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# New Guidance Framework Summary Report

**Original Consultation:** <https://www.fsrao.ca/engagement-and-consultations/new-fsra-guidance-framework>

**Comment Due Date:** January 31, 2020 [ID: 2019-006]

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## Purpose of Consultation

The financial services sector is undergoing significant change, and this heightens the need for regulators to understand and protect the public interest. FSRA's regulated sectors have asked for greater clarity regarding the actions we require from them, while at the same time streamlining our processes. FSRA has committed to ensuring clarity for stakeholders and consumers around their legal requirements and expectations. This Guidance Framework standardizes the guidance we issue across regulated sectors.

## What we heard

FSRA is appreciative of the effort that went into the thoughtful comments we received from contributors regarding the Guidance Framework. We thank all commenters for the views expressed.

## List of contributors

1. Canadian Association of Financial Institutions in Insurance (CAFII)
2. Canadian Credit Union Association
3. Ontario Teachers' Pension Plan Board
4. The CAAT Pension Plan
5. Canadian Life and Health Insurance Association

## Our response

We carefully considered all comments received.

The new Framework uses the following principles as the foundation for our approach to providing guidance: accountability, effectiveness, efficiency, adaptability, collaboration and transparency.

Our new approach to standardizing guidance makes it easier for regulated sectors in Ontario to do business. It also makes FSRA a more effective regulator. New businesses, existing companies and consumers can better understand what is legally binding, what is FSRA's interpretation or application of law, and what information is designed to be helpful.

## Guidance Framework Summary Table

Summarized Content	Response
<p>Many comments indicated general support for the new Guidance Framework, including the foundational principles and the opportunity to provide feedback.</p>	<p>FSRA appreciates the effort that went into the thoughtful comments received regarding the Guidance Framework. We thank all commenters for the views expressed.</p>
<p>Stakeholders provided the following recommendations to consider:</p> <ul style="list-style-type: none"> <li>• Continue to concentrate on an outcomes-focused, principles-based approach to regulatory decisions.</li> <li>• Consider relevancy and stakeholder feedback when prioritizing and issuing all guidance.</li> <li>• Actively update and archive documents appropriately.</li> <li>• Clearly articulate the applicable parties/products in any decision guidance document.</li> </ul>	<p>FSRA will continue to emphasize an outcomes-focused, principles based approach to its decision-making in its Framework.</p> <p>To ensure consistency, all existing guidance items, whether inherited or new, will be reviewed periodically and all published guidance items will endeavour to clearly identify primary audiences where possible.</p> <p>The management of active and archival guidance items will continue to be closely monitored and communicated.</p>
<p>Clearly announce guidance items at least 18 months prior to review and transparently report on review outcomes.</p>	

Some stakeholders highlighted that review timelines for each type of guidance, as well as the overall guidance framework, should be streamlined further. This included the supportive request that all items continue to utilize transparency and open consultation prior to revision.

Stakeholders requested further clarity on the following:

- Clear definition “and application of CEO discretion” within Guidance Approach items.
- Will FSRA identify which of the four categories (i.e., Interpretation, Information, Approach, Decision) a particular guidance will fall under at the time of issue?
- Can a guidance fall under more than one category?
- In which circumstance would a Decision Guidance arise?
- How does FSRA intend to apply the decisions as precedents?

The original review period of 3 to 5 years for each guidance item will be streamlined to no more than 3 years for any guidance item with accelerated review if required (e.g., Legislative, innovation changes). In addition, the Guidance Framework itself will be reviewed in an open and transparent process after 2 years of use.

Moving to a principles-based approach increases the opportunity for use of discretion in various areas. The CEO of FSRA will continue to exercise discretion, where possible, within the principled boundaries of each approach in a consistent manner.

All guidance items will be clearly categorized and labeled at the time of publication.

A Decision Guidance will arise where a decision is seen by FSRA as beneficial to a sector or sub-sector for future precedential value (may or may not include Notices of Impending Decisions). Regulated organizations may benefit from knowing how FSRA would evaluate a potential action taken by a business, prior to implementing their plans.

## General Positive Response

*“On the particulars of the Framework, we see the principles described as consistent with FSRA’s 2019-2020 priorities, which we support. Further, we appreciate the focus on collaboration and consultation. Our view is that FSRA’s transparency about how it fulfills its mandate contributes to an environment of regulatory accountability.”* -- Canadian Life and Health Insurance Association