

April 29, 2022

Financial Services Regulatory Authority (FSRA)
25 Sheppard Avenue West, Suite 100
Toronto, ON
M2N 6S6

Re: Consultation on proposed Financial Services Regulatory Authority of Ontario's ("FSRA") approach to principles-based regulation ("PBR")



On behalf of Desjardins, I am pleased to respond to your request for comment on the [proposed Financial Services Regulatory Authority of Ontario's \("FSRA"\) approach to principles-based regulation \("PBR"\)](#).

Desjardins is the leading cooperative financial group in Canada serving over 7 million members and clients across the country. For over 120 years, Desjardins has listened and responded to its members' needs and adapted to change. We provide Canadians with banking, wealth management, life & health insurance, property & casualty insurance, and personal, business, and institutional financial services.

There are approximately 6,000 Ontarians across the province serving their communities and representing the Desjardins brand. In Ontario, the Desjardins Ontario Credit Union (DOCU) is the second largest credit union in the province and the fastest growing credit union in the country. Desjardins General Insurance Group (DGIG) is a subsidiary of Desjardins Group and proud to be the leading personal use auto insurer in Ontario. Desjardins Financial Security (DFS) is the fifth largest Life and Health insurer in the country.

We are members of the Insurance Bureau of Canada (IBC) and Canadian Association of Direct Relationship Insurers (CADRI) and have contributed to and are in support of their detailed recommendations on this topic.

Framework Principles

We support the six framework principles proposed (i.e., Outcome-focused; Innovative; Consumer-Centric; Risk-based; Transparent; and Collaborative) along with their accompanying general definitions. It is our understanding that these general statements outline how FSRA will regulate and supervise regulated entities and individuals.

We recommend that the FSRA business plan principle of "Regulatory Efficiency" be added as a seventh principle, or that its intent is highlighted and integrated within the existing Outcome-focused and Consumer-centric principles.

In our view, the principle of regulatory efficiency focuses upon intentionally avoiding or minimizing unnecessary regulatory burden on regulated entities. These costs are borne ultimately by consumers and pension plan beneficiaries in terms of increased pricing or the resulting restrictions on marketplace innovation, competition, and choice.

Regulatory Approach

Greater accountability for acting in the consumers best interests transferred to the regulated entities

Principle-based regulations can create necessary room for regulated entities to innovate and serve its members and clients more effectively and at a lower cost. Therefore, to enable those advantages, the transfer of greater accountability for acting in the consumers best interests to the regulated entities is welcomed.

We support the direction of FSRA's regulatory approach which among other things will place greater reliance on a regulated entity's senior management and board of directors to internalize the requirements to achieve desired outcomes.

Roadmap required for sufficient evidence to demonstrate achievement of guiding principles

We anticipate that a transitional issue for FSRA and its regulated entities to overcome is to develop a common understanding of the evidence required by the regulated entity to demonstrate its achievement of FSRA's guiding principles.

We recommend that FSRA, in partnership with the regulated sectors, develops an iterative multi-year communication and audit roadmap that is focused upon building common understanding of expectations. Especially initially, it will be important for FSRA to demonstrate a "progressive" enforcement approach that focuses upon education and consensus building rather than upon penalties.

Expected outcomes of this approach

As a result, we expect that the demonstration of oversight processes will minimize the need by FSRA to continue with many of its existing process-focused review of granular activities and diminish the need for ad hoc data information requests.

In practice, it is important that principle-based regulation principles are not simply layered over existing rules-based regulations and guidance. Doing so will only increase regulatory burden without producing better consumer outcomes.

Transparent Decision Framework for PBR vs Rules-based regulation decisions

We note that FSRA will not be a purely principles-based regulator in its approach and will continue to rely on detailed rules and prescriptive requirements. We are supportive of this positioning in concept and recommend that FSRA publish clear evaluation criteria that will be used going forward to determine when principle-based regulatory approaches will be used and when they will not.

A road map for this transition should be established and the PBR/Rules evaluation criteria should be established with the benefit of public consultation

Enforcement

We look forward to the review of the specific guidance to outline FSRA's approach to investigations and enforcement.

We support FSRA's intention to take a progressive, measured, and proportional approach to enforcement. The assumption of good faith by the regulated entity is appropriate. A balanced and reasonable approach to investigation and enforcement is optimal.

Our Path Forward

Consumers benefit from a principles-based and consumer outcome-focused approach to regulation to achieve regulatory intent at the lowest possible cost and enabling the necessary room for organizations to innovate and compete.

Most regulators and regulated entities are inexperienced in PBR design and the identification of how it may change organizational behaviour expectations. The transition to principle-based regulation will require change management efforts by both regulators and insurers. For example:

- Insurer's responsibilities for design and performance increase within a system guided by principles as compliance is less "certain"
- Regulators must have highly skilled regulatory staff who exercise good judgment as they assess a potential wide array of approaches by regulated entities to achieve PBR principles and desired outcomes. Their decisions must protect the right of consumers to make informed choices in the marketplace while ensuring that foundational consumer protections are met.

As FSRA and its regulated entities contemplate a timely and successful transition to PBR, it triggers important questions such as:

- What new regulator and regulated entity expectations, behaviours, and mindsets are required?
- How do we assist regulatory staff and sector participants to make this transition successfully?
- How might we support regulatory expectation harmonization across our country?

We look forward to the opportunity to collaborate with FSRA and all stakeholders on the path forward.

Thank you for the opportunity to provide our commentary.

Sincerely,



Sam Palmerio
Manager, Government Relations
Desjardins Group