

# Fraud Reporting Service (FRS) Proposed Rule and Guidance Consultation

Financial Services Regulatory Authority of Ontario (FSRA)  
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# Introduction

Co-operators appreciates the opportunity to provide feedback on FSRA's Fraud Reporting Service (FRS) proposed Rule and Guidance.

We are a leading Canadian, diversified, integrated, multi-line insurance and financial services organization. Governed by **46** co-operatives and credit union centrals across the country, we provide financial solutions and security through property and casualty insurance, life insurance, wealth management solutions, institutional asset management and brokerage options.

We have a strong footprint in Ontario, insuring approximately **704,000** private passenger vehicles, **363,200** homes, **10,200** farms, **45,000** businesses, and employing over **4,200** staff. The insurance and financial products and services provided by Co-operators are delivered primarily through our independently contracted but exclusive channel of **250** financial advisors, who in turn, operate their own agencies in over **300** locations. We are proud to provide financial security to Ontarians and their communities while staying true to our co-operative values.

We commend the collaborative approach taken by FSRA to enhance regulatory oversight and efforts to combat insurance fraud through identifying and addressing fraud trends and establishing a baseline for fraud detection.

Our recommendations provide further considerations for Phase Two of the implementation as well as future uses of the FRS. We look forward to working collaboratively with FSRA, and other industry stakeholders, to make meaningful steps towards reducing auto fraud for consumers in Ontario.



## RECOMMENDATION 1: Revise the definition of a “Fraud Event” to enhance clarity

Co-operators generally supports FSRA’s definition of a “fraud event” as it encompasses all forms of insurance fraud. This interpretation enables insurers to be nimble in recognizing activities that align with this definition, which includes a broad spectrum of fraudulent practices and activities.

For greater clarity, we recommend the following underlined amendments:

***“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 but is not limited to instances of:***

- ***Obtaining or modifying an automobile insurance policy through fraudulent means, including underwriting misrepresentation.***
- ***Obtaining a benefit under a contract of insurance through fraudulent claims.***
- ***Providing goods or services to a beneficiary under a contract of insurance; through fraudulent means or in a fraudulent manner.***
- ***Fraudulent activity in the selling or distribution of insurance products; and***
- ***Fraudulent activity committed by internal employees of an insurer.***

As FSRA interprets this definition broadly to cover a wide range of fraudulent acts, it may also be prudent to specify the difference between a fraud event that *has* occurred, and one that is *likely* to occur.

## RECOMMENDATION 2: Expand the role of the Fraud Reporting Service to include data related to auto theft

We encourage FSRA to evaluate the potential role the FRS could assume in addressing the auto theft crisis affecting Ontario. If, in addition to “fraud events” insurers reported “auto theft events,” an opportunity to consolidate useful data in one place for collaborative analysis emerges.

FSRA would need to define an “auto theft event” distinct from a fraud event. Note, there may be overlap related to re-vinned vehicles, which are currently covered in the definition of a “fraud event”.

**By broadening reporting requirements to include auto theft, the FRS could evolve into a valuable data source to identify auto theft trends and networks.** For example, with the right data points, it could provide insight into the effectiveness of theft deterrent devices (ex. vehicle tracking systems) and other strategies.

## RECOMMENDATION 3: Define “immediately” in Section 4(3) of the proposed Rule to clarify insurer requirements with respect to reporting

While we support FSRA's proposal for regular and ongoing reporting of fraud event data, we recommend additional clarity and guidance to assist insurers in understanding and complying with reporting requirements.

Section 4(3) of the proposed Rule mandates that an insurer must provide notice “immediately” and advise the Chief Executive Officer to retract information that contains irreparable deficiencies or does not satisfy the reporting requirement threshold. We propose FSRA improve clarity concerning the timing of notice issuance by clearly defining the term “immediately.” Additionally, we recommend the Rule be amended to consider potential operational constraints by organizations.

Greater clarification should be provided to address the two streams of reporting requirements: quarterly reporting, and corrections to information provided. Co-operators believes it is crucial to establish clear rules and timelines for these two reporting streams to effectively leverage the data gathered for the advantage of both insurers and consumers.

**For data to be utilized most effectively, insurers should be providing data as close to real-time as possible.**

FSRA and insurers will need to remain informed of the latest adverse insurance history when underwriting policies of proven fraudsters to be most effective in combatting fraud. Quarterly reporting serves the purpose of monitoring trends apparent in insurers' data, but it may not best serve the purposes of fraud detection and deterrence. An up to three-month data lag is incompatible with optimizing the longer-term goals and intention of the Fraud Reporting Service, which we understand to include a fraud intelligence database that will be useful to detect risk. For example, a party may be able to obtain a new policy and engage in another fraud event before their entity data is available in the system.



## RECOMMENDATION 4: Revise the definition of “prescribed information” in Section 3(1) to incorporate the term “relevant”

Greater clarification is required regarding personal information/deidentification, including when it “is” required versus when it “is not”.

We support the reporting of prescribed information in section 3(1) but recommend amending to ensure greater consistency with the proposed Rule and Guidance. In the Guidance document, FSRA interprets “all information” to mean “all relevant information” as it pertains to data collected. To ensure the term “relevant” remains applicable in subsequent phases of FSRA’s FRS implementation, the Rule should be revised to stipulate all information must be “relevant”. This adjustment would provide increased clarity and certainty as the project advances.

For greater clarity, we recommend the following underlined amendment:

***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 or is likely to occur.***

FSRA should consider implementing a calibration period during which relevant information, considered reasonable for reporting by insurers, is assessed. During this time, constructive and non-punitive feedback should be offered, accompanied by examples of submissions that align with the established guidelines.

## RECOMMENDATION 5: Provide greater clarity for the industry by identifying Phase Two uses for data collected

**A deeper comprehension of the eventual applications of data in fraud reduction would be advantageous for consumers, insurers, and other stakeholders within the industry.**

Additionally, the introduction of tools that facilitate a collaborative strategy to address this issue would be beneficial.

It is advisable for 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.

As we work through Phase One, data collected must be deidentified to protect the personal information of clients and consumers. However, Phase Two may underscore the necessity of re-identifying certain elements of that information when required to effectively address fraud. Section 3(4) of the proposed Rule identifies that prescribed information may be disclosed if necessary for the purposes set out in subsection 101.3(2) of the Act.

As insurers work with FSRA to provide this data, we must guarantee insurers and consumers are protected. Insurers will be reporting to FSRA in good faith and may become subjected to potential Freedom of Information (FOI) requests for providing personal information of consumers. The notion of limited liability must be explored and there must be protections in the proposed Rule and Guidance for situations as described.

## **RECOMMENDATION 6: Collaborate with industry stakeholders, including industry associations and individual insurers, to avoid duplication, minimize implementation costs for insurers, and understand unique business perspectives**

Co-operators supports FSRA's approach to administering the proposed Rule. However, FSRA must appreciate that creating a data extraction and reporting structure will be a significant undertaking for insurers, and ultimately will come with cost.

**Considering the importance of this initiative, it is advisable for FSRA to establish well-defined objectives aimed at leveraging data collected.** The execution of an efficient project plan is paramount to developing tools that will effectively address and manage fraud. Strong consideration of future use cases must be developed in Phase One to help guide Phase Two.

As a member of Équité Association, we believe FSRA would significantly benefit from close collaboration. This partnership would help eliminate any redundancy in reporting and utilize Équité's specialized knowledge in data collection, advanced analytics, and fraud detection.

However, FSRA must also work closely with insurers, such as Co-operators, as we have unique business perspectives with respect to fraud data collection. For example, the Guidance document has proposed approximately 34 data points for collection. We note that none of these data points are digital in nature. Insurance transactions are increasingly digitized, and that has introduced new data points useful in detecting fraud. In many instances, we utilize digital data points to detect organized fraudulent activity.

We are not a member of the Insurance Bureau of Canada (IBC). **As such, we kindly request Co-operators be engaged directly to offer feedback and industry perspective.**

Through direct collaboration with individual insurers, FSRA will have a fulsome understanding of the needs of the sector as we build out the FRS.

## RECOMMENDATION 7: Enhance consistency in reporting by employing an industry standard to the definition of “Reasonable Grounds to Believe” (RGB)

We agree with FSRA’s objective to establish a balance in the triggering event for fraud reporting, distinguishing between “suspicion” and “conclusion” of fraudulent activity. To improve the uniformity of reporting, we recommend FSRA evaluate the following modification to the definition of RGB, aligning it with the standard utilized by FINTRAC:

***Reasonable grounds to believe means that there are verified facts that support the probability that a fraud offence has occurred...and there is enough evidence to support a reasonable and trained person to believe, not just suspect, that a fraud offence has occurred.***

FSRA should consider measures and decisions that will enhance the consistency and timeliness of reporting, including:

- Claims or underwriting transactions that are referred to SIU and remain open after 30 days.
- Denial of a claim, underwriting transaction, or policy cancellation on the basis of RGB with notice to the insured; and
- Closure of a claim as abandoned on the basis of RGB with denial for non-cooperation/failure to satisfy statutory requirement.

## RECOMMENDATION 8: Consider the adoption of an 'Adverse Contractual Action Regulation' (ACAR) to complement FSRA's existing 'Take-All-Comers' (TAC) rule

Although detection and quantification are crucial initial steps to combatting fraud, the problem will persist with limited impact if insurers are unable to act against confirmed fraudulent activities.

We support Équité's recommendation to consider the adoption of an Adverse Contractual Action Regulation (ACAR) to complement FSRA's existing Take-All-Comers (TAC) rule. **We recommend the TAC be upheld and enforced as originally intended, while also empowering insurers the authority to apply ACAR exceptions for specific and defined instances of fraud.** These exceptions would allow insurers to terminate a contract and/or decline to issue or renew a contract in specific circumstances. We believe that impact on insurability would introduce a significant deterrent to committing fraud. Of course, this would be dependent on a robust and accurate Watchlist derived from the FRS.

The TAC would continue in safeguarding the rights and interests of consumers, thereby fostering public trust, while also discouraging deceptive or fraudulent activities. This strategy will empower insurers to tackle auto insurance fraud through introducing impactful consequences, strengthening consumer confidence in the industry, and ensuring premiums are allocated towards legitimate claims. Insurers would still require the ability to design our own underwriting risk rules.





## Conclusion

Once again, Co-operators is pleased to provide feedback and welcome all opportunities for further discussion. As noted, we are not a member of IBC, and as such, request Co-operators be engaged directly to offer feedback and industry perspective.

Should you have any questions or require clarification, please do not hesitate to contact Maya Milardovic, Associate Vice President of Government Relations, at [maya\\_milardovic@cooperators.ca](mailto:maya_milardovic@cooperators.ca).

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