

Approach



Effective Date: TBC

Identifier: No. GR0017APP

Proposed Guidance: Public Warning Notices

Purpose

This Guidance outlines the process through which FSRA may issue public warning notices to notify consumers / the general public about unlicensed activity, or other improper dealings with FSRA-regulated products and services, and the basis for such warnings.

Scope

This Guidance affects individuals or entities engaged in providing products and services in Ontario for a sector that FSRA regulates without the appropriate licence, approval or registration.

This Guidance also affects the following stakeholders and/or products and/or functional aspects:

- consumers
- general public
- all FSRA-regulated financial products and / or services, except for pensions.

Rationale and background

The public warning notice is a tool in the form of a website posting and news release. It is intended to inform consumers of, and caution them against:

- improper dealings with FSRA-regulated products and services
- doing business with an individual or entity that FSRA has determined is not licensed in Ontario in a sector that FSRA regulates

A transparent approach to the process for issuing public warning notices ensures that those who may be impacted by such activities are aware of the steps FSRA has taken to ensure the accuracy of the information which is the subject of the public warning notice. It also ensures that there are safeguards for procedural fairness for the subjects of the warnings.

Consumers benefit from early and clear notice where FSRA has identified unlicensed or unregistered conduct, or other improper dealings with FSRA-regulated products and services. Issuing public warning notices provides consumers with the immediate information they need to make informed decisions when dealing with financial services providers. FSRA also supports public awareness by using various communications tactics and engagement with media outlets when issuing public warning notices.

Desired outcomes and applicable principles

The public warning notice is intended to:

- curb ongoing consumer harm
- act as a deterrent to those who carry on unlicensed activities or for improper dealings with FSRA-regulated products and services, through making that information public
- maintain the integrity of licensees who are qualified and suitable to hold a licence in the sectors FSRA regulates
- provide confidence to consumers that the information is credible

- ensure transparency of the public warning notice process and that procedural fairness is afforded to an individual or entity who is the subject of a public warning notice

This Guidance supports FSRA's strategic priority to achieve regulatory efficiency and effectiveness and supports FSRA's growth as an outcomes-focused and consumer-centered regulator. This Guidance also supports FSRA's mandate and statutory objects, in particular to:

- regulate and generally supervise the regulated sectors
- contribute to public confidence in the regulated sectors
- promote public education and knowledge about the regulated sectors
- deter deceptive or fraudulent conduct, practices and activities by the regulated sectors
- promote high standards of business conduct
- protect the rights and interests of consumers

Processes and practices

Contents of the public warning notice

The public warning notice:

- Identifies the individual or entity engaged in the unlicensed activity by name, if there is a person that can be linked to the activity, and states that the individual or entity is not licensed to conduct such business.
- Warns the consumer to exercise caution or not engage with the individual or entity who is the subject of the public warning notice because FSRA has identified that they are unlicensed.
- Provides details on the type of harm to consumers (e.g., taking personal information from consumers).

- States that FSRA has determined an improper dealing of a FSRA-regulated product or service or that the identified individual or entity is, or may be, providing regulated services without a licence.
- Warns the public that they should not be dealing with unlicensed individuals or entities for a FSRA-regulated financial product or service, as they will not be afforded the same protections as working with those who are regulated.

Threshold for issuing a public warning notice

The decision to issue a public warning notice is subject to FSRA's discretion and may be pursued if an individual or entity is not licensed with FSRA and may be engaged in activity which FSRA has determined requires licensing. Based on a review of the information^[1], FSRA may issue a public warning notice if it discovers one or more of the following factors:

- There is a clear indication of an improper dealing of a FSRA-regulated product or service or an individual or entity engaging in unlicensed activity (e.g., documents, marketing materials, online presence).
- There is a risk of continuing consumer harm.
- The individual or entity has been unresponsive to FSRA's written attempts to request that they immediately cease conducting unlicensed activity, if applicable.

Depending on the scope and nature of consumer harm, FSRA may, in its discretion:

- Proceed with a more robust media strategy to increase public awareness.
- Share information with other regulators (as applicable).
- Escalate to Enforcement and consider pursuing formal enforcement action.

Timing

In the interest of consumer protection, FSRA will keep all public warning notices available on its website in perpetuity.

Effective date and future review

This Guidance became effective on [TBC] and will be reviewed no later than [TBC].

About this Guidance

This Guidance is an Approach. 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.

Effective Date: [TBC]

^[1] Information on unlicensed activity may be submitted through FSRA's Whistle-blower Program. Individuals or entities providing information to FSRA that may lead to a public warning notice should consult FSRA's Whistle-blower Guidance for more details on the types of protections that Whistle-blowers are provided and how they can qualify as a Whistle-blower.”