

# Approach

**Effective Date:** August 3, 2021

**Identifier:** No. GR0012APP

## Use of Retained Revenues under Regulation “Money Retained Outside the Consolidated Revenue Fund” Guidance

### 1. Purpose

1.1 Ontario Regulation 554/21<sup>1</sup> (“the Regulation”) under the Financial Services Regulatory Authority of Ontario Act, 2016 permits FSRA to retain certain revenue (“Retained Revenue”). Previously, FSRA paid this revenue into the government’s Consolidated Revenue Fund. The Regulation sets out the qualified purposes for Retained Revenues uses. This guidance informs the public of FSRA’s use and administration of that money.

### 2. Scope

2.1 This guidance affects all FSRA regulated entities, consumers, members, beneficiaries, and the public.

2.2 This guidance affects the following aspects of FSRA operations and regulatory activities:

- use of revenues obtained from an order or settlement or from administrative monetary penalties
- research

- educational initiatives
- knowledge or information

## 3. Rationale and background

3.1 The statutes FSRA administers authorize FSRA to impose administrative monetary penalties (“AMPs”) for a variety of non-compliance actions. AMPs are one compliance tool FSRA has at its disposal. FSRA may also enter into settlement agreements in respect of enforcement proceedings. Legislation, regulations or FSRA Rules authorize FSRA to collect and enforce the payment of such penalties and settlements.<sup>2</sup>

3.2 The Regulation permits FSRA to use the Retained Revenues for the following purposes:

- a) 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
- b) funding research or educational initiatives that
  - i. 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
  - ii. have the goal of
    - A. improving the protection of consumers
    - B. protecting and safeguarding the pension benefits and rights of pension plan beneficiaries
    - C. promoting the good administration of pension plans
    - D. improving compliance by persons or entities carrying on business in the regulated sectors
- c) enhancing knowledge or information about the regulated sectors

3.3 Use of Retained Revenues will not be for regular FSRA operating costs, which are funded through the assessment under the FSRA’s Fee Rule.

3.4 The moneys used for eligible projects will be based on Retained Revenues collected after August 3, 2021. All annual and ad hoc requests will be considered based on actual collected funds at the time of the request not AMPs levied or annual projections.

3.5 FSRA is required to make all reasonable efforts to use Retained Revenues in relation to the regulated sector that the money came from or proportionately across multiple regulated sectors, including the regulated sector that the money came from.

3.6 The Regulation requires FSRA to report in its financial statements: the amount retained by sector, purpose of use, how funds were used for each purpose, how those purposes will be fulfilled /advanced.

## 4. Approach

FSRA's approach to managing Retained Revenues includes:

- methodology for evaluation and prioritization of initiatives
- initiative selection timing
- responsibility, or responsible personnel, for initiative evaluation and decision-making
- senior management review
- Retained Revenues spending within a fiscal year and/or carry-over to subsequent fiscal years
- the exercise of discretion

### 4.1 Project Submission

4.1.1 The Director, Consumer Office may authorize designated persons ("designated persons") to propose initiatives for use of Retained Revenues. Designated persons will be employees of FSRA. FSRA's Approach will not include public invitations or calls for proposals or bids. FSRA may engage third parties in using Retained Revenues.

4.1.2 The Director, Consumer Office will work with existing processes to identify priority items and may seek proposals from across FSRA's functional areas. Review of proposals will align with FSRA's annual Statement of Priorities and budget process. Designated persons may prepare an in-year proposal for the use of unallocated revenues.

4.1.3 To be eligible, an initiative must comply with the parameters set out in the Regulation. FSRA will assess proposed initiatives against available Retained Revenues collected after August 3, 2021.

4.1.4 The Projects to be funded in whole or in part through Retained Revenues will be considered at the following periods:

- annually: The Policy Consumer Office will initiate a call for proposals, in alignment with the timing of the Statement of Priorities and budget process
- in-year requests: For unforeseen in-year opportunities, a FSRA designated person(s) may prepare proposals for the potential use of unallocated revenues

## 4.2 Project Funding

4.2.1 Annual and in-year project approvals are subject to the availability of funds. Approvals may also be dependent on internal limits or targets, and contingency planning. The total amount of AMPs imposed and collected can vary dramatically year to year. As a result, the variability requires some flexibility in project prioritization and disbursement.

As part of the planning process the Consumer office will choose the percentage of funds retained for in-year requests. The percentage could be zero.

- per the Regulation, FSRA may choose to hold-over all or part of the funds from one fiscal year to the next
- where the cost of a selected initiative(s) exceeds available Retained Revenues the initiative may be supplemented with funds from other approved sources

## 4.3 Submissions Process

4.3.1 Annually, in alignment with FSRA's strategic planning process, the Consumer Office will request from Finance (Controller) an up to-date status of the Retained Revenue account including year-to-date collected revenues, by sector.

4.3.2 The Consumer Office will create an annual plan for revenue distribution including:

- planned distribution by sector and total based on known objectives
- amount set aside for in-year initiatives

4.3.3 To be considered as part of the annual planning process, proposals must be submitted by a designated person (those titles of Senior Managers or higher) on or prior to the stated submission deadline unless an exemption is provided.

4.3.4 The Consumer Office will send a call-out for proposals to designated persons which will include all relevant documentation and evaluation criteria.

4.3.5 Proposals must use the FSRA Briefing Note format to explain the initiative. All submissions must demonstrate their alignment with FSRA's strategic priorities and pillars through the provided submission reference material. Plans will address the project's expected or desired outcomes, a cost breakdown, implementation timing, planned outcome(s), a high-level project plan, and expected impact to consumers or the sector.

4.3.6 Under the direction of the Chief Consumer Officer, the Consumer Office will coordinate the evaluation process and convene an evaluation committee. Committee members will review and evaluate each proposal individually using an evaluation matrix. All compliant proposals will be prioritized based on summed scores from committee members. The Chief Consumer Officer will put forth a recommended list of proposals and funding for FSRA Executive Leadership Team (ELT) for input. The Chief Executive Officer (CEO) will authorize funding for approved proposals.

The FSRA proposal sponsors will receive notification of submission acceptance/ decline/ deferment, along with the allotted funding and next steps.

In-year submissions can be made at any time through the Consumer Office. It is recommended that the designated person speak with the Director, Consumer Office to confirm the amount of available Retained Revenues and the office's plan for the moneys. With this information the designated person will decide how to proceed with the in-year submission.

Should a designated person choose to proceed, they will prepare the submission materials by an agreed upon date. The Director, Consumer Office will convene a review committee. The Chief Consumer Officer will present their recommendations to FSRA ELT for input and to the CEO for approval where appropriate.

4.3.7 Projects will go through a qualification process. To be considered for funding, FSRA will use an evaluation matrix that will include alignment with the criteria set out in the regulation (hereafter "Qualified Projects"). FSRA's prioritization principles and other considerations (e.g., alignment with FSRA's Strategic Pillars and/or Priorities, etc.) will be used to assess each proposal. Where there are more eligible proposals than there are Retained Revenues available, FSRA will use the evaluation matrix to guide prioritization. The Chief Consumer Officer may review, evaluate, and update such principles or rubrics from time to time.

## 4.4 Governance

4.4.1 The Director, Consumer Office will convene a review committee to review, evaluate, and prioritize all Qualified Projects. The Committee may include representatives from FSRA's Public Affairs and Finance teams. The Chief Consumer Officer will put forth recommendations for ELT input. The CEO will approve all project funding.

4.4.2 The governance policies for selection and approval of projects for Retained Revenues use is as follows:

- FSRA Finance has a designated account for the funds. The handling of these funds would comply with FSRA's fiscal management processes and FSRA's Accounts Receivable and Collections Policy. The status of the Retained Revenues account would be reported in FSRA's annual financial statements
- procurement of services using these funds will comply with FSRA's Procurement Policy. Spending approvals will comply with FSRA Delegation of Financial Authority
- all Qualified Projects will be assessed by the review committee using the evaluation matrix and assigned a score
- where funds requested exceed the Retained Revenues available, the project(s) with the strongest alignment scores will be prioritized by the Chief Consumer Officer in their recommendation to the CEO for approval
- the Chief Consumer Officer will propose eligible in-year projects to ELT for consideration and input
- the Chief Consumer Officer will present project and funding recommendations for approval. Spending approvals will comply with FSRA's Delegation of Financial Authority

## 4.5 Reporting

4.5.1 The Retained Revenue funds will be budgeted/forecasted, collected, tracked, and reported in accordance with FSRA's fiscal management policies<sup>3</sup>

4.5.2 Spending approvals will comply with FSRA's Delegation of Financial Authority. Projects using the Retained Revenues and unallocated funds will be described in FSRA's Annual Report including specifically:

- how much money FSRA collected from each regulated sector
- a list of projects by sector

- how much money from each sector/ or the total was used for each purpose
- how aligned strategic initiatives were fulfilled or advanced with the use of these funds
- unallocated funds

## 5. Effective date and future review

5.1 This guidance became effective on August 3, 2021, and FSRA will review this guidance no later than August 3, 2026.

## 6. About this guidance

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

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<sup>1</sup> See O. Reg. 554/21 <https://www.ontario.ca/laws/regulation/210554>

<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.

<sup>3</sup> Accounts Receivable and Collection Policy

Delegations of Financial Authority

Procurement Policy