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October 29, 2021

Mr. Mark White
Financial Services Regulatory Authority
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

Dear Mr. White,

The Canadian Credit Union Association (CCUA) is the trade association for Ontario credit unions. On behalf of our membership, we offer the following comments on the *Proposed 2022-2023 Statement of Priorities.* We make these comments in addition to those made at the October 8th Stakeholder Advisory Committee Meeting.

FSRA has presented a reasonable set of priorities and budget for 2022-2023 and we are generally supportive of the overall direction being taken. However, there are 2021-2022 priorities that remain incomplete and warrant further attention.

We divide our response into three parts. First, we review FSRA's 2021-2022 Priorities. Second, we respond to the discussion questions posed during the October 8th, 2021 presentation deck to the Stakeholder Advisory Committee. We then make additional general comments on the 2022-2023 priorities.

2021-2022 Priorities

Support modernization of CU framework

We recognize that FSRA designed and consulted on the *Standards of Sound Business and Financial Practices*, *Capital Adequacy*, and *Liquidity Adequacy* on schedule. The sector has made substantive recommendations to both the *Standards of Sound Business and Sound Financial Practices Rule* and the *Capital Adequacy Rule* that warrant inclusion in the final version of each Rule. We look forward to FSRA's response to the feedback received during consultation and the inclusion of sector recommendations into the final versions of each Rule.

Enhance DIRF and sector liquidity framework

There is a growing sentiment that despite being a FSRA priority since inception, and the introduction of a new framework to ascertain DIRF adequacy (including significant new data reporting requirements), the outcome of the process will likely mirror the previous proposition.

FSRA first solicited feedback on the DIRF adequacy process on May 7th, 2021 via a presentation to the Technical Advisory Committee. However, the presentation was on work that had already occurred which left little for credit unions to contribute. The public consultation on the change of framework was launched on August 3rd and the information shared at that time closely mirrored the May 7th presentation, despite FSRA receiving consequential feedback at the May 7th meeting. The two updates to the liquidity guidance and the introduction of a new Capital Rule also reduce the potential exposure to the DIRF – but these don't seem to be factored into what constitutes "adequate".

For this process to be meaningful, FSRA must, at a minimum, consult on any changes before they are "locked in" and proactively communicate how it is using the feedback it receives.

Continue to design and develop the integrated RBSF

We understand that a major consultation on the risk based supervisory framework will be released shortly and we welcome that. Work has been underway within FSRA on the RBSF for two years and the sector has not yet been privy to any discussion on the potential operational impacts on firms – despite being a high impact priority. We urge FSRA to ensure sufficient time is provided for the sector to provide meaningful comments and that the comments received are genuinely considered by FSRA for incorporation into the final framework.

Questions

Q. Are the priorities selected the correct ones?
A. Yes, the priorities outlined for the 2022-2023 fiscal year are the correct ones. We offer the following feedback:

Support the Ministry of Finance in the implementation of regulations under the Credit Unions and Caisses Populaires Act, 2020 legislation.

Develop, consult on, and issue high priority principles-based guidance and rules identified in FSRA's existing work plan with the credit union sector. This includes those relating to FSRA's approval process for investments, business powers and Subsidiaries, operational risk management, as well the unclaimed deposits framework under the Credit Unions and Caisses Populaires Act, 2020.

Engage the credit union sector to create a workplan that contemplates all of the (approximately 60) areas for which FSRA has rule-making authority under the Credit Unions and Caisses Populaires Act, 2020 and prioritizes the development of additional rules and guidance that have not already been developed or identified on FSRA's existing work plan with the sector.

Building and implementing the regulatory framework that will underpin the expanded business powers that credit unions are gaining in the new Act is a sector priority. We support all efforts to complete this work with urgency to meet the Ministry of Finance's goal of Q2 2022 for full implementation.

CCUA regularly provides FSRA with feedback on its policy priorities and the resulting product - "the workplan" - provides a certain level of predictability for the sector and allows us to allocate resources effectively. This has been a mutually beneficial arrangement and we hope it continues.

We do not believe it is necessary for FSRA to deploy its rule making authority on all sixty areas it has legislative authority to do so – the legislation is clear that FSRA has discretion on whether/when to issue Rules on these matters. Items of mutual interest can continue to be prioritized via the "workplan" process. The design, consultation, and adoption of the aforementioned items should have no impact on the timing of the proclamation of the Act.

Speaking specifically to the "investment, business powers and subsidiaries" rule, we recommend this be completed as soon as possible to enable the sector to further grow their businesses. We believe this is an area that FSRA can achieve the regulatory dividend that comes from the new CUCPA and the transition of regulatory authority to FSRA.

Initiate consultations with the sector on FSRA's new proposed Differential Premium System methodology and work with the Ministry of Finance to identify necessary amendments to regulations.

We support this priority and expect FSRA (with the Ministry of Finance reducing the minimum that can be charged for deposit insurance on the advice of FSRA) begin decreasing premiums on firms that have a demonstrated history of sound business and financial practices. This process will also incentivize firms to improve their governance and financial controls.

Continue to enhance the Deposit Insurance Reserve Fund Adequacy Assessment Framework and work with the sector on the most effective way to gather required risk data for the benefit of credit unions, the sector, and FSRA. This includes delivering a report to the Ministry of Finance on the adequacy of the Deposit Insurance Reserve Fund, as required under the Financial Services Authority of Ontario Act, 2016, using an updated assessment framework

We support this priority but, as stated earlier, have significant concerns about the process/work to date on this file as articulated in our response to the DIRF Adequacy Review consultation.

Continue work with various external partners on sectoral structural liquidity to secure the most efficient access to sufficient emergency liquidity for Ontario credit unions

We support this priority. A provincial indemnity is a prerequisite for Bank of Canada Emergency Lending Assistance. We are engaging directly with the Bank of Canada and support FSRA advocating for this on the sector's behalf. We recommend that FSRA and the sector work in collaboration as there is mutual interest in sectoral structural liquidity.

The sector is also open to other options to secure structural liquidity if ELA is not a viable option. We appreciate the efforts of FSRA and the Ministry of Finance to "think outside the box" in collaboration with the sector to find solutions.

Work with credit unions to implement recovery planning requirements.

We support this priority but, as articulated in our response to the Recovery Planning Guidance consultation, believe that there would be significant benefit to a phased adoption approach for firms (largest to smallest or higher risk to lower risk).

Refine the market conduct supervisory program to focus on high-risk activities that could result in unfair or poor outcomes for members and that pose risks to credit union sector stability and a credit union's viability.

This priority should be amended to focus on the adoption of the Market Conduct Code. The MCC reinforces credit unions commitment to its members, namely in ensuring fair outcomes and prioritizing treatment of their members and customers. It is premature to "refine" the market conduct supervisory program before it has even begun.

We are also concerned that multiple teams at FSRA are responsible for determining "sector stability" and a "credit union's viability" as this will likely lead to competing requests to firms and potentially ambiguous instruction. The burden of responding to and adhering to regulatory requests from different teams should not be understated and FSRA should design its regulatory processes accordingly.

Implement and operationalize new dynamic, outcomes-focused, and risk-based practices, and processes for assessing credit union risk profiles and determining FSRA's level of supervisory engagement. FSRA will determine the risk profiles for a subset of credit unions under the new Risk Based Supervisory Framework methodology, with a plan to assess all institutions under the new framework over the coming years.

We are supportive of this priority. That said, the current regulatory regime is in of itself a risk-based supervisory framework with different levels of supervisory intensity, albeit we understand less principles-based than what FSRA is envisioning.

Before this new regime is launched, it is imperative that FSRA distinguish what will be different for credit unions and not penalize those firms that are not immediately compliant with new expectations. In other words, no credit union should be surprised at its risk profile score and the level of supervision it receives in the new framework.

As we have noted previously, FSRA has been working on this priority since its inception and the sector has not seen anything on the work to date – we hope to hear more about this framework before it is operationalized.

Q. Are there any other priorities on which we should be focused?

A. Burden reduction has been part of FSRA's priorities since inception. However, the sector has seen minimal evidence of any reduction and has seen additional requirements without offsets. Burden is the sum of all engagement between FSRA and a credit union, not just forms and the likes. We believe there is an opportunity for FSRA to continuously evaluate the burden it imposes on all regulated sectors and more so now that it is more familiar with its inherited guidance.

Talent acquisition and retention must be an ongoing multi-year all sectors priority. We appreciate that there is a general shortage of skilled talent and that FSRA is in stiff competition for the best talent (including from other regulators). But as we grow as a sector in both size and sophistication – continuous recruitment of people with a background in risk, credit unions, and government becomes more and more important.

Other comments

Impact Assessment and Cost of Regulation

We believe that strong regulation is a service to both credit unions and their members. As the sector continues to grow and business lines diversify – we recommend that FSRA better measure the effectiveness of its regulatory actions beyond base system stability and number of complaints received. Additional measures should be determined in consultation with the sector and be added to the FSRA service standards (which we consider to be quite successful and something to build off).

As we noted in our response to the 2021-2022 FSRA priorities consultation, the following would be valuable for FSRA to track and report on:

- Ability of firms to earn a regulatory dividend - is a firm's risk rating declining, are its deposit insurance premiums also declining?
- Cost of regulation as a percentage of assets and risk weight assets
- Proportionality of the regulatory framework and regulatory interventions – are FSRA resources being allocated to firms with a higher risk rating?
- Burden reduction (this may require sector polling to measure)

We also recommend that FSRA include service standards and levels as a standing item at an annual SAC meeting so that the sector can formally provide feedback to ensure continuous improvement of service.

IT management

We reiterate our comments from the 2021-22 Statement of Priorities and Budget that the level of budgetary detail provided on IT Renewal is insufficient. Given the high dollar amount budgeted, it is the sector's position that more information should be provided.

As a start – the business plan should be shared forthwith.

Furthermore, we urge FSRA to leverage the expertise of the TAC for CU Data Strategy and Digital Transformation and share more detail on the IT business and procurement plan so that there is confidence that the new infrastructure will serve the needs of both FSRA **and** the sector.

Conclusion

FSRA has presented a concise and reasonable set of priorities and budget for 2022-2023. We look forward to 2022-2023.

Sincerely,

Nick Best
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