

***FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO ACT, 2016***

**TRANSFER ORDER:**

**A. TRANSFER OF CERTAIN OPERATIONS, ACTIVITIES, AFFAIRS, ASSETS, LIABILITIES, RIGHTS AND OBLIGATIONS OF FINANCIAL SERVICES COMMISSION OF ONTARIO TO FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO**

- and -

**B. TRANSFER OF CERTAIN LIABILITIES, RIGHTS AND OBLIGATIONS OF THE SUPERINTENDENT OF FINANCIAL SERVICES TO THE CHIEF EXECUTIVE OFFICER OF FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO OR TO FINANCIAL SERVICES REGULATORY AUTHORITY OF ONTARIO**

**1. Preliminary**

- 1.1 Financial Services Commission of Ontario (“**FSCO**”) is established under subsection 2(1) of the *Financial Services Commission of Ontario Act, 1997* (the “**FSCO Act**”) and is not a legal entity separate and apart from the Crown in right of Ontario (the “**Crown**”). In this Transfer Order, FSCO and the Crown shall be used interchangeably.
- 1.2 Financial Services Regulatory Authority of Ontario (“**FSRA**”) is continued under subsection 2(1) of the *Financial Services Regulatory Authority of Ontario Act, 2016* (the “**FSRA Act**”) as a corporation without share capital.
- 1.3 The Minister of Finance (the “**Minister**”) in the exercise of the powers conferred by the FSRA Act hereby makes this Transfer Order pursuant to which:
  - (a) certain of the operations, activities, affairs, assets, liabilities, rights and obligations of FSCO are transferred in the manner specified in this Transfer Order to FSRA; and
  - (b) certain of the liabilities, rights and obligations of the Superintendent of Financial Services of FSCO (the “**Superintendent**”) are transferred in the manner specified in this Transfer Order to FSRA.
- 1.4 This Transfer Order is made under section 29 of the FSRA Act and is subject to the provisions of the FSRA Act.
- 1.5 This Transfer Order takes effect on June 8, 2019 (the “**Transfer Date**”).

1.6 The following Exhibits are incorporated herein by reference and such Exhibits and any Schedules to such Exhibits shall form an integral part of this Transfer Order:

Exhibit A	-	Assets
Exhibit B	-	Liabilities
Exhibit C	-	Retained Business
Exhibit D	-	Contracts
Exhibit E	-	Memoranda of Understanding
Exhibit F	-	Civil Proceedings
Exhibit G	-	Regulatory Proceedings
Exhibit H	-	Bulletins, Guidelines, Forms, Policies, Communication Materials
Exhibit I	-	Licences, Registrations, Notices
Exhibit J	-	Required Agreements.

## 2. Definitions

2.1 In this Transfer Order (including the Exhibits and any Schedules to this Transfer Order) terms which are used herein and are defined in the FSRA Act, or in any regulations made pursuant to the FSRA Act before the Transfer Date, shall have the same meaning given to such terms in the FSRA Act and in such regulations and, in addition:

“**Business**” means the operations, activities and affairs carried on by FSCO and the Superintendent as at the Transfer Date relating to the exercise of statutory powers and performance of duties pursuant to the FSCO Act and all other Acts of the Crown which provide statutory powers and duties to FSCO or the Superintendent that will be transferred to and assumed by FSRA as of the Transfer Date, and all such other activities incidental or ancillary thereto;

“**including**” means “including without limitation”, and “**includes**” means “includes without limitation”;

“**Related to the Business**” means directly or indirectly used, in or in conjunction with, arising from, acquired or incurred in the conduct, performance or carrying on of, or otherwise supporting or relating in any manner to, the Business;

“**Retained Assets and Liabilities**” means all right, title and interest in and to those assets, liabilities, rights and obligations related to the Retained Business as at the Transfer Date which shall be retained by the Crown on and after the Transfer Date; and

“**Retained Business**” means the operations, activities, affairs, assets, liabilities, rights and obligations Related to the Business as at the Transfer Date as specified

in Exhibit C to this Transfer Order which shall be retained by the Crown on and after the Transfer Date.

### 3. Transfers to FSRA

- 3.1 Effective on the Transfer Date, on and subject to the terms and conditions hereof, this Transfer Order hereby transfers to and vests in:
- (a) FSRA all rights, title, interest and obligations of FSCO in, to, and in respect of all assets, rights, liabilities and obligations of FSCO, and
  - (b) FSRA or the Chief Executive Officer of FSRA (the “CEO”), as applicable, all liabilities, rights, and obligations of the Superintendent,
- that are Related to the Business, as specified and described in the Exhibits and allocated in the Schedule to Exhibit A of this Transfer Order. For greater certainty, this clause excludes the Retained Assets and Liabilities and the Retained Business.
- 3.2 FSRA hereby acquires and assumes all rights, title and interest of FSCO and the Superintendent, respectively, transferred to them by section 3.1 of this Transfer Order and hereby assumes and is obligated to perform all liabilities and obligations transferred hereby (“**Assumed Liabilities**”).
- 3.3 Except for the Assumed Liabilities, the Crown, as represented by the Minister, shall pay, satisfy, discharge and perform and fulfill all obligations and liabilities of FSCO and the Superintendent in respect of the Business or Related to the Business existing as at the Transfer Date or arising thereafter if based on a cause of action that arose or existed prior to the Transfer Date.
- 3.4 Nothing in this Transfer Order amends, adds to, deletes from or otherwise modifies any liabilities or obligations that are transferred to and assumed by FSRA pursuant to this Transfer Order.
- 3.5 The transfer of any liability or obligation of FSCO, the Superintendent or the Crown by this Transfer Order releases FSCO, the Superintendent and the Crown, as the case may be, from the liability or obligation.
- 3.6 Assets, liabilities, rights or obligations to be transferred by this Transfer Order that are specifically listed or described in the Exhibits and in the Schedule to Exhibit A hereto are transferred hereby despite any other provision of this Transfer Order. For greater certainty, this clause excludes the Retained Assets and Liabilities and the Retained Business.
- 3.7 FSCO and the Superintendent shall transfer their interests, rights and obligations in the contracts described in Exhibit D hereto, and FSRA shall assume the

interest, rights and obligations arising thereunder. For greater certainty and pursuant to subsections 30(9) and 30(11) of the FSRA Act, where a contract is transferred hereunder it shall be deemed to be assignable by the Minister without the consent of any party to the contract.

#### **4. Agreements, etc.**

- 4.1 The Superintendent, FSRA, and the CEO, as applicable, shall on the dates, if any, specified in Exhibit J to this Transfer Order, enter into the agreements and execute those documents and instruments and do such other acts or things specified in Exhibit J on such terms and conditions as the parties thereto shall agree, which agreements, documents and instruments shall take effect on the dates specified, if any, and shall be valid and binding on the parties thereto and enforceable against them in accordance with their terms.


#### **5. Further Assurances**

- 5.1 Each of the Superintendent, the Crown, FSRA and the CEO shall from time to time and at all times after the Transfer Date make, do and execute or cause and procure to be made, done and executed, in accordance with the terms of this Transfer Order and such further terms as shall be agreed on in an agreement that shall be entered into pursuant to section 4.1 of this Transfer Order, all such further acts, deeds or assurances as may be necessary in order to lawfully complete the transfer to, and assumption by, the intended transferee of the assets, rights, liabilities and obligations of FSCO and the Superintendent by or pursuant to this Transfer Order.
- 5.2 FSRA and the CEO shall diligently complete all reasonable measures that the Minister or the Superintendent may require in order to obtain, as expeditiously as possible, all necessary rights, consents and releases in order that any assets, rights, liabilities and obligations purported to be transferred by this Transfer Order but which this Transfer Order, despite the provisions of the FSRA Act, does not or cannot or otherwise fails for any reason to fully and effectively transfer to FSRA, may be fully and effectively transferred in accordance with the terms of this Transfer Order or in order that new rights may be granted to or in favour of FSRA, and in order that the Crown and the Superintendent are fully and effectively in law released from such liabilities and obligations.
- 5.3 The Crown and the Superintendent shall diligently complete all reasonable measures that FSRA and the CEO may require in order to obtain, as expeditiously as possible, the transfer of any assets, rights, liabilities and obligations necessary for the Business or Related to the Business, are transferred by this Transfer Order to FSRA.

**6. Successors and Assigns**

6.1 The rights and obligations of the Crown, the Superintendent, FSRA and the CEO set out in this Transfer Order or in the agreements that shall be entered into pursuant to section 4.1 of this Transfer Order shall extend to, be binding on and enure to the benefit of such parties and their successors and permitted assigns.

Dated at Toronto, Ontario this 6<sup>th</sup> day of June, 2019

  
\_\_\_\_\_  
Victor Fedeli  
Minister of Finance and Chair of Cabinet

**EXHIBIT A****ASSETS**

The following assets Related to the Business as at the Transfer Date are transferred to FSRA, excluding the Retained Assets and Liabilities, as allocated in the Schedule to this Exhibit A:

1. All tangible personal property, whether held by ownership, lease, licence or other interest, are transferred to FSRA;
2. All intellectual and intangible property that is owned or licensed by FSCO is transferred to FSRA, and all intellectual property that is owned or licensed by the Superintendent is transferred to FSRA, including all:
  - (i) telephone numbers;
  - (ii) inventions, discoveries, methods, letters patent, applications for letters patent, renewals, reissues, extensions, divisions, continuations and continuations-in-part;
  - (iii) trademarks and service marks (and the goodwill pertaining thereto), tradenames or corporate names and any application, registration, or renewal pertaining thereto;
  - (iv) copyright in works, including, but not limited to, computer software, documentation, source code, object code and all registrations and records thereof and any programmable media, paper or other media on which such works are fixed;
  - (v) industrial designs, integrated circuit topographies and any registration thereof;
  - (vi) trade secrets, including know-how, ideas, plans, algorithms, hardware, firmware and architectures, whether in written, graphic or oral form;
  - (vii) applications or registrations for patents, trademarks and copyright;
  - (viii) any future developments or improvements relating to intellectual property set out in (i) to (vi) above;
  - (ix) the right to take action for any infringement of rights in intellectual property prior to the Transfer Date; and
  - (x) any option or right to make, use, sell, copy, modify, distribute, have made, create derivative works from or sublicense any intellectual property, including, without limitation, all rights acquired under any licence agreement in Canada and all other countries worldwide;
3. All permits, licences, certificates, approvals, authorizations, or other indicia of authority issued to FSCO or to the Superintendent by a federal, provincial, municipal or state

authority under any law and all rights, interests and obligations derived therefrom or relating thereto are transferred to FSRA;

4. All accounts receivable, including insurance claims, accrued rights to bill for goods and services rendered, accrued interest, and any deposits, security or collateral for such accounts receivable are transferred to FSRA;
5. All cash and cash equivalents are transferred to FSRA; and
6. All goodwill is transferred to FSRA.

## SCHEDULE TO EXHIBIT A

ALLOCATION BASED ON FSCO STATEMENT OF FINANCIAL POSITION  
AS AT MARCH 31, 2018

Allocation of Assets and Liabilities of FSCO (\$ '000)	FSCO Statement of Financial Position as at March 31, 2018 (audited)	Allocation between FSRA and FSCO	
		Allocated to FSRA	Remaining with FSCO
<b>ASSETS</b>			
Cash	1		1
Accounts receivable	1,845		1,845
Prepaid expenses	236	236	
Due from Province	40,555	32,143*	8,412
Capital assets, net	8,593	5,350	3,243
	51,230	37,729	13,501
<b>LIABILITIES AND NET ASSETS</b>			
<b>Liabilities</b>			
Accounts payable and accrued liabilities		8,968	4,908
	13,876		
Long-term employee future benefits obligation	4,549	4,549	
Deferred revenue	23,224	23,224	
Deferred lease inducements	261	261	
<b>Net Assets</b>			
Invested in capital	8,593		8,593
Internally restricted	727	727	
	51,230	37,729	13,501

\*\$32,143 represents allocation of liabilities that will transfer to FSRA, including accounts payable, employee future benefits, and deferred revenue. \$32,143 is net of \$5,350 of capital assets that are being



purchased by FSRA at net book value and \$237 in prepaid expenses. A cash payment of \$31,514 will be made to FSRA to fund liabilities transferred, and the remaining \$629 of funds will be retained in Special Purpose Accounts to be managed by the CEO.

**EXHIBIT B**  
**LIABILITIES**

Except for the Retained Assets and Liabilities, all liabilities and obligations Related to the Business are transferred to FSRA as allocated in the Schedule to Exhibit A, including:

1. all costs, expenses, charges, debts, liabilities, claims, demands and obligations, whether primary or secondary, direct or indirect, fixed, contingent, absolute or otherwise, and
2. all liabilities and obligations which accrued before the Transfer Date or which accrue after the Transfer Date but which in any way relate to actions, conduct, circumstances or occurrences which took place before the Transfer Date.

## EXHIBIT C

### RETAINED BUSINESS

The following operations, activities, affairs, assets, liabilities, rights and obligations of FSCO or the Superintendent, as the case may be, Related to the Business as at the Transfer Date shall be retained by the Crown on and after the Transfer Date:

1. all operations, activities, affairs, assets, liabilities, rights and obligations of FSCO and the Superintendent as at the Transfer Date pursuant to the *Motor Vehicle Accident Claims Act*; and
2. all operations, activities, affairs, assets, liabilities, rights and obligations of the Financial Services Tribunal (the “**Tribunal**”) as established under the FSCO Act.

**EXHIBIT D**  
**CONTRACTS**

The following contracts Related to the Business as at the Transfer Date are transferred to FSRA, excluding the contracts described or referred to in the Schedule to this Exhibit D of this Transfer Order:

1. All agreements, equipment and personal property leases and other arrangements, whether executory or otherwise, are transferred to FSRA;
2. All agreements to or by which any of the assets Related to the Business or the Business, as applicable, is bound or affected, are transferred to FSRA; and
3. All agreements to or by which FSCO or the Superintendent, as applicable, is bound or affected, are transferred to FSRA.

## **SCHEDULE TO EXHIBIT D**

### **EXCLUDED CONTRACTS**

1. For greater certainty, all Vendor-of Record (“**VOR**”) agreements entered by the Crown for the benefit of public bodies in the Ontario government;
2. All contracts related to the provision of services exclusively to the Tribunal; and
3. All contracts related to the provision of services exclusively to the Motor Vehicle Accident Claims Fund pursuant to the *Motor Vehicle Accident Claims Act*.

**EXHIBIT E**

**MEMORANDA OF UNDERSTANDING**

All memoranda and letters of understanding Related to the Business as at the Transfer Date, including all memoranda and letters of understanding to or by which FSCO or the Superintendent is bound or affected, including but not limited to inter-jurisdictional agreements and arrangements are transferred to FSRA.

**EXHIBIT F**  
**CIVIL PROCEEDINGS**

No Civil Proceeding, as defined below, shall be transferred to FSRA.

For the purposes of this Exhibit F, “**Civil Proceeding**” means all of the rights, liabilities and obligations of FSCO or the Superintendent which relate to, arise out of, or are at issue in any action or application Related to the Business which has been commenced by or against FSCO or the Superintendent, or which are based upon a cause of action which arose, before the Transfer Date pursuant to the Rules of Civil Procedure, R.R.O 1990, Reg. 194 under the *Courts of Justice Act*.

## EXHIBIT G

### REGULATORY PROCEEDINGS

All Regulatory Proceedings, as defined below, are transferred to FSRA or to the CEO, as applicable.

For the purposes of this Exhibit G, “**Regulatory Proceedings**” means all of the rights, liabilities obligations and other activities of the Superintendent which relate to, arise out of, or are at issue in any proceeding Related to the Business which has been commenced before the Transfer Date against the Superintendent or FSCO by:

- (a) a request for hearing or an appeal to the Tribunal or to another administrative tribunal, or
- (b) an appeal or application for judicial review to the Ontario Superior Court of Justice,

relating to the Superintendent’s activities, proposed orders, orders or other actions taken under the statutes that govern the regulated sectors, other than the Civil Proceedings described in Exhibit F of this Transfer Order.

For greater certainty, Regulatory Proceedings are deemed to include:

- (i) a proceeding commenced after the Transfer Date against the CEO under paragraph (a) or (b) above, but which arises from a notice of proposal, notice of intended decision or decision/order issued by the Superintendent or action taken by the Superintendent before the Transfer Date;
- (ii) all obligations of the Superintendent under a written settlement agreement in respect of any proceeding pending or before the Tribunal before the Transfer Date; and
- (iii) a proceeding under the *Companies’ Creditor Arrangement Act* (Canada) in which the Superintendent is participating in his capacity as administrator of the Pension Benefits Guarantee Fund or as pension regulator.



## EXHIBIT H

### BULLETINS, GUIDELINES, FORMS, POLICIES, COMMUNICATION MATERIALS

All bulletins, guidelines, forms, policies, communication materials and other written information Related to the Business, but not related to the Retained Business or Retained Liabilities, published, issued or otherwise made available by FSCO or by the Superintendent before the Transfer Date for the provision of guidance or information to the regulated sectors (the “**Guidelines**”), excluding the Guidelines described or referred to in the Schedule to this Exhibit H, are transferred to FSRA.

For greater certainty and without limiting the generality of the foregoing, the following Guidelines are transferred to FSRA:

1. Guidelines on the interpretation and operation of the Statutory Accident Benefits Schedule issued pursuant to section 268.3 of the *Insurance Act*;
2. the Guideline referred to in O. Reg. 259/04 (Minimum Capital Test) made under the *Insurance Act*; and
3. filing Guidelines issued for the purposes of automobile insurance rates and risk classification matters under the *Insurance Act*.

**SCHEDULE TO EXHIBIT H**

**EXCLUDED BULLETINS, GUIDELINES, FORMS, POLICIES, COMMUNICATION  
MATERIALS**

1. Guideline No. 08/10 Cost of Assessment and Examinations Guideline;
2. Property & Casualty Auto Bulletin A-21/10; and
3. Property & Casualty Auto Bulletin A-04/15.

## **EXHIBIT I**

### **LICENCES, REGISTRATIONS, NOTICES**

All regulatory activities and actions Related to the Business by or in respect of the Superintendent before the Transfer Date that give rise to rights and obligations are transferred to FSRA, including without limitation:

1. All licences, registrations, notices, proposals, orders, settlements, undertakings, designations, approvals, approved forms, consents, appointments and certificates made or issued by the Superintendent; and
2. All documents issued, delivered or received by, or served on or filed with, the Superintendent.

**EXHIBIT J**  
**REQUIRED AGREEMENTS, ETC.**

The Superintendent, FSRA or the CEO, as the case may be, and FSRA's Chair in the case of item 3 below, shall execute as at the Transfer Date the following agreements, documents and instruments:

1. Human Resources Transfer Agreements;
2. Records Transfer Agreement;
3. MOF-FSRA Memorandum of Understanding;
4. Burden Reduction Agreement;
5. FSCO-DICO Wind-down Agreement;
6. Strategic Oversight Agreement.