



Meridian Credit Union Limited
75 Corporate Park Drive
St. Catharines, Ontario
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August 12, 2021

Financial Services Regulatory Authority of Ontario
5160 Yonge Street, 16th Floor
Toronto, Ontario
M2N 6L9

Re: FSRA Consultation on Credit Union Market Conduct Framework Approach and Interpretation Guidance (June 28, 2021)

Meridian Credit Union Limited (“**Meridian**”) welcomes this opportunity to participate in the above-noted consultation and to comment on FSRA’s Proposed Market Conduct Framework Approach and Interpretation Guidance (“**Guidance**”).

With more than 75 years of banking history, Meridian is Ontario's largest credit union and the second largest in Canada, helping to grow the lives of 375,000 Members and customers. Meridian has \$27.2 billion in assets under management (as at June 30, 2021) and delivers a full range of financial services online, by phone, by mobile and through a network of 89 branches across Ontario, and business banking services in 15 locations.

Meridian fully supports the requirement for the board to adopt a code of market conduct under Section 102(1) of the updated *Credit Unions and Caisses Populaires Act, 2020* (“**CUCPA 2020**”).

SUMMARY

Meridian is providing the following four (4) comments on the Guidance:

1. Although Meridian agrees that the new market conduct code should be anchored in regulation, we do not believe it should be introduced as a new requirement under DICO By-Law No. 5 by way of Guidance.
2. Meridian has concerns with FSRA’s *introduction of corporate governance requirements in guidance*. Meridian believes that the corporate governance requirements for the new market conduct code should be under the new Standards of Sound Business and Financial Practices Rule (“Rule”) and the new Risk-Based Supervisory Framework (“RBSF”).
3. Meridian recommends that there be no *specific reference to the Audit Committee* in the Guidance. Meridian agrees with the principle set forth earlier in the Guidance whereby the Board is defined as including “any committee of the Board that has been delegated an element of Board oversight”. This is particularly relevant where a Board, such as Meridian’s Board, has delegated market conduct oversight to the Risk Committee.

4. In the excerpt of the Guidance reproduced below, the broad interpretation of “fraudulent practices” **could extend to practices by external parties** which we do not believe is the intent. We would therefore suggest adding at the end of the sentence “by a credit union”.

“section 102 of the New Act, should both be designed in such a manner so as to (A) prevent a credit union from delivering poor or unfair outcomes for members or customers that will harm their interests, or result in a loss of confidence in the credit unions and (B) minimize risks to members or customers that they will be harmed by deceptive or fraudulent practices or activities, or by unacceptable standards of business conduct [by a credit union]”

DETAILED COMMENTS

1. Introduction of A New Requirement Under DICO By-Law No. 5

Although Meridian agrees that the new market conduct code should be anchored in regulation, we do not believe it should be introduced as a new requirement under DICO By-Law No. 5 by way of Guidance.

The requirement for credit unions to adopt a code of market conduct is a new requirement under the CUCPA 2020 that will be proclaimed in force concurrently with the new rules under the Act and FSRA’s new RBSF. Meridian and other Ontario credit unions are actively working towards compliance with the Canadian Credit Union Association’s Market Conduct Code.

It is our view that rather than giving an interpretation to an existing regulatory requirement, the Guidance in fact introduces **a new requirement under DICO By-Law No. 5** by requiring that “a credit union’s standards of business conduct and ethical behaviour (...) must, at minimum, address the” requirements of a code of market conduct. In light of the fact that the effective date of the Guidance may occur prior to the coming into force of the CUCPA 2020, **Ontario credit unions may be required to adopt, and comply with, a code of market conduct under DICO By-Law No. 5.**

The timing of the code of market conduct is therefore when the new CUCPA is proclaimed in force or the effective date of the Guidance, whichever occurs first.

Meridian does not agree with FSRA’s introduction of a new requirement under DICO By-Law No. 5 by way of Guidance. Currently, credit unions are required to certify compliance with By-Law No. 5, at least annually, by providing a Board resolution to FSRA. Meridian has certified compliance with By-Law No. 5, notwithstanding that we have never adopted a market code of conduct. Under the Guidance, FSRA is mandating that compliance with By-Law No. 5 now requires us to adopt and comply with a market code of conduct, thereby introducing a new requirement under existing regulation by way of Guidance.

2. FSRA’s Corporate Governance Framework

Meridian is of the view that the introduction of corporate governance requirements in Guidance represents a precedent that goes against the framework of the new Rule and RBSF, which are aligned with OSFI’s framework.

By way of comparison, we would highlight that as part of its process to review its 2013 Corporate Governance Guideline, OSFI met with industry stakeholders who requested that corporate governance requirements be streamlined under one guideline. OSFI listened and confirmed its new streamlined corporate governance framework when it published its new Guideline in 2018. In its September 18, 2018 letter on the publication of its revised Corporate Governance Guideline, OSFI confirmed that “*The revised CGG contains clear principles that replace OSFI’s Board expectations contained in risk management and*

capital guidelines and advisories. As a result, OSFI is reissuing these other guidance documents **with their respective Board requirements removed.**"

Meridian has concerns with FSRA's introduction of corporate governance requirements in a guidance document, which are duplicative of the new Rule and RBSF. Meridian urges FSRA to revise the Guidance to clarify that corporate governance requirements for the new market conduct code under Section 102 of the CUCPA 2020 are **only** set forth under the new Rule and the new RBSF, which together form a streamlined corporate governance framework.

3. Audit Committee

Meridian agrees with FSRA's definition of "Board" in the Guidance as including "*a committee of the Board that has been delegated an element of Board oversight*". However, the Guidance expressly provides that the "**Audit Committee** must oversee independent assessments of the credit union's adherence to its standards of business practices and ethical behaviour and its code of market conduct and report its findings to the Board."

Meridian recommends that there be no specific reference to the Audit Committee in the Guidance and that "Audit Committee" be replaced with "Board" (as defined in the Guidance). This is particularly relevant where a Board, such as Meridian's Board, has delegated market conduct oversight to the Risk Committee.

4. Fraudulent Practices

In the excerpt of the Guidance reproduced below, the broad interpretation of "fraudulent practices" **could extend to practices by external parties** which we do not believe is the intent. We would therefore suggest adding at the end of the sentence "by a credit union".

"section 102 of the New Act, should both be designed in such a manner so as to (A) prevent a credit union from delivering poor or unfair outcomes for members or customers that will harm their interests, or result in a loss of confidence in the credit unions and (B) minimize risks to members or customers that they will be harmed by deceptive or fraudulent practices or activities, or by unacceptable standards of business conduct [by a credit union]"

We hope our above comments will assist you in finalizing the Guidance. Please let us know if you wish to discuss them further.

Sincerely,



Brigitte Catellier
Vice-President, Corporate Governance

Cc Sunny Sodhi, Chief Strategy & Corporate Affairs Officer