



Financial Services  
Commission  
of Ontario

# **REGULATORY FRAMEWORK**

## **FINANCIAL SERVICES COMMISSION OF ONTARIO**

## Introduction

### *About the Regulatory Framework*

The purpose of the Regulatory Framework is to describe:

- FSCO's legislative mandate;
- How FSCO fulfills its mandate by achieving regulatory outcomes;
- FSCO's core regulatory activities; and the
- Principles that FSCO follows when conducting regulatory activities.

Expectations play an important role in the financial services sectors that FSCO regulates. Consumers expect to be treated fairly, pension plan members expect their future pension benefits to be secure, and financial products and services are generally expected to satisfy the needs of the public. In addition, regulated entities and stakeholders expect financial services regulation to be balanced and transparent.

The Regulatory Framework summarizes what FSCO expects from the businesses and individuals that are licensed or registered with FSCO, stakeholders, consumers, or pension plan members; and what can be expected from FSCO in the regulatory process.

### About FSCO

FSCO was established under the [Financial Services Commission of Ontario Act, 1997](#) (FSCO Act) with a legislative mandate set out in the FSCO Act.

**FSCO's legislative mandate is to provide regulatory services that protect the public interest and enhance public confidence in the sectors it regulates.**

FSCO regulates the insurance sector; pension plans; loan and trust companies; credit unions and caisses populaires; the mortgage brokering sector; co-operative corporations in Ontario; and service providers who invoice auto insurers for statutory accident benefits claims. FSCO is accountable to the Minister of Finance. In order to support FSCO's legislative mandate, the FSCO Act sets out a [three-part structure](#), which includes the Commission; the Superintendent of Financial Services and Staff; and the Financial Services Tribunal (Tribunal).

The purposes of the **Commission** are set out in the FSCO Act:

- to provide regulatory services that protect the public interest and enhance public confidence in the regulated sectors;
- make recommendations to the Minister of Finance about the regulated sectors; and
- provide resources necessary for the proper functioning of the Tribunal.

The **Superintendent of Financial Services** (Superintendent) is also FSCO's Chief Executive Officer. The FSCO Act sets out the Superintendent's mandate, which is to:

- be responsible for the financial and administrative affairs of the Commission;
- exercise the powers and duties conferred on or assigned to the Superintendent;
- administer and enforce the FSCO Act and every other Act that confers powers on or assigns duties to the

Superintendent; and

- supervise generally the regulated sectors.

**The Tribunal** is an independent adjudicative body created under the FSCO Act. The Tribunal adjudicates cases involving compliance issues arising in the regulated sectors. Proposed decisions of the Superintendent may be challenged in proceedings brought before the Tribunal, in accordance with the applicable law.

FSCO is a cost recovery agency. FSCO charges the cost of its operation to the regulated sectors through a combination of assessments and fees.

## FSCO's Regulatory Role

### Ensuring Compliance with the Law

FSCO's primary role is to ensure compliance with the laws governing each regulated sector. In order to ensure compliance, FSCO administers and enforces several statutes and corresponding regulations for the regulated sectors. FSCO develops administrative and regulatory policies and procedures to support enforcement of the law, and takes timely regulatory action to terminate activities that do not comply with the law. Compliance is one of the ways in which FSCO fulfills its legislative mandate, but it is not the only one.

FSCO regulates the following financial services sectors in Ontario, and ensures the sectors comply with the corresponding legislation:

Sector	Corresponding Legislation
Insurance Sector	<u>Insurance Act</u> and <u>Regulations</u> <u>Automobile Insurance Rate Stabilization Act, 2003</u> <u>Compulsory Automobile Insurance Act</u> and <u>Regulations</u> <u>Prepaid Hospital and Medical Services Act</u> <u>Registered Insurance Brokers Act</u> and <u>Regulations</u> <u>Motor Vehicle Accident Claims Act</u> and <u>Regulations</u>
Pension Plans	<u>Pension Benefits Act</u> and <u>Regulations</u>
Credit Unions and Caisses Populaires	<u>Credit Unions and Caisse Populaires Act, 1994</u> and <u>Regulations</u>
Mortgage Brokering	<u>Mortgage Brokerages, Lenders and Administrators Act, 2006</u> and <u>Regulations</u>
Loan and Trust Companies	<u>Loan and Trust Corporations Act</u> and <u>Regulations</u>
Co-operative Corporations	<u>Co-operative Corporations Act</u> and <u>Regulations</u>

### Providing General Supervision of the Regulated Sectors

FSCO also has a general supervisory role to ensure sustainable and competitive regulated sectors, including fair treatment of consumers and security of pension plan members' benefits. The supervisory role includes monitoring the regulated sectors, influencing the behaviour of the businesses and individuals licensed or registered with FSCO, and providing advice and recommendations to the government. FSCO supervises the

sectors by performing core regulatory activities (see page 11 for more on FSCO's core regulatory activities).

### **Administering Special Purpose Funds and Dispute Resolution Services**

FSCO's legislative responsibilities also include administering:

- The **Motor Vehicle Accident Claims Fund** which is a special purpose fund used to pay claims involving automobile accidents with uninsured motorists, and hit-and-run accidents where no insurance is available. The fund provides compensation to people injured in automobile accidents when no automobile insurance exists to respond to the claim.
- The **Pension Benefits Guarantee Fund** which provides protection to Ontario members and beneficiaries of privately sponsored single-employer defined benefit pension plans in the event of plan sponsor insolvency.
- **Dispute Resolution Services** which mediates and adjudicates disputes between claimants and insurance companies with respect to statutory accident benefits.

## **Regulatory Environment**

### **Canadian Regulation**

In Canada, financial services sectors are subject to regulation and oversight by federal authorities, provincial authorities, or both, depending on the sectors. Although financial services sectors may be regulated by more than one regulatory authority, each regulator has a well-defined and distinct role that avoids regulatory duplication. In general, regulators perform different but complementary regulatory functions.

As a provincial regulator, FSCO is part of a broader regulatory environment that includes the Ontario government, other federal and provincial regulators, and industry stakeholders; and each has a distinct, yet complementary role in supporting Ontario's financial services sectors.

### **International Standards**

In today's economy, financial services sectors are global and interconnected. Financial services sectors in Ontario, as is the case in other provinces/territories in Canada, are influenced by both local realities and global trends. Furthermore, entities regulated by FSCO may operate in multiple jurisdictions both in Canada and internationally.

As international organizations set expectations for the supervision of financial services sectors, FSCO monitors the development of these standards and works to apply them within the context of its legislative mandate and the nature of financial services sectors in Ontario.

## **Types of Regulation**

Financial services sectors are subject to both market conduct and prudential regulation.

**Market conduct regulation** focuses on the relationships between consumers and licensed or registered businesses and individuals, as well as between pension plan members and pension plan administrators. Market conduct or the conduct of business is influenced by many factors, including the legal framework, established best practices, codes of conduct, and consumers' or pension plan members' expectations. Market conduct regulation is primarily the responsibility of regulators at the provincial or territorial level.

**Prudential or solvency regulation** focuses on financial stability and the long-term ability to meet financial obligations. This type of oversight applies to financial institutions such as insurance companies, credit unions or caisses populaires, and pension plan administrators. It does not apply to co-operative corporations and financial services intermediaries such as insurance agents, insurance adjusters, mortgage brokerages,

mortgage brokers, or mortgage agents. Prudential or solvency oversight is the responsibility of both provincial and federal regulators, depending on where the entity is constituted.

**FSCO is responsible for both types of regulation**, although the specific type of regulation differs across the various sectors:

- In the **insurance sector**, FSCO is primarily a market conduct regulator, supervising the treatment of consumers and the conduct of business of insurance companies, agents, adjusters, and service providers.

Independent general insurance brokers in Ontario are regulated by the [Registered Insurance Brokers of Ontario](#), a self-regulatory body for insurance brokers in Ontario.

Prudential regulation of insurance companies is primarily performed by the [Office of the Superintendent of Financial Institutions](#), the federal regulator for the insurance sector.

- In the **pensions** sector, FSCO has both market conduct and prudential or solvency oversight, supervising the treatment of pension plan members, the security of pension plan benefits, and the financial strength of pension plans.
- In the **credit unions and caisses populaires** sector, FSCO issues the licence and authorizes registrants to operate in Ontario and is the market conduct regulator for credit unions and caisses populaires. Prudential regulation is performed by the [Deposit Insurance Corporation of Ontario](#).
- In the **mortgage brokering** sector, FSCO is the market conduct regulator. There is no solvency regulator for this sector, since solvency oversight does not apply to financial services intermediaries like mortgage brokerages, brokers and agents.
- **Loan and trust companies** and **co-operative corporations** are subject to market conduct regulation by FSCO.

## Regulatory Outcomes

FSCO fulfills its legislative mandate to protect the public interest and enhance public confidence in the regulated sectors through the achievement of certain public policy goals or regulatory outcomes. These regulatory outcomes describe the elements of the mandate in a specific, concrete, and understandable manner.

Regulatory outcomes refer to expected outcomes for both market conduct and prudential/solvency types of regulation.

FSCO aims to achieve two broad types of interconnected regulatory outcomes: micro and macro outcomes. Micro-level outcomes need to be realized first by the regulated entities before systemic outcomes can be fully realized. Macro-level outcomes are achieved through the collective actions of the entire industry. FSCO, regulated entities, stakeholders, consumers, and pension plan members must have a common understanding of both micro- and macro-level regulatory outcomes in order to collectively achieve them.

### Micro-level Outcomes

Micro-level outcomes are within the control of the regulated entities. They include:

- **Compliance with laws and regulations:** Regulated entities must comply with the appropriate laws and regulations including all statutory, legal, corporate, and fiduciary obligations, as applicable. Beyond strict compliance with the law, additional standards of conduct are also expected from the regulated entities.

- **Strong corporate governance:** Regulated entities are expected to identify and manage applicable risks through the most appropriate mechanisms: internal controls, risk management, and other relevant oversight mechanisms.
- **Fair treatment of consumers:** Regulated entities are expected to behave in an ethical and honest manner while conducting business and in all their interactions with consumers.
- **Security of pension plan members' benefits:** Pension administrators have fiduciary and prudential responsibilities to ensure that the security of pension benefits is preserved appropriately and that future pension benefit obligations can be met.
- **Adequate disclosure of information to enable informed decisions:** Consumers and pension plan members should have access to accurate, relevant, and timely information.

### Macro-level Outcomes

Macro-level outcomes refer to regulated sectors as a whole, being the result of micro-level outcomes aggregated on a systemic basis:

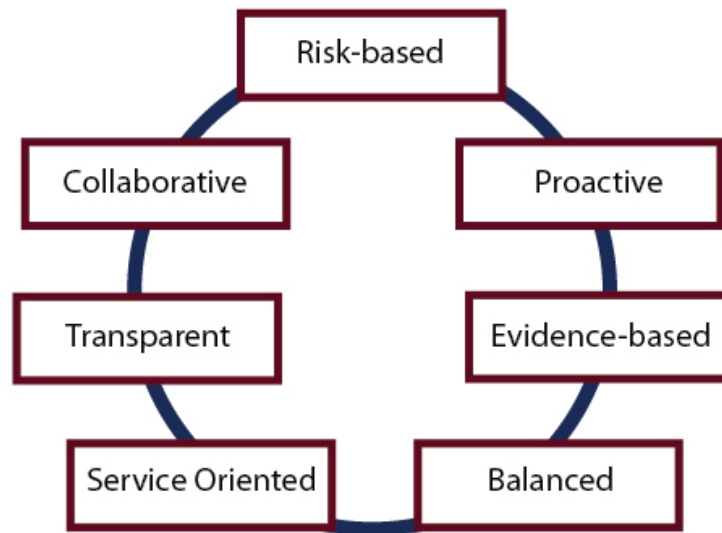
- **Stable and competitive financial services sectors:** Adequate choices are required to meet the needs of consumers in an accessible and affordable manner.
- **Prevention or early identification of compliance issues:** Proactivity and collaboration among FSCO, stakeholders, regulated entities, and the general public are fundamental in preventing compliance issues from arising or escalating to serious problems. Prevention is less costly and preferable to being reactive and addressing compliance issues after they happen.
- **Effective complaint and dispute resolution systems:** Established mechanisms to deal with complaints and disputes involving the regulated entities in a fair, timely, and responsive manner. In addition to regulated entities being required to have well-defined processes to deal with consumer or pension plan members' complaints, the macro-level outcome includes the existence of independent ombudsman service organizations that complement FSCO's complaint handling and dispute resolution roles.

FSCO achieves these desired micro- and macro-level regulatory outcomes through core regulatory activities performed in accordance with a common set of principles.

## FSCO's Principles of Regulation

### Principles to Guide Regulatory Activities

FSCO is an integrated financial services sectors regulator that uses a consistent and comprehensive approach to regulation across all of its regulated sectors. This approach is based on principles which are used to guide all of FSCO's regulatory activities. A **risk-based approach** allows FSCO to focus its regulatory efforts in an efficient and effective manner. FSCO is also guided by the principle of **proactivity** to address risks and prevent non-compliance, and makes **evidence-based** decisions using research and data to best identify high-risk areas which require more proactive regulation. FSCO delivers **balanced, service-oriented, transparent, and collaborative** regulatory services, and is guided by these principles to ensure good working relationships exist with other regulators, stakeholders, regulated entities, consumers, and pension plan members. These principles underpin FSCO's efforts to best protect the public interest and enhance confidence in the regulated sectors.



## Risk-Based

By applying a risk-based approach to regulation, FSCO directs its regulatory efforts and activities to situations that are deemed to be higher risk.

FSCO defines and assesses **risks** from the perspective of its legislative mandate. Public confidence in the regulated sectors can be negatively affected by many factors, including conduct of business and practices that are unfair, deceptive or result in harm to consumers or pension plan members. These situations represent risks. Barriers to achieving the regulatory outcomes mentioned previously are also risks, whether they arise at a micro (entity) or macro (systemic) level. Through its risk-based approach, FSCO is:

- **Effective:** by focusing regulatory efforts on the most significant risks in order to achieve the desired regulatory outcomes; and
- **Efficient:** by making the best use of both human capital and financial resources to address the more significant risks.

FSCO's approach to risk-based regulation is based on the following:

### *Risk Prevention: Promoting Strong Corporate Governance*

FSCO promotes strong corporate governance and expects regulated entities to adopt practices, policies, procedures, and systems that comply with legislation and regulations, and that are based on recognized financial sector governance standards and current best practices. Good governance can lower the risk of non-compliance by ensuring that regulated entities have sound processes and policies in place to comply with legislation.

Governance is a key factor for the risk analysis and assessment of regulated entities. It is the responsibility of boards and senior management to adopt strong governance and control practices. FSCO expects and relies on good corporate governance as a means of ensuring that regulated entities are in compliance with financial services sectors' standards.

### *Risk Identification: Understanding Regulated Sectors and Entities*

FSCO collects information on sector-wide risks and analyses the information both at the macro and micro-levels, in order to understand the regulated sectors and regulated entities within each sector. FSCO uses

both a top-down and bottom-up approach to identify risks.

By understanding the overall economic environment of the regulated sectors, FSCO is able to evaluate the business circumstances of the regulated entities and anticipate challenges at the entity level. By collecting and analysing information from individual complaints, FSCO is able to identify potential problems before they become more serious or systemic.

#### *Risk Assessment: Evaluating Risk and Taking the Appropriate Action*

FSCO assesses risks to achieving desired regulatory outcomes by considering market conditions, regulated entities' risk profiles, and the degree of failure or misconduct. This risk-based approach enables FSCO to evaluate risks by having a comprehensive view of the regulated sectors, and identifying areas where there is a lack of sound governance, or there are activities that indicate high risk situations. This approach is fundamental to a regulatory regime that expects outcomes beyond compliance with the law.

FSCO focuses its regulatory efforts on higher risk areas, and uses risk assessment to identify the appropriate regulatory action required to achieve a desired regulatory outcome. FSCO has at its disposal a broad range of regulatory tools that help ensure its actions are tailored, proportionate to the risk, and will best achieve the desired outcome.

Not all circumstances require the same allocation of regulatory efforts and resources. Lower risk situations and well-managed regulated entities generally require less regulatory resources, while higher risk situations generally require more resources as they require more intensive regulatory scrutiny or stronger regulatory intervention.

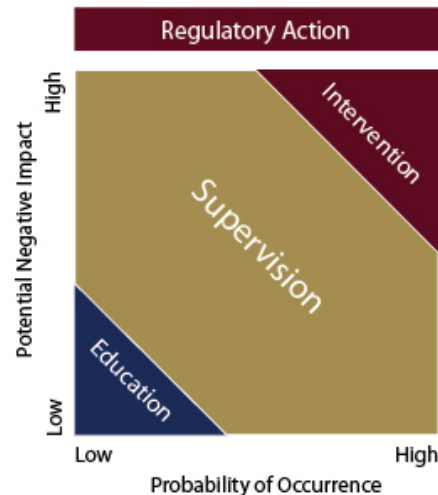
FSCO assesses risks on a continuum based on the probability of occurrence and the potential magnitude of negative impact on achieving desired regulatory outcomes at both the micro and macro-level. This process ensures that FSCO takes regulatory action that is appropriate for the degree of risk. These actions range from:

- **Education for areas with lower to medium risk levels**, which is the least resource-intensive and costly form of action;
- **Supervision for areas with medium to high risk levels**, which involves the use of various regulatory actions such as prevention, diagnosis, remedies, and ongoing monitoring; and
- **Intervention for areas with higher risk levels**, which is the most resource-intensive and costly.

Financial services sectors and the risks they pose to the public are dynamic and continuously changing. This risk-based approach helps FSCO respond to changes in the regulated sectors, and target risks that have the greatest potential for harm.

### **Proactive**

Effective and efficient regulation is based on **proactivity**. Anticipating change and being proactive in the regulated sectors is an important feature of a comprehensive regulatory regime, and allows FSCO to ensure that desired regulatory outcomes are continuously achieved. Proactivity supports a risk-based approach by allowing FSCO to avoid or mitigate potential risks promptly, before they arise or become serious.





Regulation can never be purely proactive, but neither should it be entirely reactive. FSCO aims to be as proactive as possible in all circumstances. FSCO is constantly alert to potential risks in the regulated sectors, and in particular to circumstances that have broader systemic implications. FSCO dedicates resources to proactively identify and monitor existing and emerging trends and risks.

Proactivity also involves appropriately engaging the government, other regulators, stakeholders, regulated entities, consumers, and pension plan members to discuss existing and emerging risks; assessing these risks, and considering the appropriate solutions to mitigate the risks. Solutions may include recommending or assisting in the development of commonly accepted practices or legislative changes.

### **Evidence-Based**

FSCO's decision making process is **evidence-based**: centred on facts, judgment, and analysis.

FSCO is constantly gathering information through its core regulatory activities. All regulated entities have an obligation under the law to provide prompt and truthful answers to any request for information made by or on behalf of the Superintendent (e.g. licensing and registration information, filings and applications, and information obtained through monitoring and compliance including market conduct surveys, enforcement, and intervention). Failure to provide complete and accurate information is a contravention of the law. Regulated entities that provide false or misleading information may be subject to enforcement action.

FSCO collects and analyses information to identify existing or potential risks, and to determine solutions to achieve desired regulatory outcomes. A risk-based approach based on evidence and analysis is more likely to identify patterns and trends, address the root cause of risks, and result in more effective and efficient mitigation solutions. Once a solution is identified and implemented, FSCO monitors the effectiveness of that solution in addressing the specific situation and its longer term impact on both micro and macro-level regulatory outcomes. This is an ongoing process based on the continuous review of evidence and an analysis of risk factors.

### **Balanced**

Financial services sectors that function well strike a balance among the best interest of consumers, pension plan members, regulated entities, stakeholders, and regulators. These interests should be aligned. A balanced approach supports the functioning of financial services sectors as a whole.

FSCO is a **balanced** regulator that protects the interests of financial services consumers and pension plan members by administering and enforcing the law. Although consumer interest is FSCO's primary concern, FSCO is neither a consumer advocate, nor an advocate for pension plan members. FSCO performs a complaint handling function, considers all complaints received, and works to resolve them according to its legislative mandate.

Based on the requirements of the law, FSCO decides whether to take regulatory action and determines what type of action is appropriate in each specific circumstance. FSCO does not act or take regulatory action on behalf of complainants; and it does not assist consumers in civil lawsuits nor appear in courts on behalf of consumers or pension plan members, except where the current interpretation of the legislation or regulation is being challenged.

### **Service-Oriented**

FSCO interacts with regulated entities, stakeholders, and the general public on an ongoing basis through different channels. FSCO is part of the Ontario Public Service, and therefore adheres to the Ontario Public Service quality service standards for interacting with the public. In addition, FSCO has developed its own specific [service standards](#) for both its core regulatory activities and its internal support functions. These

standards are continuously monitored and reported annually on [FSCO's website](#).

[FSCO is committed to consistently providing excellent services](#). FSCO staff strive to deliver efficient and effective services within the established timeframes. All services are accessible in both English and French, and comply with the [Accessibility for Ontarians with Disabilities Act](#).

## Transparent

In its supervisory processes, FSCO is **transparent** regarding its expectations of the regulated entities, stakeholders, and the general public - specifically in terms of the information required and submission timelines. Businesses and individuals interacting with FSCO are kept informed about the progress of relevant regulatory activities (e.g. licensing, complaint handling, examinations, interventions, etc.).

Clear and transparent communication reduces the risk of non-compliance. FSCO educates regulated entities about what the law requires of them, and what processes are in place to help them comply with the legal requirements. FSCO's approach to education is both proactive and in response to evidence-based assessments that have identified businesses or individuals that require more information.

FSCO regularly engages in consultations with stakeholders as part of its general information-gathering initiatives or compliance reviews. FSCO openly communicates the purpose of such initiatives or reviews, and publishes the results upon completion. FSCO collects information in accordance with applicable privacy protection laws. FSCO has an obligation to maintain personal information and certain other kinds of information as confidential, and not to disclose it except as required or authorized by law.

To promote transparency and raise public awareness, FSCO also publishes information about approved licences, the list of regulated entities, enforcement actions, sanctions, licence revocations, and the names of unlicensed entities that have been identified as operating in the regulated sectors. Regulated entities that are subject to regulatory action are also informed of the processes available for appeal; and hearings at the Tribunal are generally open to the public, unless otherwise required by specific circumstances.

FSCO's open communication and transparency also enhances collaboration within the regulated sectors.

## Collaborative

Collaboration facilitates the achievement of desired regulatory outcomes and reduces regulatory costs by creating an environment where there is a high degree of voluntary compliance. It also encourages the development and adoption of industry codes of conduct and other forms of market guidance.

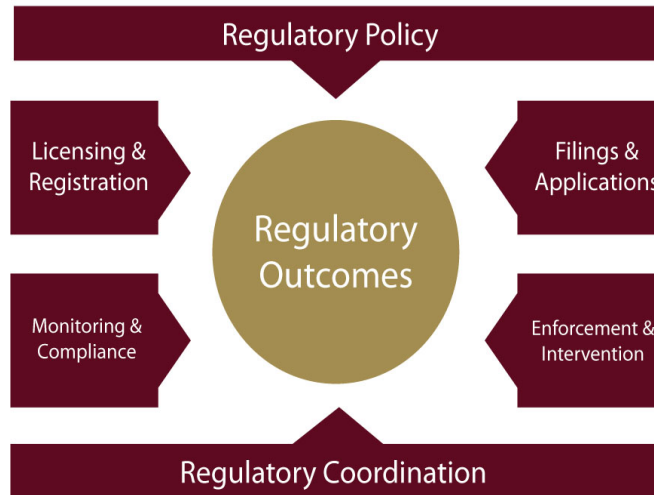
Financial services sectors are interconnected across Canada and globally. FSCO collaborates with stakeholders and regulated entities to develop a better understanding of the regulated sectors and entities. Many regulated entities operate in multiple Canadian jurisdictions and therefore need to comply with multiple regulatory regimes. FSCO cooperates with other Canadian regulators, and is a member of a number of organizations through which Canadian regulators work together on initiatives. This cooperation ensures that a consistent and coordinated regulatory approach is taken where possible, and allows FSCO to share information and learn from other regulators' experiences.

FSCO promotes cooperation and communication of information and expectations with other regulators, stakeholders, regulated entities, consumers, and pension plan members to ensure expectations are understood, and to avoid unnecessary duplication within the regulatory environment.

As an integrated regulator, FSCO also collaborates internally to share knowledge and best practices among its staff. FSCO's approach to education, moral suasion, collaboration, and building partnerships with stakeholders and regulated entities improves consumer protection and complements FSCO's core regulatory activities.

## FSCO's Core Regulatory Activities

FSCO performs the following core regulatory activities in order to fulfil its legislative mandate.



These core activities are consistent across all the regulated sectors, complement each other as part of FSCO's comprehensive approach to regulation, and apply all of FSCO's principles of regulation. Differences among the regulated sectors depend on the extent of FSCO's regulatory authority in that particular sector. Regulatory policy and coordination touch on all aspects of the core regulatory activities.

### Regulatory Policy

The [FSCO Act](#) mandates and authorizes the Superintendent to administer and enforce the [provincial statutes and related regulations](#) governing the regulated sectors.

FSCO has a central role in advising the government on existing or potential risks and policy issues in the regulated sectors. Although FSCO may identify solutions to mitigate risks in the regulated sectors and make recommendations for new legislation or amendments to existing legislation, it is ultimately the government's decision as to what recommendations to implement and how.

In order to protect the public interest, laws need to be reviewed regularly to ensure they continue to be relevant and address the risks in the regulated sectors. All areas within FSCO work collaboratively towards identifying and defining policy issues. Policy development is integral to public protection, and includes external consultations with stakeholders and the public.

### Regulatory Coordination

FSCO promotes and plays an important role in coordinating regulatory efforts at a national level. FSCO hosts the secretariats of a number of national organizations of regulators, and is a member of the following associations:

- [The Canadian Association of Pension Supervisory Authorities](#) (CAPSA)
- [The Canadian Automobile Insurance Rate Regulators Association](#) (CARR)
- [The Canadian Council of Insurance Regulators](#) (CCIR)
- [The Canadian Insurance Services Regulatory Organizations](#) (CISRO)
- [The General Insurance Statistical Agency](#) (GISA)

- [The Joint Forum of Financial Market Regulators](#)
- [The Mortgage Broker Regulators' Council of Canada](#) (MBRCC)

Canadian regulators work together to coordinate activities, share information, proactively identify emerging trends and risks, develop harmonized approaches, reach consensus around solutions for common problems, and provide solutions and guidance applicable to multiple jurisdictions across Canada. Coordination minimizes duplication, potential delays related to regulatory processes, and regulatory costs through joint initiatives and resource sharing. FSCO works closely with other regulators, as needed, in order to achieve its legislative mandate.

## Licensing and Registration

By law, individuals or businesses require a licence from FSCO in order to be able to conduct certain activities within FSCO's regulated sectors. Registration refers to the obligation that regulated entities have to register certain products or services with FSCO. For example, pension plan sponsors must register with FSCO the pension plans they establish in Ontario.

Licensing and registration play an important gatekeeping role by ensuring that market participants are suitable and qualified, which reduces the risk of non-compliance. Through licensing and registration processes, FSCO obtains information on the regulated entities operating in Ontario; and uses it to administer and enforce the relevant legislation governing the regulated entities.

**There are two types of licences: for individuals and businesses.** The objective of individual licensing is to assess integrity and competence. The objective of business licensing is to assess integrity and governance.

- **Integrity** is important in order to minimize future unethical and harmful behaviour, and it is assessed through criminal background checks, histories of disciplinary actions taken by other regulators, and other means.
- **Competence** refers to the knowledge and understanding of responsibilities associated with different activities within the regulated sectors. Competence requirements are generally satisfied through the successful completion of educational programs and examinations. In order to maintain an active licence, individuals may be subject to continuing educational requirements.
- **Strong governance** is essential for businesses operating in financial services sectors. When applying for a licence, businesses need to submit a realistic business plan and provide proof of solid internal controls. Policies and procedures need to reflect current best practices in the respective sector.

All applications include an attestation about the completeness and accuracy of the information provided. Providing false or misleading information is a contravention of the law and the applicant can be subject to enforcement action regardless of whether or not a licence is issued.

Interested entities can enter a respective sector at any time, and any new participant in a regulated sector brings additional risk into the system. FSCO has the obligation to estimate the degree of risk and can ask for additional information to support the licence application. A licence application review process follows a due process. Lower risk applications can be approved in full based on a less intensive review. Higher risk applications may be approved with different conditions associated, or they may be denied if the requirements for a licence are not met. In such cases, FSCO provides a formal notice to the applicant setting out the grounds for the decision to deny the licence, and offering the applicant the right to a hearing. Those hearings

are generally conducted before the Tribunal.

Financial services intermediaries may hold multiple licences and each licence gives the right to perform specific activities. An action against one class of licence does not automatically attract an action against all classes of licences. For example, in the case of multiple licences, revocation or termination of one type of licence does not necessarily impact other licences.

### **Filings and Applications**

Once licensed or registered, regulated entities are required by law to submit information to FSCO on a regular basis. Filings are statutory requirements which have due dates. The obligation to provide true information also applies to filings. FSCO can take enforcement action for late or false filings.

By law, certain transactions in the regulated sectors require FSCO's approval, and regulated entities must follow application procedures to obtain approval. FSCO's approach to applications includes determining the statutory objective for approval; identifying and assessing the relevant risks associated with granting the approval; and defining and performing an adequate due diligence process to ensure proper risk mitigation mechanisms are in place.

FSCO's ability to request information is a fundamental power and key regulatory tool. All the information FSCO gathers both at the level of regulated entities and on an aggregate, systemic basis is used to develop proactive supervisory strategies and plans, including monitoring and compliance activities.

### **Monitoring and Compliance**

Monitoring and compliance are important, ongoing supervisory activities. The general approach to monitoring and compliance is consistent from one period to another as described below, but the scope of the activities differ from one period to another based on current risks in the regulated sectors. Both activities are based on information gathering and can be both proactive and reactive. The scope and frequency of each activity depends on the evaluation of identified risks.

Monitoring usually refers only to information gathering and analysis. Compliance involves information gathering in relation to the observance of laws. Both monitoring and compliance address circumstances at the micro- and macro-level. In addition to addressing specific cases of non-compliance, FSCO's focus is also on assessing the degree of compliance at an aggregate level for the regulated sectors as a whole. FSCO is not a zero tolerance regime, but is concerned with the overall potential negative impact non-compliance cases have on regulatory outcomes. Therefore, FSCO monitors the risks associated with each case of non-compliance that is identified.

FSCO uses different tools for monitoring and compliance activities, including the review of complaints received and examinations or audits of regulated entities. With regard to complaints received, FSCO keeps the consumer or pension plan member complainants informed about the outcome of the review. FSCO's obligation is to protect the public interest through administering and enforcing the law. Therefore, FSCO does not act on behalf of the complainants, but rather acts in the public interest. FSCO will determine whether the complainants have been subjected to actions that are not compliant with the law and then take appropriate regulatory action against the responsible regulated entities. As a result of complaints received or on a proactive basis, FSCO also initiates compliance reviews where the focus is gathering general information about the regulated sectors.

Unlike other industries, the nature of business in the financial services sectors frequently involves administering other people's money. An independent view is required in order to ensure an appropriate balance is achieved between the interests of the regulated entities and consumers or pension plan members.

FSCO’s examinations or audits provide an independent perspective and evaluate the strength of the governance systems used by the regulated entities. Not all regulated entities receive the same scrutiny; FSCO determines the scope and intensity of examinations using a risk-based approach.

FSCO may also contact any regulated entity on an ad-hoc or targeted basis in order to proactively collect information in support of its evidence-based approach. Regulated entities are required by law to facilitate an examination whenever required, and to respond to FSCO’s questions promptly and truthfully. Failure to do so may result in enforcement activity. FSCO communicates to the regulated entities both the scope and results of the examination process.

FSCO assesses whether regulated entities follow the law through either complaint or compliance reviews. For the entities that fail to comply with the law, FSCO chooses the most appropriate enforcement action.

**Enforcement and Intervention**

FSCO influences the conduct of business in the regulated sectors through different strategies including, education on compliance, moral suasion to promote compliance, partnering with stakeholders on collaborative approaches to achieve compliance, compliance reviews, and ultimately targeted enforcement actions. These enforcement strategies are usually sufficient to alter behaviour and address risks in the regulated sectors. FSCO prefers moral suasion and education as initial steps because it is based on collaboration and has a sustainable, long term impact. However, certain non-compliance situations require enforcement and intervention.

FSCO aims to minimize any undue risk, but it would be unrealistic to expect that it can eliminate all risks. Therefore, not every contravention will result in enforcement action. FSCO 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.

FSCO uses different types of enforcement activities: strategic and targeted. Strategic enforcement is generally proactive and designed to change behaviour in the regulated sectors generally. Strategic enforcement actions usually relate to achieving macro-level regulatory outcomes. For achieving micro-level outcomes, FSCO can use either strategic or targeted enforcement actions that may be taken as a result of complaints being received or arising from examinations or audits.



FSCO has different tools available to respond to situations of non-compliance, based on the specific conditions of the regulated sectors, individual risk profiles (size, impact, and complexity of the regulated entity), key risks, mitigating actions taken by the regulated entities, as well as past supervisory findings.

FSCO also undertakes and dedicates resources to investigations where necessary. An investigation is the second step in the enforcement process. Investigations address allegations of misconduct or non-compliance with applicable legislative requirements by regulated and unlicensed entities. FSCO's investigators gather evidence, analyze information, and help prepare cases for enforcement proceedings before regulatory tribunals and the courts. The purpose of an investigation is to support regulatory action, and specifically a prosecution or administrative proceeding.

Enforcement activities may result in suspension, termination, or revocation of an entity's licence or registration. Enforcement activities usually involve a collaborative effort across different areas within FSCO, particularly in cases where FSCO decides to prosecute. FSCO also works cooperatively with other law enforcement and regulatory agencies as needed.

## Conclusion

The financial services sectors are dynamic. The approach outlined in FSCO's regulatory framework recognizes the need for responsiveness to the changing environment, in fulfilling its legislative mandate of providing regulatory services that protect the public interest and enhance public confidence in the sectors it regulates.

The regulatory framework outlines FSCO's approach to regulation, what FSCO expects from those it regulates, and what can be expected from FSCO by those that rely on its regulatory services.

## For more information about FSCO:

Visit the [Subscription Centre](#) on our website to sign up FSCO's various publications and RSS feeds. You'll be able to stay up-to-date on the latest information concerning FSCO's regulated sectors; you'll also get important sector updates, information and tips sent directly to your preferred email or RSS account.

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