



Financial Services
Commission
of Ontario



Commission des
services financiers
de l'Ontario

Market Regulation Supervisory Framework

2018



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Introduction

The Financial Services Commission of Ontario (FSCO) is the regulatory agency responsible for the regulation of a number of financial services sectors in Ontario.

FSCO administers more than 10 different statutes for insurance, pensions, credit unions and caisses populaires, mortgage brokering, loan and trust companies, and co-operatives sectors. FSCO's legislative mandate is to provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors.

To fulfil its mandate, FSCO performs the following core regulatory functions:

- Regulatory policy
- Regulatory coordination
- Licensing and registration
- Filings and applications
- Monitoring and compliance
- Enforcement and intervention

[FSCO's Regulatory Framework](#) describes these core regulatory functions in greater detail. It identifies the micro and macro regulatory outcomes necessary for FSCO to meet its mandate, and sets out the regulatory principles followed by the organization in conducting its regulatory activities.

The Market Regulation Supervisory Framework (supervisory framework) is consistent with FSCO's Regulatory Framework and describes how FSCO's Market Regulation Branch (MRB) plans and delivers its monitoring and compliance (supervisory) activities across the regulated financial services sectors.



Supervisory Framework Overview

FSCO's MRB performs supervisory activities for most of FSCO's regulated sectors. This work covers both market conduct and prudential¹ supervision.

Market conduct supervision focuses on the relationship between consumers and regulated businesses and individuals authorized to conduct business in Ontario (Licensees). Prudential or solvency supervision deals with the financial stability of Licensees and their ability to meet long-term financial obligations.

MRB supervision consists of four core functions:

- I. Complaint handling – receiving and dealing with complaints about Licensees
- II. Desk reviews – limited reviews of selected Licensees
- III. On-site examinations – in-depth review programs of large cross-sections of Licensees
- IV. Thematic reviews – exploratory and information-gathering reviews of selected Licensees

Combined, MRB's core activities create a system of supervision with both proactive and reactive approaches. The dual approaches facilitate work that is scalable and adaptable, and allow MRB to respond quickly to shifting demands and changes in the marketplace.

The four core activities are highly interrelated. For example, information arising from complaint handling services can inform the risk profile of a Licensee to be examined. Similarly, the findings and recommendations arising from a Licensee examination can be validated with information derived from subsequent complaints.

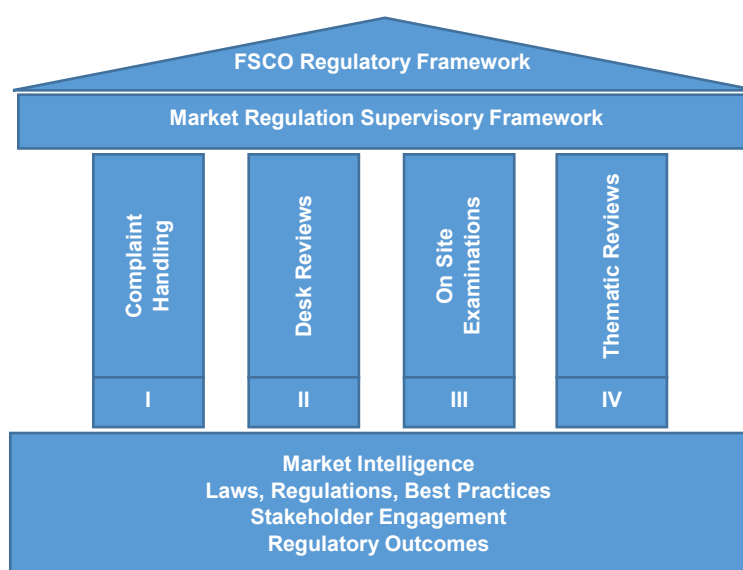
Through these core functions, MRB staff interact directly with Licensees to ensure compliance with the law and adoption of industry best practices. The achievement of these micro-level regulatory outcomes,² which are within the Licensee's control, contributes to FSCO's macro-level regulatory outcomes, specifically:

¹ FSCO performs prudential supervision only of insurers incorporated or formed under Ontario law.

² FSCO's Regulatory Framework identifies the micro and macro regulatory outcomes necessary for FSCO to meet its mandate.

- Stable and competitive financial services sectors
- Prevention or early identification of compliance issues
- Effective complaint and dispute resolution systems

The graphic below illustrates the core MRB functions as pillars of the supervisory framework underpinned by continuous market intelligence collection and stakeholder engagement, and upheld by laws, regulations, and best practices to ensure regulatory outcomes.



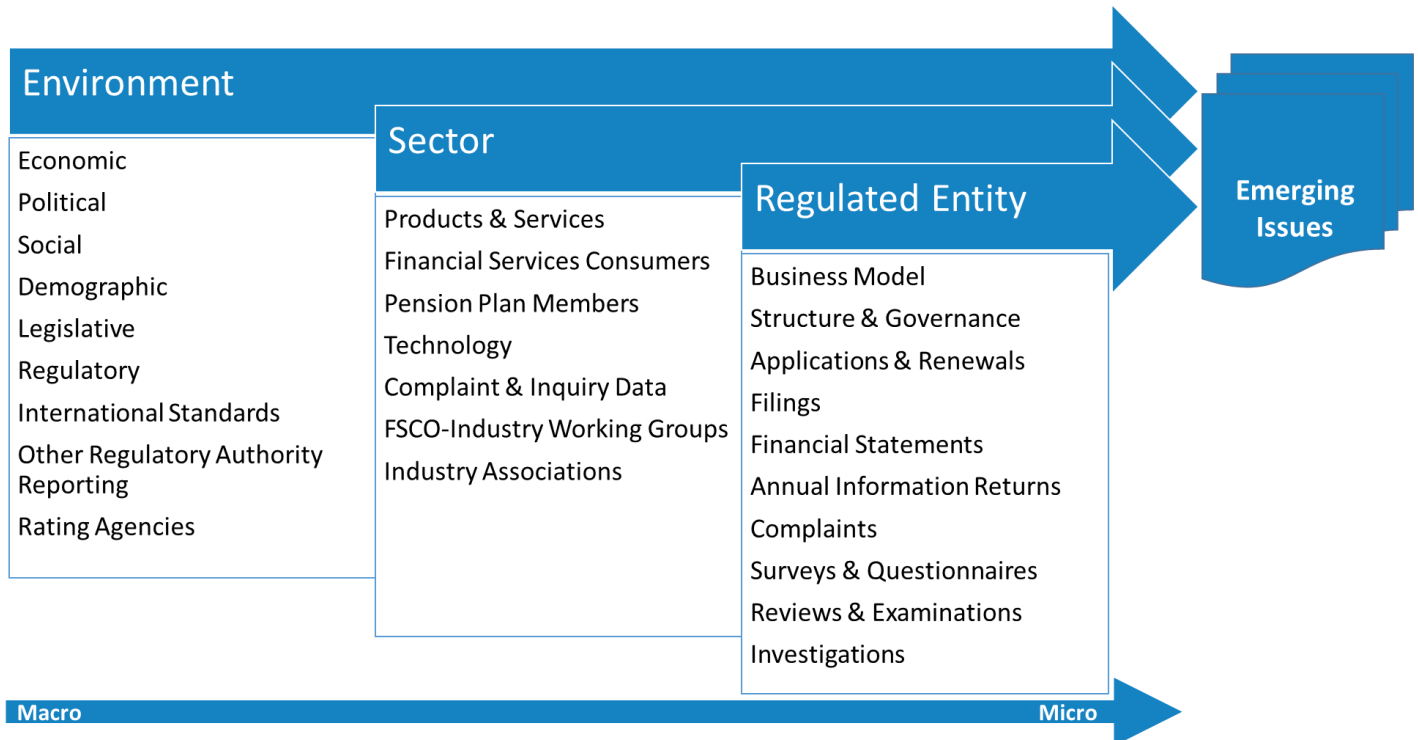
Market Intelligence

The market intelligence process comprises the collection, analysis, consolidation and reporting of information towards identifying and validating current and emerging trends and risks in the regulated sectors. The process is continuous and informs all of MRB's supervisory activities.

At the macro level, MRB relies on data collected and analysed from different sources including industry-based complaint handling systems, other regulators' reports, extra-jurisdictional sanction activities, international reports, research services, media monitoring and stakeholder networks.

At the entity or micro-level, MRB relies on data and analysis of complaints, inquiries, examinations and filings, particularly Annual Information Returns.³ This data provides the basis of risk identification, validates environmental trends, and drives evidence-based decision-making for next steps in the supervisory process.

The graphic below illustrates MRB’s approach to market intelligence collection by source and scope.



Market intelligence informs all aspects of MRB’s work, from planning to execution. It enables MRB staff to maintain understanding of the overall economic environment of the financial services sectors. Knowledge of current activities and emerging trends in the marketplace allows MRB to proactively assess potential risks and areas that may negatively affect FSCO’s ability to achieve its regulatory outcomes. It also informs the development of new assessments, internal controls and governance structures that may mitigate possible problems.

³ FSCO’s Annual Information Return is a mandatory questionnaire that collects information from Licensees about their business practices and internal controls. Data collected from Annual Information Returns helps MRB to identify changes in risk and suitability, and to target branch resources.



Market intelligence enables MRB to develop and maintain risk profiles of Licensees. The risk profiles help MRB identify Licensees with the potential to pose the greatest risk, consequently requiring closer examinations or reviews.

MRB uses the market intelligence process to collect information on an ad hoc or targeted basis, on any sector, on any activity, and at any point during the supervisory process for the purpose of identifying and assessing potential risks that may not be adequately addressed in existing legislation or best practices.

MRB uses market intelligence in planning risk-based monitoring and compliance activities across all of the regulated sectors.

Stakeholder Engagement

Stakeholder engagement is an integral part of MRB's work. It is used to establish and maintain collaborative relationships and share information with Licensees, industry stakeholders, financial services consumers, self-regulatory organizations, other regulators and governments, and other relevant participants (whether regulated or not) that may be affected by MRB activities.

MRB uses stakeholder engagement proactively when seeking to understand new developments or specific practices and behaviours in the regulated sectors, and reactively when identifying barriers to achieving regulatory outcomes.

Through regular and open dialogues, MRB collects significant feedback about the practical implications of supervisory reviews and examinations, and improves understanding of the challenges businesses and individuals experience in meeting requirements.

Established engagement channels help MRB to enhance its risk-based approach. In these exchanges, MRB reports back on findings from supervisory activities, signals new developments that FSCO intends to address, and most importantly, educates market participants about developments that constitute risk from the regulator's perspective.

Effective stakeholder engagement allows MRB to communicate and continuously reinforce regulatory expectations for the industry about governance and business practices. MRB leverages any and all communication opportunities to promote behaviours and practices in the regulated sectors that achieve FSCO's regulatory outcomes.

Stakeholder engagement also assists in MRB planning. The regular exchange of information informs planning of annual MRB supervisory activities including the design of various on- and off-site programs.



MRB maintains continuous and wide-ranging programs of regular and ad hoc forums, and communications with stakeholders and market participants. Communications occur through day-to-day performance of core supervisory functions such as desk reviews and complaint handling, and other vehicles and touchpoints including, but not limited to:

- Examination and complaint handling reports
- FSCO-industry working groups
- Bulletins and e-newsletters
- Annual market conduct symposiums
- Speaking engagements and industry events
- Website content and tools

Other Regulators

MRB's stakeholder engagement strategy makes use of FSCO's established partnerships with other Canadian regulators and agencies with whom it shares information, finds solutions to common problems, and harmonizes approaches where possible.

MRB supports FSCO's collaboration with other regulators through the Canadian Council of Insurance Regulators, the Canadian Association of Pension Supervisory Authorities, the Mortgage Broker Regulators Council of Canada, the Canadian Insurance Services Regulatory Organizations, and other groups.

FSCO has both formal memorandums of understanding and less formal co-operation arrangements with other regulators that facilitate MRB's work.

As well, MRB reaches out and exchanges information on an ad hoc basis with other regulators where there are mutual registrants/Licensees or matters of shared interest.



General Approach to Supervision

Risk-Based

In 2017, MRB monitored the market conduct of over 85,000 Licensees operating in Ontario as well as the solvency of a smaller number of Licensees. As such, it is impractical to assess every Licensee on an annual basis with the limited staff resources available to MRB. Therefore, MRB uses a risk-based approach to fulfill its responsibilities.

In general, risk is represented as any barrier to achieving FSCO's regulatory outcomes. This includes business conduct or practices that are unfair, deceptive or harmful to consumers.

MRB applies the risk-based approach to all aspects of its work. Every year, MRB applies a risk-based approach to determining the sectors, and areas within each sector, that will be monitored, as well as the specific supervisory activities that will be undertaken in respect of each sector (e.g. on-site examinations, desk reviews).

The details of this work are documented in MRB's Annual Supervisory Plan. The plan guides the work of staff throughout the year. (More information about the plan is available in the Market Regulation Branch Supervisory Process section.)

MRB also applies a risk-based approach when performing supervisory activities. When considering whether to pursue enforcement action, staff analyze and prioritize cases or Licensees based on the probability of the risk of non-compliance and potential negative impact on financial services consumers, other Licensees, and the government's or FSCO's reputation.

Staff collect and analyze qualitative and quantitative information to assess compliance with the law and apply judgment in determining and validating against acceptable risk levels and the actions required.

Reliance on Corporate Governance

As the majority of FSCO Licensees operate as financial institutions or dealer-broker businesses, FSCO actively promotes strong corporate governance mechanisms and expects Licensees to have rigorous internal mechanisms that identify and manage risks arising from their dealings with consumers and those of their sponsored intermediaries. FSCO expects that sole proprietorships and partnerships also have appropriately documented policies and procedures.

Reliance on high standards for corporate governance and internal controls is a component of the risk-based approach to regulation. As MRB considers the existence and quality of

corporate governance policies and practices to be key risk indicators, MRB focuses examinations in this area.

Progressive Approach to Discipline

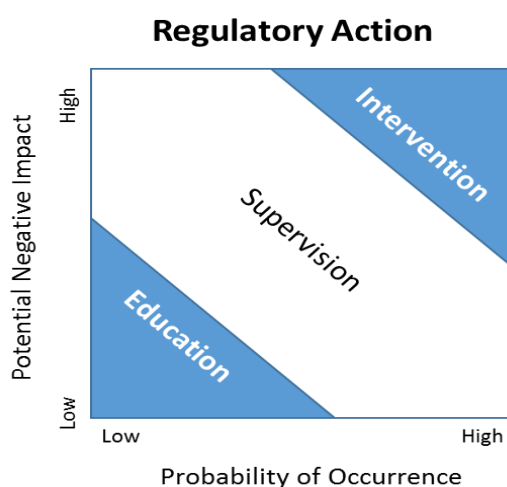
Regulatory response refers to enforcement action taken by MRB in response to situations where non-compliance with laws and regulations has been identified.

FSCO takes a progressive approach to discipline. Discipline is the type of regulatory action/enforcement tools that FSCO applies to influence marketplace behaviour. Tools range from education and remediation action to regulatory intervention, which includes licence revocation, licence suspension and administrative monetary penalties.

Not all contraventions necessarily result in enforcement action, and the type of enforcement may differ based on the unique circumstances of a contravention. MRB sets levels of tolerance for identified risks appropriate to the context of the regulated sectors and responds to risks in a measured way, primarily focusing on the more significant risks first while keeping in mind the desired regulatory outcomes.

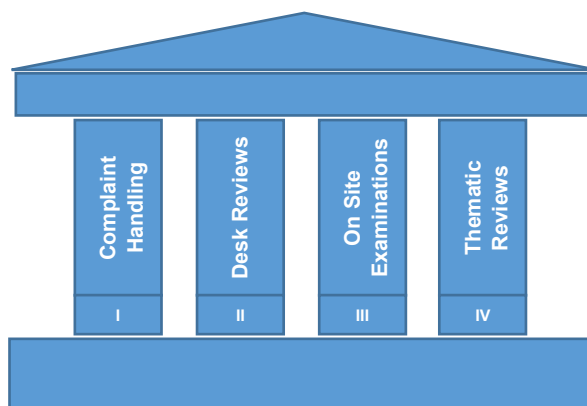
Enforcement tools vary depending on the risks or issues specific to the regulated sectors, individual risk profiles (e.g. Licensee size, impact and complexity), key risks, mitigating actions taken by the Licensees, as well as past supervisory findings.

The type of enforcement action varies depending on the findings as illustrated below (see [FSCO's Regulatory Framework](#) for details).⁴



⁴ FSCO's Regulatory Framework discusses the continuum for risk assessment based on the probability of occurrence and the potential negative impact on achieving regulatory outcomes at the micro and macro levels.

Core Supervisory Activities



I. Complaint Handling

MRB is the single point of contact for complaints about all of FSCO's regulated sectors, with the exception of pension plans. Complaint handling provides frontline information about the financial services marketplace and helps FSCO gauge how regulatory expectations regarding consumers are being met, albeit retrospectively.

FSCO supports an industry-first response for consumer complaints and expects that Licensees have effective and transparent protocols in place to address them. MRB reviews all complaints to ensure the presence of industry-first response systems and to test their effectiveness. In cases of clear non-compliance, FSCO intervenes promptly and directly.

MRB reviews complaints that remain unresolved through industry-based complaint resolution systems as well as complaints made to FSCO about products and services in sectors that are not required to have complaint protocols in place.

MRB compliance officers gather information about complaints and make assessments as to unlawful activities. Although a small proportion of complaints result in findings of non-compliance with the law, MRB staff analyse these cases to identify expectation gaps between consumers and Licensees.

Where a complaint review indicates activities or practices that are lawful but have potential for consumer harm, MRB applies moral suasion and education to change Licensee behaviour. Where a review indicates non-compliance, MRB compliance officers refer the matter to FSCO's regulatory discipline officers who determine further action in consultation with FSCO's legal services staff.



MRB compliance officers record detailed information about all complaints regardless of their outcome. They share information, review patterns, consider indicators or systemic problems, and make recommendations for targeted or thematic reviews or examinations by market conduct compliance staff.

In addition to complaints made to FSCO by consumers, compliance officers also initiate reviews triggered by information from other channels including FSCO's Fraud Hotline, sanctions imposed by other regulators, minister and MPP requests, media reports, and industry reporting (e.g. Life Agent Reporting Forms).

II. Desk Reviews

MRB uses desk (off-site) reviews to monitor compliance across Licensees with a medium-risk of non-compliance to gain a better understanding and/or validate information they have reported through filing requirements or the completion of surveys and questionnaires.

MRB establishes desk review parameters to identify elevated risk levels that warrant further on-site examination of a Licensee.

Desk reviews look at specific Licensees and are usually limited in number. They require fewer resources than on-site examinations.

Typical desk reviews include:

- Validating Annual Information Return data that may result in supervisory compliance actions
- Validating and analysing information gathered through ad hoc or targeted surveys and questionnaires
- Validating and analysing information collected from filing requirements, including solvency reviews of provincially licensed entities and enhanced monitoring of specific Licensees
- Validating compliance with specific legislative provisions
- Complementing or replacing on-site reviews of lower-risk Licensees with a limited scope, ad hoc or targeted review to get a broader but shallower understanding of Licensees
- Collecting, validating and analysing information about specific circumstances in the regulated sectors, products, coverage, business practices, or potential non-compliance circumstances



Limited scope, ad hoc or targeted reviews of Licensees are intended to assess a specific issue and therefore the scope of these reviews is focused to gather specific information or to assess compliance in relation to a particular issue.

Desk reviews expand MRB's monitoring and compliance activities, and ensure cost effective use of resources to allow for greater focus on high-risk areas.

III. On-Site Examinations

MRB's on-site examinations target Licensees that have been flagged as having a higher risk of non-compliance through complaint data, filing information, desk review findings, or information brought forward by regulatory discipline officers and market intelligence staff. These examinations can also be informed by thematic reviews.

On-site examinations are more detailed than desk reviews and require significantly more resources. Unlike desk reviews, on-site examinations give MRB access to a wider variety of information about an entity. On-site examinations also provide invaluable perspective so that examination staff can make assessments in the context of day-to-day business operations.

There are two types of on-site examinations: ongoing monitoring, and ad hoc or targeted.

Ongoing monitoring examinations are usually set out proactively as part of MRB's annual planning. Findings from the examination programs feed back into the supervisory cycle, typically in the form of recommendations for further targeted review or assurance that compliance is being observed. The findings are also useful in supporting recommendations for other activities such as policy development, industry education and stakeholder engagement for collaborative solutions.

Ad hoc or targeted examinations are usually reactive, prompted by atypical or recent changes in marketplace activity. They may also be prompted by complaint reviews, requests from FSCO's Licensing Branch or issues raised by other sources. Usually, ad hoc examinations target subsets of Licensees and drill down on specific issues.

IV. Thematic Reviews

MRB undertakes thematic reviews to perform exploratory research and build understanding about specific market conduct practices that are evolving in the marketplace and/or emerging risks from specific industry business practices, and products or services at the macro level. Typically, the reviews use surveys and questionnaires to gather information. For example, in 2014, MRB conducted a thematic review to better assess the process that life agents employ when recommending products to their clients.



Thematic reviews involve large numbers of Licensees and can sometimes take place over several fiscal years and involve other jurisdictions. Thematic reviews require planning, intense collaboration among MRB work units, and a high degree of stakeholder engagement throughout.

MRB uses the findings from thematic reviews to extrapolate conclusions for a sector overall and inform planning for future supervisory efforts.

Market Regulation Branch Supervisory Process

MRB has an established supervisory process that guides all of its supervisory activities. The process starts with strategic planning, continues with execution and analysis, and culminates in regulatory action and reporting.



Supervisory Planning

Supervisory planning is a continuous cycle of risk management based on an overall risk assessment across all the regulated financial services sectors. It uses information gathered throughout the year to identify current and emerging trends, sector-specific risks, and overall industry compliance.

MRB uses this information to determine the types of supervisory activities that need to be performed in the coming year, in each of the regulated sectors. The supervisory activities to be undertaken and the commensurate resources to be allocated are captured in MRB's Annual Supervisory Plan.

The Annual Supervisory Plan provides the operational details on:

- How MRB will allocate resources
- What supervisory activities MRB will employ (e.g. desk reviews, on-site examinations)
- What initiatives MRB will implement to achieve FSCO's goals for the year (e.g. thematic reviews)

The Annual Supervisory Plan also aligns with the strategic priorities set out in the FSCO's annual Statement of Priorities.

MRB reviews the plan at least quarterly to assess actual activity against projected targets. Where there are variances, MRB takes steps to determine the underlying reasons. In some cases, variances are deemed acceptable (e.g. time to complete examinations is longer than



projected due to risks discovered during the examination). In other cases, MRB adjusts targets throughout the year due to external and internal drivers.

MRB also assesses against expenditures in fee-based sectors. Staff monitor closely to ensure that the cost of FSCO's supervisory activities do not contribute to exceeding the amount of fees collected or to significant under-expenditure.

Execution and Analysis

Execution and analysis activity refers to the day-to-day implementation of the Annual Supervisory Plan. Regardless of the function, MRB applies the same steps to their work.

Step 1 involves gathering information and conducting a risk assessment to identify potential risks and issues associated with the Licensee, the complaint, and/or the marketplace issues.

Step 2 requires establishing the scope of review and conducting fact-finding and analysis so that MRB can validate information and gain a better understanding of the practices/products and/or how Licensees are managing identified risks.

Step 3 involves making a determination of compliance, with three possible outcomes:

- If the information available is not sufficient to reach an evidence-based conclusion, then staff seek additional information and the assessment process begins again. Where additional information is not available, no definite conclusion can be reached.
- If no aspects of non-compliance are identified, then there are no findings, and no further regulatory action is required.
- If aspects of non-compliance are identified, then regulatory action is taken. The type of regulatory action depends on the severity of the situation and the impact to consumers.

Regulatory Action and Reporting

Once an assessment is completed, MRB must communicate its findings and recommendations to the Licensee and, in the case of complaints, to the complainant.

In cases where there are aspects of non-compliance with the law, or there are gaps in a Licensee's adoption of best practices, MRB provides the Licensee with an opportunity to respond and, depending on the findings, MRB may request that the Licensee submit a remedial plan which is validated once implemented.



Where there is evidence of non-compliance, MRB may, depending on the seriousness of the issue and/or FSCO's overall objectives for a particular sector, escalate the matter for further enforcement action.

MRB prepares and publishes aggregate reports of consolidated findings and recommendations arising from its examinations and thematic reviews. These reports provide Licensees with a benchmark for assessing their own internal practices. The reports also set FSCO's expectations of Licensees and help inform the development of the Annual Supervisory Plan for the coming year.



Conclusion

The supervisory framework provides an understanding of the activities and process used by FSCO's MRB to monitor and ensure compliance by Licensees across the regulated financial services sectors.

The supervisory framework respects FSCO's regulatory principles and demonstrates how MRB's work is planned and delivered towards fulfillment of FSCO's mandate.