

Financial Services Regulatory Authority of Ontario

VIA EMAIL ONLY

25 Sheppard Avenue West, Suite 100
Toronto, ON
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May 2, 2022

RE: FSRA Principles Based Guidance (ID: 2022-006)

The Federation is pleased to provide comments on the proposed principles-based regulation approach guidance.

The Federation of Mutual Fund Dealers (“Federation”) has been, since 1996, Canada’s only dedicated voice of mutual fund dealers. We currently represent dealer firms with over \$124 billion of assets under administration and greater than 24 thousand licensed advisors that provide financial services to over 3.8 million Canadians and their families. As such we have a keen interest in all that impacts the dealer community, its’ advisors, and their clients.

About FSRA, Sectors we regulate / Legislative mandate

On FSRA’s website, we note the below item on the ‘About’ page;

“Sectors we regulate ‘The newly created agency protects Ontarians by regulating: [...] Financial planners and advisors (proposed)”

We inquire when the proposal to “Regulate and generally supervise the regulated sectors” of Financial Planners and Advisors is sought to occur, what the associated stages of this plan are, and how FSRA has progressed so far in its proposal development? This reads as progressing beyond the ambit of ‘Prohibitions Respecting Titles’ in Financial Professionals Title Protection Act, 2019.

Scope:

1. FSRA is a self-funding Crown agency which acts as the financial regulator for Ontario. FSRA succeeded FSCO and the Deposit Insurance Corporation in 2019. FSRA operates at arms-length from the Government of Ontario, and reports to the Legislative Assembly of Ontario through the Minister of Finance.
2. FSRA is funded by fees levied upon regulated participants, which are ultimately paid by the investing public. We encourage all regulatory bodies to focus on efficiency.
3. We would like to see FSRA include mention of their approach to transparency.

Framework principles

Regarding 'Collaborative', what is FSRA's approach to addressing potential overlap with other regulatory bodies in regards to the best-interests of consumers and plan beneficiaries?

We question the language that 'The Framework Principles do not themselves create expectations'. The principles state that entities are to familiarize themselves, and that FSRA intends them to 'assist FSRA in identifying key areas of focus'.

FSRA's Regulatory Approach

We understand that guidance is not to be misconstrued as policy or regulation. Guidance is to be used in assisting registrants with implementing Rules. We look forward to seeing final rules, that industry can firmly rely upon for consistency among FSRA's rulings and decisions.

"When using a PBR approach, FSRA will reference high-level, broadly stated principles, either in its guidance or its Rules, and identify desired outcomes to communicate its expectations of regulated entities."

FSRA's desired outcomes and 'bright line rules' should be set out in Principles Based Rules.

The proposal indicates 'FSRA's assessment of adherence will entail whether the regulated entity has taken reasonable and good faith efforts to meet and be aligned with the desired outcome(s).' We request a definition of 'reasonable and good faith effort'.

The proposal also notes that FSRA will 'exercise appropriate supervisory judgment'. We request a definition of this statement.

We appreciate the intention to foster a collaborative approach and open communication.

Enforcement

We presume FSRA will strive to be measured in its approach to compliance and enforcement at all times, irrespective of a regulated entity's 'good faith'.

Effective date and future review

We would recommend no longer than a three year review cycle.

Respectfully,

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