

FSRA Consultation on its 2022-2023 Statement of Priorities



Desjardins Comments

Financial Services Regulatory Authority of Ontario

October 29, 2021

Introduction

Desjardins welcomes the opportunity to provide comments on FSRA's proposed 2022-2023 Statement of Priorities. Our feedback will include a focus upon the Credit Union and the Property and Casualty ("P&C") insurance sectors.

About Desjardins Group

Desjardins is the leading cooperative financial group in Canada serving over 7.5 million members and clients across the country and with \$389 billion in assets. For over 120 years, Desjardins has listened and responded to its members' needs and adapted to change. We provide Canadians with wealth management, life and health insurance, property and casualty insurance, and personal, business, and institutional financial services such as payment processing. In Ontario, the Desjardins Ontario Credit Union ("DOCU") is the second largest credit union in the province and the fastest growing credit union in the country with 130,000 members, 51 branches, and just shy of 10 billion in assets. Desjardins General Insurance Group (DGIG) is a subsidiary of Desjardins Group and proud to be the leading personal use auto insurer in Ontario. There are approximately 6,000 Ontarians across the province serving their communities as Desjardins associates.

General Comment

We applaud the existence of this transparent business planning exercise that allows the public and key stakeholders to provide their input. This degree of detail and transparency into the regulator's plan is not common.

Overall, we hold a favourable view of FSRA's proposed 2022-2023 priorities and its focus on burden reduction and effectiveness. We appreciate the emphasis on transforming the regulatory processes to make evidence-based and risk-based decisions and the ongoing transition to a principles-based approach to regulation. Desjardins also shares FSRA's enhanced focus on consumer protection and welcomes this emphasis.

A successful transformation to Principle Based Regulatory Environment is a multi-year endeavour and a substantial culture change management exercise for both FSRA and its regulated sectors. It is imperative that a common understanding of PBR is established within all levels of FSRA and within the regulated entities. This would include the identification of which processes and behaviours must change to enable a successful transition. Therefore, we would appreciate FSRA's focus on this transformation as a cross-sector organizational priority until at least 2025 and recommend that the transition include corresponding measurable progress targets.

We recommend the establishment of consumer outcome-focused key performance indicators (KPI) dashboards to serve as a balanced scorecard of system performance and act as a consumer-focused "North Star" for each of the regulated industries. The sector performance dashboards would be publicly available and be regularly monitored by FSRA and its sector stakeholder

advisory committees. This can be helpful to monitor consumer marketplace health, track progress on priorities, planned outcomes, key deliverables, system problem identification, and overall efficiency and cost effectiveness.

P&C Insurance Sector Feedback

Desjardins is supportive of FSRA's Property and Casualty (Auto) priorities including implementing a new auto rate regulatory strategy; developing recommendations to reform the auto insurance system; ensuring the fair treatment of P&C consumers and implementing insurance prudential supervision.

A new strategy for reforming the regulation of auto insurance rates and underwriting

Desjardins welcomes FSRA's priority to implement a new strategy for oversight of auto insurance rates and underwriting rules to be more dynamic, flexible, and transparent for Ontario's consumers. As FSRA works to implement a new strategy for reforming the regulations of auto insurance rates we offer a reminder that the power of consumers making choices in a competitive marketplace is the best and ultimate regulator of auto insurance rates.

If a transitional step towards competitive market regulation is preferred, then a "use and file" rate approval process to replace the current pre-approval approach is recommended. Desjardins looks forward to being a collaborative partner as FSRA develops this strategy.

We believe that consumers should be allowed the right to choose to have their credit information used by their insurer to determine their auto insurance premium. The degree of responsibility shown when a person manages their finances has been shown to be highly predictive of future claim outcomes. It is under the control of the individual and a reflection of personal behaviour. Data from Consumer Reporting Agencies confirms that the distribution of credit scores is consistent across all regions of the province and is not influenced by level of income or other demographic factors.

Develop recommendations and act on reforms of the auto insurance system

Desjardins is pleased to see that FSRA intends to develop recommendations to the Ministry of Finance and act on reforms of the auto insurance system. We support FSRA identifying key trends and opportunities to improve regulatory effectiveness, efficiency, and outcomes for consumers. In our view, those recommendations should include product reforms to the system that are currently subject to legislation and regulation.

As FSRA is aware, Ontario has one of the least effective auto insurance systems in Canada. It is filled with disputes and inefficiencies. Past government reports have found that approximately

1/3 of the costs to deliver accident benefits are being used to pay medical experts and legal fees instead of going directly to the recovery of injured persons. The need for change is clear.

To help address these challenges, we encourage FSRA when developing recommendations to look at introducing a “Care Not Cash” default clause to ensure that a driver’s auto insurance coverage will pay for treatment instead of costly legal fees. At the same, FSRA should also work with the Ministry of Finance to appoint an agency to establish an unbiased and credible medical assessment process whose recommendations will be binding on both the insurer and claimant.

Desjardins welcomes FSRA’s commitment in the development and implementation of initiatives to reduce fraud and abuse in the system including the HCAI strategy. Desjardins continues to make significant investments in our team of fraud management professionals. Our team works with data analysts, health care professionals, governments, law enforcements and other insurers to protect our clients from fraud. We encourage FSRA to work closely with the Ministry of Finance as it develops its Fraud and Abuse Strategy.

Ensure the fair treatment of P&C auto consumers

Desjardins is supportive of FSRA’s commitment to strengthen consumer protection, and education. Desjardins looks forward to working with FSRA on the lessons learned from the Take All Comers Thematic Review. As we have shared with FSRA in the past, our position is that the current Unfair or Deceptive Acts or Practices (UDAP) regulation is too prescriptive and is a barrier to innovation. We are aware that FSRA is working on replacing that regulation with a FSRA rule. Ultimately, we recommend relying solely upon the adoption of the Fair Treatment of Customers (FTC) guidance by the Canadian Council of Insurance Regulators as FSRA’s consumer protection principle-based guidance.

Enable Innovation in the P&C sector

Innovation leads to a better consumer experience, lower cost to consumers, and increased consumer confidence in their provider and the industry. Desjardins applauds the work FSRA has done to date for setting up the Innovation Office that will identify how FSRA can better support innovation. We note that on October 21 the Innovation Office released its proposed innovation framework and has asked for comments by November 18. Desjardins looks forward to reviewing this new proposal and will offer our comments.

Credit Union Sector Feedback

Collaboration and best practices

Desjardins is pleased to learn that FSRA is building stronger relationships, sharing best practices, and collaborating with other regulators. Our business activities extend from coast-to-coast across Canada, so we understand how every jurisdiction is different with their own reality and needs, but also how there are best practices and lessons to be shared and learned. We support FSRA's approach and are hopeful that the Ontario credit union sector will benefit from this cooperation and continue to be a strong, sustainable, competitive, and innovative financial services sector.

Implement the new credit union legislative framework

As FSRA works to implement the new credit union legislative framework, Desjardins looks forward to the collaborative engagement opportunity to create or update the rule and guidance-making workplan. This workplan is particularly helpful as it provides some stability and structure to our regulatory environment. Communicating clear expectations of the regulatory approaches and upcoming initiatives increases our understanding of FSRA's operations and responsibilities. Assuming FSRA also benefits from the establishment of this workplan, we humbly suggest this initiative be considered a best practice worthy of being shared with other regulators.

Enhance financial stability structures

One of FSRA's key responsibilities is to ensure the resiliency of the credit union sector and manage its safety net structures and tools. This contributes to the protection of deposits, the sector's stability, and public confidence. With this said, we noted the repeated reference to ensuring "access to sufficient emergency liquidity". One of the key deliverables of this priority states that FSRA will "continue work with various external partners on sectoral structural liquidity to secure the most efficient access to sufficient emergency liquidity for Ontario credit unions". Furthermore, the planned outcome indicates greater "regulatory confidence" in the sector's access to liquidity.

Desjardins supports FSRA's efforts to ensure adequate liquidity sources for the Ontario credit union sector. As COVID-19 has shown us, unplanned and unpredictable events can occur and can significantly affect our economy. It is important to recognize the importance of liquidity in the Ontario credit union sector, but also how the sector is heterogeneous so a unique solution risks not being applicable, nor beneficial, to every credit union due to the variety of sizes and strengths in the sector. In our specific case, we believe any path that leads to adequate liquidity sources must recognize Desjardins's unique financial cooperative group structure and the means of support available to the DOCU.

Disruptive innovations

As FSRA states that “major changes and developments in the financial services industry have changed the nature of risks and risk management of financial institutions”¹, we must caution that additional important changes and developments are on the horizon and these will have significant impacts on the financial industry.

At the federal level, Finance Canada’s Advisory Committee on Open Banking released its [Final Report](#) in August 2021. The report states that “financial data sharing is here and is happening in a way that places consumers and financial institutions at risk, and threatens the continued competitiveness of the financial services sector.”² The Committee’s recommendation is to quickly implement a “hybrid, made-in-Canada system of open banking; founded in collaboration, with distinct but appropriate roles for government and industry.”³

Here in Ontario, the Ontario Digital Service (ODS) is making great progress in the field of digital identity (“DI”). Looking to understand drivers of adoption to inform the optimal clustering and sequencing of DI use cases to realize the \$20B value potential, one of the use cases recommended for immediate pursuit involves financial services. Canada’s financial sector has a vested interest in effective digital identity given business and regulatory requirements such as customer onboarding and verification, AML/KYC compliance, and the ability to securely access and share banking data without compromise. The financial sector has long advocated for a pan-Canadian interconnected digital identity framework between government and private sector. ODS’s announcement of its intention to introduce DI “later this Fall”⁴ is a timely and important development, as is Interac’s recent acquisition of Securekey⁵.

Open Banking and Digital Identity will both significantly impact the Ontario credit union sector and will soon be upon us. In light of this, it is currently unclear if these innovations are addressed in the second cross-sectoral priority “Enable innovation”, or the third “Modernize systems and processes”, or the credit union priority 5.1 “Implement the new credit union legislative framework”. Considering FSRA aims to enhance the credit union sector’s resiliency, stability, and competitiveness, we believe it would be beneficial for the sector to have a clear understanding of FSRA’s approach to these upcoming disruptive innovations.

¹ Proposed FY2021-2022 Statement of Priorities, Priority 5.3: Implement risk-based supervision, p.18.

² <https://www.canada.ca/en/department-finance/programs/consultations/2021/final-report-advisory-committee-open-banking.html#a10>

³ Ibid

⁴ <https://news.ontario.ca/en/release/1000787/ontario-releases-technology-and-standards-for-digital-identity>

⁵ <https://www.newswire.ca/news-releases/interac-corp-acquires-exclusive-rights-to-securekey-digital-id-services-for-canada-867615708.html>

Conclusion

We continue to be optimistic with FSRA's journey to become a principle-based and consumer-outcome focused regulator. We thank you for giving us the opportunity to provide feedback on your proposed 2022-2023 Statement of Priorities. It is with pleasure and in the spirit of cooperation that we will continue to take part in FSRA's initiatives to ensure strong, resilient, and competitive financial services sectors in Ontario.
