

November 18, 2021

Innovation Office
Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
Toronto, ON
M2N 6S6

RE: FSRA Innovation Framework Consultation

On behalf of Desjardins, I am pleased to comment on FSRA's proposed [Innovation framework](#).

Desjardins is the leading cooperative financial group in Canada serving over 7.5 million members and clients across the country. 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.

There are approximately 6,000 Ontarians across the province serving their communities and representing the Desjardins brand. 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. Desjardins General Insurance Group (DGIG) is a subsidiary of Desjardins Group and proud to be the leading personal use auto insurer in Ontario. Desjardins Financial Security (DFS) is the fifth largest Life and Health insurer in the country.

Introductory Comments

We applaud FSRA's vision to facilitate responsible innovation across the regulated sectors to help Ontario thrive as a best-in-class market for financial services. We further agree with the assessment that this statement will mean different things, inspire different hopes, and present different concerns to different stakeholders.

Our comments on the FSRA innovation framework focus upon the Property & Casualty insurance sector context, however our recommendations generally also apply to our Life & Health and Credit union sectors.

We are excited by FSRA's ambition to bring greater choice and competition to Ontarian financial services consumers. It is our understanding that eligibility for participation in the proposed FSRA Test and Learn Environment (TLE) will be exclusively for innovations that are restricted or complicated by current regulation.

We note that the auto insurance market in Ontario is characterized by mandatory prescribed policy wordings that virtually eliminate unique coverage choices and a rate regulation framework that limits the ability for insurers to offer dynamic pricing choices to clients. In our view, there is not a sector regulated by FSRA that is in more need of facilitating innovation for consumers than the auto insurance sector.

Requiring insurers to offer identical auto insurance products not only diminishes innovation, choice, and competition for consumers but it also creates systemic risk.

Policy terms create expectations for coverage which form the basis of pricing and claim benefit responses. Court and Licence Appeal Tribunal (LAT) decisions are made involving cases with one plaintiff and one insurer with one set of facts, but they tend to affect all insurers because of the common contract language and common law doctrine of precedent. The impact often not only affects claim handling going forward but all similar cases going back in time.

When premiums rise, due to the higher than expected costs, this naturally causes consumer dissatisfaction. Since the standard policy is mandated by government, policy wording adjustments cannot immediately be made by insurers to create clarity and avoid price increases. Instead, a process of government advocacy begins that often requires years of effort to gain the necessary legislative or regulatory attention and resources.

This rigid environment does not exist in the property insurance market where, often the same P&C insurers, are empowered to create, and when necessary, quickly adjust their annual policy coverage and pricing terms, while including base consumer protection-focused statutory conditions as required by law.

We welcome, in concept, the amendment of section 15.1 of the Insurance Act for the purpose of establishing a regulatory sandbox. It enables the CEO of FSRA to issue exemption orders on an application, if, in the CEO's opinion, it would not be prejudicial to the public interest. However, the recently proclaimed [amendments](#) provide a relatively narrow scope of auto insurance scenarios for which the CEO could offer exemptions.

Given the highly prescribed nature of the auto insurance regulatory environment and the great need for innovation, choice and competition, we recommend that the FSRA CEO's regulatory exemption power be wide enough to allow for the potential test of any proposed product coverage or pricing innovation.

Alternatively, instead of the need for permission for a participant to conduct pilots in the Test and Learn Environment regulatory tool, the Ministry of Finance and FSRA could modernize the auto insurance product and rate regulation frameworks to remove existing prescriptive rules to enable all existing insurers and new entrants to offer greater choice, competition and innovation to consumers in a responsible manner.

Failing to either significantly broaden the scope of the innovations eligible for TLE or eliminating the prescriptive nature of the current auto insurance product and rate regulation framework, we fear that our common goal of helping Ontario to thrive as a best-in-class market for financial services will not be achieved.

Innovation vision and guiding principles:

Do the principles outlined by the Innovation Office resonate with you as a stakeholder?

Desjardins is supportive of the Innovation Office's guiding principles to ensure that the pursuit of responsible innovation is aligned with protecting consumers and ensuring strong, sustainable, and resilient financial sectors. The Innovation Office should be a continuation of FSRA's commitment to being a dynamic, principles-based and outcomes-focused regulator.

We support the principle that stresses that the role of FSRA is to set a toolkit and process for financial services innovation, but not to be involved in the development of new products and services. FSRA will add value by objectively assessing risk presented to consumers by the innovation and the effectiveness of the risk mitigation strategy implemented by the innovator.

Desjardins is also supportive of the Innovation Office's principle to challenge structures within FSRA that stifle innovation. We are encouraged that FSRA will be having innovation as an integrated function across the core regulatory and support teams coordinated by the Innovation Office. Each team owning and driving the innovation ambition and process is a recipe for success. Organizational culture change takes time and requires capturing the hearts and minds of all associates.

We also agree with FSRA that that the innovation office does not have to wait for brand new tools to facilitate financial services innovation.

Value proposition

How would you define FSRA creating meaningful and positive impact to enable responsible innovation in the sectors?

FSRA can be a catalyst for a significant number of financial services innovations by creating a high level of confidence within the regulated entities that it will manage this process in a transparent, fair, and responsible manner.

What does successful innovation look like?

Successful innovation should ultimately result in an experience that seems so self-evident that a client would feel that it was inevitable and organic, that this new experience was not a trial or test but an evolution.

To be successful, an innovation must satisfy a customer need. An innovation must also differentiate itself from the competition and be distinguished by at least one unique feature. In the Ontario auto insurance market, this is virtually impossible since insurers are required to offer identical auto insurance products. FSRA can enable an innovative environment that allows insurers to pivot easily in new and different directions.

A successful innovation environment managed by FSRA would be consistent and dependable for participants and provide reasonable protections of commercially sensitive information. A successful innovation environment will also include transparency of TLE cases and their results.

Role of the Innovation Office

What role do the sectors want to see FSRA play in facilitating innovation?

1. Establishing an Innovation Culture within FSRA

FSRA must continue to adapt to address new and ever more complex challenges facing the financial services regulatory space. To help stay ahead of these challenges and disruptions it's crucial that FSRA creates a mindset within its organization that welcomes and expects innovation from its regulated entities and new entrants. That includes being able to identify system problems and help entities to translate their ideas into projects that can be piloted on a small scale and then implemented and diffused to effect system-wide change.

2. Provincial Regulatory Collaboration & Testing Cost-Efficiencies

Many of the regulated entities and new entrants would wish to offer their innovated product or service not only in Ontario but across Canada. In some cases, the Ontario regulatory barrier to the innovation will not be unique to Ontario and will exist in some form in other provinces. We believe that FSRA can play a facilitating role with other provincial regulators to allow for the potential of a relatively efficient rollout of successful innovations to other jurisdictions. In practice, this may mean consultation with the other regulatory bodies at the design stage to build consensus on measures of success for the test and agreements with the innovator for sharing of test results with the other jurisdictions to accelerate the effectiveness of their regulatory decisions on this new product or service.

What are your most relevant touchpoints with FSRA on new opportunities and what can be improved? To this point, have you felt encouraged and comfortable bringing innovative ideas to FSRA? If so, through what channels have you done so? Did you feel that your ideas were actioned and engaged with by FSRA?

Primarily due to the very restrictive regulatory framework, there have been very limited occasions where we have been able to approach FSRA with an innovative idea.

We have done so recently in the usage-based insurance (UBI) space and found that our usual leadership contact person at the Auto Insurance Rates and Operations team to be open-minded towards innovation. Our proposal was actioned and approved for use in the market in a relatively short time frame.

As well, a recent automobile filing with FSRA began with limited appetite for non-traditional approaches to the proposed wordings. However, as things went along there was a welcome change in the position to review an innovative submission of an auto endorsement. FSRA demonstrated an openness to pursue innovation which was appreciated.

The Innovation Process

What is your preferred 'point of entry' when bringing innovation ideas to FSRA?

We would likely prefer to continue to first bring ideas to our normal contacts within FSRA to have a conversation about our intent and to gain their initial feedback.

The Innovation Process and the impact on innovators

Do you see any gaps in our Innovation Process in the development of an innovation opportunity?

The 5-step proposed innovation process appears reasonable and complete. We believe that within the “Communication and measurement” step it should include informing other regulated entities of the opportunity as they may also be interested and capable of testing their own related product or service innovation now that they know that FSRA is willing to consider a CEO regulatory exemption for the purposes of a test. The responses may influence FSRA’s decision related to which of the two main types of testing environments (i.e. Activity vs. Status TLE) should be used.

Intake and the role of innovators and regulated entities

How useful is the intake questionnaire? Would any of the information requested be too onerous for an innovator to provide? Why?

Desjardins recognizes the value in providing the details in writing and submitting them to FSRA to allow it to share the information across its relevant organizational functions and to move towards a decision. A standard intake form as part of the process certainly makes sense for a new entrant who would not have established points of contact with FSRA and generally can be instructive for existing regulated entities in terms of questions to consider before approaching FSRA with a proposal. But as stated earlier, our most likely approach would be to first informally discuss our idea and solicit feedback with an appropriate established FSRA contact person. Based on the outcome of that conversation we would move to more formal documentation to provide greater details as suggested by the proposed intake questionnaire approach.

The request for consumer-facing sample materials to demonstrate the client experience may be challenging to produce at the inquiry stage of innovation. These kinds of client-facing documents would typically be produced at a later stage of innovation planning once regulatory approvals have been secured. But certainly, they would be produced and made available to the regulator once agreements in principle have been established. In fact, the consumer-facing documents would benefit from the regulatory dialogue and expectation setting. For example, should the consumer-facing documents make a specific reference that this offer is being provided under a temporary test and learn environment regulatory exemption offered by the provincial regulator?

Risk framework

How can we successfully appraise and manage risks from innovation?

One of the challenges of appraising risk is calculating impacts. A potential tool may be consumer research that measures Ontarians views on the perceived impacts of risks presented by choosing certain financial services products or service offers. In terms of management of risks presented by innovation, we would assume that providing sufficient transparency of the risks as part of the product offer to the client and presenting the innovation as a choice controlled by the client are two risk mitigation strategies that can largely offset most potential risks identified by FSRA's five-step process for assessing risk.

Use cases

What are some of the critical innovation opportunities do you see in your sectors and where do you see barriers to enabling these innovations?

As noted previously, the auto insurance market in Ontario is characterized by mandatory prescribed policy wordings that virtually eliminate unique coverage choices and a rate regulation framework that limits the ability for insurers to offer dynamic pricing choices to clients.

We encourage FSRA to adopt a broad view of innovation and a range of opportunities that includes technological and product solutions, new business structures and models, etc.

Test and Learn Environments (TLEs)

Do you see any roadblocks to innovators being inclined towards and comfortable with participating in FSRA TLEs?

1. Commercially Sensitive Information

While TLE transparency is important, given the commercial sensitivity, reasonable confidentiality for testing participants and the test objectives should be incorporated.

2. Uncertainty of Future Regulatory Approval and its Timing

Innovators may need to invest significantly to pilot some innovations. These investments will need to be weighed against a risk that the regulator will not allow the product or service to continue. In terms of commercial viability, it can often take many years for an organization to evaluate the consumer appetite, operational impacts, and ultimate commercial viability of the innovation. Ceasing an innovation requires client communications and a client product or service transition plan.

We understand that measures of success will be determined prior to any pilot being launched in the TLE. In the consumer protection context, we recommend that the evaluation criteria be focused upon the avoidance of specific consumer harms.

Compared to the time it takes to determine commercial viability for an innovation, the time required for FSRA to identify significant consumers harms should be relatively short (i.e. less than 12 months). In our view, at the close of a TLE pilot, if the innovation did not experience consumer harms as defined at the start of the pilot, then the innovator should be allowed to continue outside of a test and learn environment if it wishes to do so.

Are the regulatory tools currently available to FSRA sufficient in allowing FSRA to facilitate innovation while protecting the public interest?

Assuming that the FSRA CEO is provided with broad regulatory exemption authority to address both product and price barriers in the auto insurance market, then we do not see a need for additional regulatory tools.

TLE fee structure

Is the proposed fee structure for participation in the TLEs fair?

FSRA's recovery of its costs incurred by innovators participating in the TLEs appears fair. It will be important that FSRA stays aligned with its facilitator-only principle and manages the TLE to achieve desired outcomes at the lowest possible cost to the innovators and its customers. We agree with FSRA that the TLE fee structure should not create a barrier to entry into the TLE and as a result stifle financial services innovation.

Industry engagement and outreach

What are some meaningful ways the Innovation Office can engage with your sector?

We encourage the Innovation Office to reach out regularly to those entities that have participated in this consultation. Additionally, we would encourage the Innovation Office to reach out to industry associations to arrange for ad hoc or regularly scheduled touchpoints.

Conclusion

Desjardins applauds FSRA's vision to facilitate responsible innovation across the regulated sectors to help Ontario thrive as a best-in-class market for financial services. We are optimistic of the present direction of FSRA's Innovation Framework.

The auto insurance sector is in the most need of innovation, choice and competition that is currently being curtailed by regulation.

FSRA can demonstrate leadership and act as a facilitator for successful innovations to be quickly adopted in other Canadian jurisdictions.

TLE pilot decisions by FSRA should be made as quickly as possible to eliminate uncertainty for innovators and for successful innovations to open the door to adoption by other marketplace competitors to the benefit of consumers.

Thank you for this opportunity to provide our commentary.

Sincerely,



Sam Palmerio
Manager, Government Relations
Desjardins Group