

Statutes, Rules and Guidelines Applicable to FSRAO Oversight of Ontario P&C Insurers

Unlike the [OSFI website](#), the Financial Service Regulatory Authority of Ontario (FSRAO) Website lacks a clear, one-stop guide to the Statutes, Rules and Guidelines dictating the obligations of Insurers. Compliance personnel are required to follow FSRA News Bulletins to stay abreast of the barrage of new Guidelines as they arise.

This chart is an effort to assist Compliance personnel in understanding all obligations, in place or pending, and so that they can access these documents quickly. Nothing herein constitutes legal advice, and the Author defers to FSRAO for the actual documents in force. If any of the links below are found to be outdated, inaccurate or inactive, please contact me so that they can be corrected. Rules and Guidelines specific to Auto Insurance and beyond the scope of this Chart. For active Guidelines applicable to Auto Insurance, see the FSRAO search site here:

<https://www.fsrao.ca/regulation/guidance?keywords=&status=1391§or=701&category=All&language=en>)

Compliance Personnel are encouraged to have at least a basic understanding of the [Insurance Act](#), the [Corporations Act](#), and the [Insurance Act Regulations](#) in addition to the Rules and Guidelines set out below.

FSRA was created, and obtains its statutory authority, from the [Financial Services Regulatory Authority of Ontario Act, 2016, SO 2016, c 37, Sch 8](#).

To date, FSRA has enacted two rules applicable to Ontario Incorporated Insurers:

- [Rule 2022 – 001 Assessments and Fees](#) [The [current Rule](#) governs how FSRA assesses and collects fees from the sectors it regulates. The [prior Rule](#) will remain in effect until December 1, 2023.
- [Unfair or Deceptive Act or Practices \(UDAP\) Rule](#) [The [current Rule](#) (replacing the former Insurance Act Regulation) is effective from April 1, 2022. As a result of feedback received from the public consultation, FSRA is proposing changes to the second proposed UDAP amendment regarding lack of retroactivity and changes applicable to sales charge options.]

Guidelines in Force and Pending (ie., in consultation phase pending final draft approval) are below:

Guideline (In Force)	Guideline (Pending)	Commentary
FSRA Guidance Framework		FSRA's overall regulatory approach, applicable to all regulated sectors, is set out in the " FSRA Guidance Framework ." The Framework lists general principles applicable to their "guidance" of the regulated sectors.
FSRA Service Standards (GR0009APP)		This Guideline outlines the Financial Services Regulatory Authority's (FSRA) standards of service for its core regulatory services. The guidance also outlines FSRA's approach to managing and reporting its performance against the service standards.
Risk Based Supervisory Framework for Ontario-Incorporated Insurance Companies and Reciproals (PC0045APP)		The Risk Based Supervisory Framework for Ontario-incorporated Insurance Companies and Reciproals ("RBSF-I") sets out FSRA's approach for supervision and assessment of Ontario's provincially incorporated insurance companies and reciprocals ("Insurers"). Its primary focus is to determine the impacts of current and potential future events, both internal and external, on the risk profile of each Insurer, and drive FSRA's allocation of supervisory resources.
Fair Treatment of Customers in Insurance (GR0008APP)		The Guideline states that FSRA will use the CCIR's Guidance: Conduct of Insurance Business and Fair Treatment of Customers "to supervise the conduct of insurers, and other entities FSRA regulates under the Insurance Act (Ontario), with respect to the fair treatment of customers."
Operational risk management framework in rating and underwriting of automobile insurance (AU0137INF)		According to FSRA, "The purpose of this Guidance is to promote just, reasonable and accurate rates. It will also support fair treatment for consumers engaged in the underwriting process ... The degree of adoption of this Guidance should be a function of a proportionality principle, meaning that it is commensurate with the nature (including business model), size, complexity and risk profile of the insurer."
Whistle-blower Guidance (GR0015APP)		This Guideline sets out a system to allow individuals and entities to provide information, either personally or anonymously through a lawyer, related to Misconduct in the Regulated Sectors to FSRA without fear of reprisal.
Take All Comers Rule: Interpretation of Sections 237 & 238 of the Insurance Act and Sections 1(1) and 2(1)(5) to 2(1)(8) of Regulation 7/00 Unfair or Deceptive Acts or Practices and Approach to Supervision [Take All Comers Rule] Guidance (AU0137INF)		In this Guideline , effective September 20, 2022, FSRA sets out a series of definitions and granular operational rules to ensure compliance with the intent and meaning of the "take all comers" rule set out in the auto insurance provisions of the Insurance Act.
Reporting and Resolution of Rating and Underwriting Errors Guidance (AU0136APP)		This Guideline sets out FSRA's compliance expectations, principles, processes, and practices to all insurers offering automobile insurance in Ontario regarding the regulatory reporting and resolution of rating and underwriting errors.
Minimum Capital Test Guideline for property and casualty insurance companies		This Guideline essentially adopts OSFI MCT Guidance changes for technical MCT calculations, requires insurers to set internal MCT targets, and to report to FSRA if results fall below these internal targets.

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and reciprocals - January 2023 (PC0047INT)		
Information Technology (“IT”) Risk Management Guidance (GR0016INT)		<p>The Guideline, effective April 1, 2024, includes “Practices for Effective IT Risk Management”; a process for regulated entities and individuals to notify FSRA in the event of a material IT risk incident; and sector-specific guidance, including interpretations of requirements for credit unions and caisses populaires (“credit unions”), Ontario-incorporated insurance companies and reciprocals (“insurers”), and pension plan administrators. The breach notification requirement states that “effective IT risk management practices for regulated entities and individuals include notifying regulatory authorities as soon as is reasonable, which normally falls within 72 hours or sooner, after determining that an IT risk incident is material. FSRA will maintain confidentiality of any incidents reported by regulated entities and individuals to the extent allowed by the law.” ... “For Credit Unions and Ontario-incorporated Insurance Companies and Reciprocals, 72 hours is considered the maximum amount of time before notifying FSRA.”</p>
Test and Learn Environments (TLEs) for Financial Services Innovation (GR0010APP)		<p>This Guideline, effective December 1, 2023, outlines FSRA’s general approach, guided by FSRA’s Innovation Framework, to using different types of TLEs to validate and assess novel non-capital market financial services products, services, or business models in the following FSRA’s regulated sectors (including P&C Insurance). Note that the Guideline contemplates, among other things, auto insurance exemptive authority.</p>
Affiliated insurers carrying on business as a common undertaking pursuant to s. 392.2(8) of the Insurance Act (GR0018DEC)		<p>The Guideline outlines the basis for the decision by the Financial Services Regulatory Authority of Ontario’s (“FSRA”)[1] that: (a) a group of insurers who made application to FSRA (the “Applicant”), is an “affiliated group of insurers” pursuant to subsection 392.2(8) of the Insurance Act (Ontario) (“the Act”); and (b) pursuant to subsection 392.2(8) of the Act, that such insurers are carrying on business as a common undertaking, and on that basis, are deemed to be an insurer for the purposes of determining an agent’s authority to act as an agent under the Act.</p>
Transparent Communication of FSRA Enforcement Action (GR0011APP)		<p>This Guideline describes when and how FSRA publishes information, including news releases, about its enforcement action.</p>
Use of proceeds from enforcement under regulation “Money retained outside the consolidated revenue fund” Guidance (GR0012APP)		<p>In the past, FSRA paid Proceeds from Enforcement into the Government of Ontario’s Consolidated Revenue Fund. Following carriage of this Guideline on April 26, 2022, FSRA began to retain revenue from administrative monetary penalties (“AMPs”) and enforcement proceedings orders or settlements, other than orders for costs; they are supposed to use these revenues in accordance with the Guideline. It is interesting that the regulator gets to set the penalties, which can be severe (see the Proposed Guidance: Administrative Monetary Penalties Guidance(below)) and those penalties immediately flow into FSRA’s coffers.</p>
Investments by Insurers Guideline (PC0014ORG)		<p>The FSCO Superintendent’s Guideline in force since February 28, 2002 requiring compliant written investment policies, mechanisms for Board approval, etc.</p>

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Negative Option Marketing/Billing Guideline (PC0018ORG)		The FSCO Superintendent's Guideline in force since August 28, 2000, whereby Insurers are asked to refrain from engaging in negative option billing.
Reinsurance guidelines for Ontario incorporated and licensed companies (PC0020ORG)		The FSCO Superintendent's Guideline in force since August 24, 1994, <i>inter alia</i> recognizing that Ontario farm mutuals are required to have their reinsurance arranged with the Farm Mutual Reinsurance Plan, and are therefore prohibited from reinsuring risks with unlicensed insurers.
Amalgamations and Portfolio Transfers (PC0021ORG)		The FSCO Superintendent's Guideline in force since December 1, 1992, providing some guidance for Provincially regulated Insurers applying to Amalgamate.
	Proposed Principles of Conduct for Insurance Intermediaries (PC0044INT)	This Guideline sets out rules to define the interpretation and compliance elements of the CCIR's Guidance: Conduct of Insurance Business and Fair Treatment of Customers as it relates to brokers and agents. Insurers have voiced concerns about the degree of control they have over independent insurance brokers regarding their fair treatment of consumers compliance, and about increased operational burden arising from compliance tracking requirements. Industry and public consultation have concluded and a final guidance document is expected within 2 or 3 months.
	Proposed Guidance: Administrative Monetary Penalties Guidance (0013APP)	This Guideline sets out how the Chief Executive Officer of FSRA (the "CEO") and his/her delegates exercise discretion when imposing Administrative Monetary Penalties ("AMP" or "AMPs") and determining AMP amounts. Includes how penalties will be determined within the maximum penalty amounts for non-compliance as set out in the Insurance Act.