-style-type: none"> risk eval digest (gist of risk items and mitigation plans) list of admitted test projects authorities or regulatory tools invoked to allow the testing 	Direct, updated once every 2-4 weeks
3. Onboarding	<ul style="list-style-type: none"> approved testing parameters (duration, restrictions, allowed flexibility/deviation from current reg framework) 	Direct, updated once every 2-4 weeks
4. Testing	<ul style="list-style-type: none"> testing details (per-request disclosure, excluding commercially sensitive information) test project status (ongoing, terminated, concluded, etc.) 	<p>Indirect (i.e. FSRA will consider requests for such information to be made public)</p> <p>Indirect</p>

5. Exiting	<ul style="list-style-type: none"> • decisions regarding future use 	Direct, updated with a new decision
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Consumer protection control parameters for TLE testing

Standard control parameters include (but are not limited to):

- amount per transaction
- total consumers allowed
- a specific geographical region within Ontario
- number of times a transaction can occur within a defined period
- an alternative and similar product or service that can be used to migrate consumers into once the test is prematurely terminated
- AODA accessibility requirements

Mandatory consumer disclosure requirements

Below guidelines set out mandatory consumer disclosure requirements. Well-designed consumer disclosure should be plain, simple, and not misleading. It should include key information for consumers and communicate key information prominently.

The mandatory consumer disclosure requirements are:

- The disclosure must be provided alongside the product or service agreement as an information sheet at point of sale. The information sheet must contain essential information in a ‘one-pager’ that’s clear, plain, comprehensible and not misleading for consumers. It must include key facts and key risks specific to the product or service.
- The disclosure must be in an accessible, durable, storable format, and the digital format of the disclosure must be available on the product webpage if the product information is available online.

- The disclosure, print and digital format, must include the below items which must be communicated in plain language, simply, accurately, and prominently, and in a font size no smaller than 11 pts and be in compliant with applicable accessibility legislation and regulations:
 1. a statement that the product or service is part of a FSRA-approved Test and Learn environment
 2. the testing project number granted by FSRA (the Testing Agreement number)
 3. the testing period and safeguard restrictions as stipulated in the Testing Plan
 4. the testing digest describing the essence of the test (i.e. the underlying authority FSRA utilizes and the specific activity or regulation being tested) specified in the Testing Plan
 5. a statement that the test may be terminated by either the TLE Participant or FSRA prior to the conclusion of the testing period and the provision of an alternative or follow-up plan should termination occur, the impact of termination on the consumer and a statement of consumer rights and responsibilities in the event of test termination
 6. the FSRA contact number, email address, and mailing address for consumer feedback (in addition to the TLE Participant's regular contact methods)

Appendix 2 – Guide to applications for auto insurance exemptive authority TLE

Purpose of appendix

This Appendix outlines how FSRA will administer a test and learn environment (TLE) and how it will issue exemption order(s) pursuant to subsection 15.1(1) of the *Insurance Act* (the Act). The processes and practices described in this Appendix supplement the general approach described in the body of this Guidance.

Scope

This Appendix applies to all entities seeking an exemption order under s. 15.1(1) of the Act (see Schedule 1). Under s. 15.1(1) of the Act FSRA may, if not prejudicial to the public interest, make an exemption order from the legal requirements found in Schedule 1 of this Appendix².

Applicants wanting to test an innovative consumer-focused auto insurance solution that falls outside the scope of the exemption order(s) permitted under s. 15.1(1) of the Act are encouraged to contact FSRA.

Application details

FSRA's Innovation Process described in the body of this Guidance will apply to applications for this specific TLE under s. 15.1(1) of the Act. Applicants should indicate that their application is for the Auto Insurance Exemptive Relief specific TLE program and provide required details in the "Specific TLE Relevance and Required_Details" column. In addition to the information outlined in Appendix 1 of this guidance, FSRA will collect the following information at the application intake stage:

² Both the CEO of FSRA and FSRA may exercise regulatory authority under the Act. However, for the purposes of this Guidance, reference will only be made to FSRA as the CEO may delegate his/her regulatory authority to FSRA staff, as permitted by s. 10(2.3) of the *Financial Services Regulatory Authority of Ontario Act*.

- **Section 15.1(1) exemption request:** Identification of the legal requirement(s) (set out in Schedule 1) that are the subject of the Applicant's requested exemption order, and an explanation of how the the proposed innovation/test promotes flexibility.
- **Compliance:** Confirmation from the Applicant that the innovation opportunity, if approved, will comply with other legal requirements (applicable legislative/regulations/rules) and any best practices or expectations set out in FSRA's Guidance applicable to automobile insurance. If an Applicant feels that certain best practices or expectations should not apply to the Applicant then those must be specifically identified in the application.
- **Data and reporting:** FSRA will request information on metrics for testing the innovation opportunity. Data requirements will vary depending on the innovation and exemption sought (see Schedule 2 for illustrative examples of the types of data requirements).

Duration of testing period

FSRA retains the right to define the length of the testing period granted in the exemption order, up to a maximum of two years as defined by regulation.

Applicants who need additional time at the conclusion of the initial testing period may make a request to FSRA to renew the exemption order, up to a maximum of two more years. Such Applicants will be required to answer any questions posed by FSRA.

FSRA may in its sole discretion shorten the initial or renewed testing period requested by the Applicant.

Schedules

Schedule 1: Overview of Exemptive Authority Under s. 15.1 of the Act

Schedule 2: Data Reporting Requirements

Schedule 1: Overview of exemptive authority under s. 15.1(1) of the Act³

This schedule summarizes the legal requirements that are subject to an exemption order under s. 15.1(1) of the Act. Applicants may only seek an exemption order under this Appendix for the following requirements.

Name of exemption	Regulatory/Legislative Requirement referenced in Regulation Exemption Orders Under Section 15.1 of the Act	Brief Summary of Requirement
1. Approval of Auto Insurance Forms	<p>Requirement to use an approved form under subsection 227(1) of the Act.</p> <p>Relief from the deeming effect of the Act in relation to s.268 (1).</p> <p>Requirement in respect of the form of documents under section 66 of Ontario Regulation 34/10 (Statutory Accident Benefits Schedule – Effective September 1, 2010).</p>	<p>Insurers shall not use an application for insurance, a policy, endorsement or renewal, a claims form or a continuation certificate in respect of auto insurance unless FSRA has approved it.</p> <p>Certain forms related to accident benefits claims (such as a treatment and assessment plan or a treatment confirmation form) shall be in a form approved by FSRA.</p>
2. 60 Day Accident Benefits Statement	<p>Relief from the deeming effect of the Act in relation to s.268 (1).</p>	<p>Insurers must send benefit statements to accident benefits claimants once every two months, or once a year if the claimant is catastrophically impaired.</p>

³ Applicants should use this Schedule only as a tool to guide them in preparing their application and should always refer to the actual reg/leg provision for detailed information.

Requirements in respect of the times when benefit statements must be delivered under [subsection 50\(4\)](#) of the Ontario Regulation 34/10 (Statutory Accident Benefits Schedule – Effective September 1, 2010).

3. Group Marketing Plans	Requirements in respect of group marketing plans set out in section 16 (5) ⁴ and 17 of Regulation 664 (Automobile Insurance).	Insurers must adhere to certain requirements when marketing auto insurance to members of an organized group.
4. Prohibition on Acting as an Agent	Section 231 of the Act ⁵ .	Forbids car dealers, insurance agents and insurance brokers from acting as the agent of an applicant for the purpose of signing an application for automobile insurance
5. Renewal Notice	Section 236 of the Act.	Auto insurance renewals with changes from the previous terms must be sent a certain number of days in advance to either the named insured (30 days) or broker (45 days).
6. Specific Unfair or	Section 439 of the Act, but only in respect of an unfair or	Specific prohibited practices:

⁴ FSRA only has the authority to issue exemption(s) orders under s.16(5) of O.Reg 664 as they pertain to the minimum number of members (i.e. 100 members) required to be considered an organized group.

⁵ FSRA only has the authority to issue exemption(s) orders under s.231 of the Act in the context of subscription based automobile insurance.

Deceptive
Acts or
Practices

deceptive act or practice that is described in paragraph 7 or 12 of section 1 or paragraph 1, 2, 3 or 8 of subsection 2(1) of [Ontario Regulation 7/00 \(Unfair or Deceptive Acts or Practices\)](#) and only in respect of automobile insurance.

- rebating or similar activity⁶
- use of a form that has not been approved by the regulator unless none of the deviations from the approved form affect the substance or are calculated to mislead
- failure to provide the lowest rate available amongst affiliated insurers, subject to certain conditions⁵

⁶ Paragraphs (7) and (12) of s.1 and paragraphs (1), (2), (3) and (8) of s.2(1) of O. Reg. 7/00 (the UDAP Regulation) are expected to be revoked if Proposed Rule 2020-002 Unfair or Deceptive Acts or Practices (UDAP) (the Proposed Rule) comes into force. If the Proposed Rule comes into force, FSRA does not anticipate having exemptive authority under s.15.1(1) of the Act for the Proposed Rule.

Schedule 2: Exemptive authority data reporting requirements

Overview

FSRA will take an adaptive and outcomes-focused approach to administering its authority under s. 15.1(1) of the Act. Data reporting during intake, testing, and on completion of the participation period are fundamental to building a well-developed testing plan (i.e. clear objectives that focus on success of the outcome and consumer benefits).

Once FSRA receives a completed application, it will work with the Applicant to define data reporting requirements on a case-by-case basis depending on the details of the specific innovation. The data reporting requirements outlined in this Schedule are meant to – with the exception of consumer data – align with Applicants’ existing data collection activities. Applicants may provide their analysis, research or reports to meet FSRA’s requirements. Applicants concerned about their capacity to meet these requirements should contact FSRA.

Illustrative examples of project-specific data reporting as per exemptive orders

Examples of some of the data reporting requirements corresponding to each item in Schedule 1 are outlined below. In addition, FSRA may request data that allows for a comparison of consumer outcomes in the testing environment and consumer outcomes under the status quo.

Name	Data Reporting Examples
1. Approval of Auto Insurance Forms	<ul style="list-style-type: none"> • Data reporting that is related to a specific form or endorsement, including uptake of a specific endorsement and loss experience thereof.
2. 60 Day Accident Benefits Statement	<ul style="list-style-type: none"> • Accident benefits catastrophic impairment claim count and loss amount data. • Data reporting related to frequency and types of communication, as well as risk characteristics of the portfolio impacted by the change in communication method.

<p>3. Group Marketing Plans</p>	<ul style="list-style-type: none"> • Data reporting that is related to a specific group marketing plan, including but not limited to group marketing plan details, number of exposures in a group and penetration, group member eligibility validation procedure, group discounts offered and indicated group discount based on frequent review of group claim experience.
<p>4. Prohibition on Acting as an Agent</p>	<ul style="list-style-type: none"> • Variables related to relationships between an auto dealer, an insurance agent or broker and an insurer, including any incentives, sales/commission fees and expenses. • Any rating or loss variables, including relativity factors, related to a given program. • Evidence of consumer consent to allow someone other than the consumer to act on consumer's behalf.
<p>5. Renewal Notice</p>	<ul style="list-style-type: none"> • Data reporting that is related to frequency of communication and types of communication channels. • Data reporting that is related to dates of renewal or non-renewal notice (cancellation, lapse, non-payment cancellation, etc.), detailed documentation of the reason(s) behind those underwriting decision (aligned with filed underwriting rules) and if the notice is sent to an agent/broker or an insured.
<p>6. Specific Unfair or Deceptive Acts or Practices</p>	<ul style="list-style-type: none"> • Data reporting related to any types of incentives, including but not limited to: <ul style="list-style-type: none"> ➤ rebates or incentive rewards, including any incentive-specific discounts or credits ➤ types of incentives

- premium related data that can be used as an incentive, e.g. maximum allowed premium, etc
- Data reporting that is related to affiliated insurers, such as insurer tiers, credits, or penalty factors due to changing insurers within the affiliated tiers, demonstrable proof of quoting the lowest rate among affiliates.