

March 31, 2022

Mark White  
Financial Services Regulatory Authority  
25 Sheppard Avenue West, Suite 100  
Toronto, ON M2N 6S6

**Re: Proposed Approval or Authorization of Business and Investment Activities**

Dear Mr. White,

The Canadian Credit Union Association (CCUA) is the trade association for Ontario's credit unions and caisses populaires (CUs). Our sector looks forward to the opportunities presented by the new business and investment powers granted under the *Credit Unions and Caisses Populaires Act (CUCPA 2020)*. These opportunities are meant to strengthen the sector's competitiveness, while allowing greater flexibility for institutions to meet consumer needs in other important products and services.

With these objectives in mind, we offer the following feedback to the proposed *Approval or Authorization of Business and Investment Activities Guidance*.

**1. Procedural and Administrative Burden Reduction**

Scope of Captured Transactions

On page two of the consultation document, FSRA notes that, "in some cases" approval must be sought in advance for a range of permissible transactions. The sector would appreciate more clarity on when such approval may be required. For instance, would transactions characterized as standard business practice require approval under this guidance?

Alternatively, we would ask FSRA to provide general guidelines on when approval must not be sought in advance. For example, if there needs to be approval when a credit union proposes to provide financial services to an emerging business segment (such as the provision of services for the cannabis sector or in connection with sports betting in Ontario).

A credit union should be allowed to make business decisions in line with its risk appetite. It is our hope that FSRA will not impose any unnecessary or burdensome impediments to credit unions wanting to provide financial services to these or similar emerging business opportunities.



## Business Plans Considered Holistically

The guidance notes that more than one approval (referenced as associated approvals) may be required for a business or investment activity. However, when a comprehensive business plan is proposed for the purpose of undertaking a complex activity or transaction, seeking associated approvals could present unnecessary burden and delays.

In these instances, we recommend that FSRA consider the application holistically – meaning all transactions under one application. Having to submit several approval or authorization applications may result in unnecessary duplication of efforts by credit unions and FSRA. This may also likely to lead to delays related to the execution of the proposed business plan, as approvals could be assigned to different people working on different timelines.

## Application Guide

While we appreciate the flexibility in not having to rely on standardized forms for the application, we are disappointed that FSRA has decided to release this guidance for consultation without including the application guide referenced on page six of the consultation document.

We believe inclusion of this detail is crucial to our complete assessment of this guidance, considering the administrative burden is unknown.

We ask that FSRA provide the industry with an opportunity to comment on the guide before finalizing this guidance.

## Due Diligence and Assurances

In the consultation document FSRA notes that in assessing the application, it will rely on “representations made by the credit union” and will “seek assurance that the appropriate levels of analysis and due diligence have been conducted”.

Third-party legal opinion is provided as an example of assurance that could be sought. Since this would represent an additional cost to the credit union, we ask that FSRA provide other examples of assurance which might be requested.

In addition, we ask FSRA to consider revising the order in which it intends to review the application. Although the process notes reliance on credit unions for assurances, it also states that FSRA will conduct its own due diligence.

Of course, it is appropriate for FSRA to conduct its own due diligence, but we believe such work should be done prior to requesting additional assurance from credit unions, such as legal opinion, which result in unnecessary additional costs and delays. Perhaps this is the intent of the FSRA process, but the order in which it is presented in the consultation document requires clarification.



## 2. Application Assessment Criteria

We are supportive of the principles-based criteria FSRA has presented for assessment of applications. Our comments are related to deliberations with respect to implementation of the nine criteria in a holistic way.

When considered holistically, we think that criteria six (6) “the application demonstrates that the transaction will not result in any unacceptable increase in risk to the Credit Union or FSRA” appears to be unnecessary. Concerns relating to this are already addressed by prior criteria.

We would also like to better understand the relationship between assessment criteria seven (7) “the Credit Union’s financial condition and performance are satisfactory for the purposes of the Transaction” and the new Risk Based Supervisory Framework (RBSF). We hope that FSRA will take a balanced and proportionate approach when considering initial assessments of credit unions’ RBSF scores for the purposes of meeting this criterion, as to not disadvantage some credit unions when they are applying for approval of transactions/investments under this guidance.

## 3. Transaction Decision and Dispute Resolution

### Timeline for Final Decision

We acknowledge that all applications will be reviewed based on their merits and some may require more detail than others. However, we would like FSRA to commit to a concrete timeline with respect to a **final** decision.

While FSRA does measure performance through the general service standards, we recommend incorporating an additional standard(s) that considers any delays that might result from FSRA’s own due diligence process, as timely regulatory approvals are crucial to the competitiveness of the sector.

### Dispute Resolution

As with any dynamic process, a disagreement may arise over FSRA’s decision on an application. In such cases, we believe that an independent and timely dispute resolution process, must be established to allow credit unions an option for appeal of a FSRA decision.

The principle-based assessment criteria are designed in way that leaves room for a difference in interpretations. Given the complex and timely nature of many business transactions, it is reasonable for the system to have a process beyond the existing route available through the Office of the Ombudsman of Ontario.

### Regulatory Sandbox

FSRA should consider the applicability of its regulatory sandbox to some business transactions, such as those related to provision of auxiliary services. While we understand that a sandbox is primarily intended



for business ventures outside the contemplated framework – it is worth considering whether it may be beneficial to expand its applicability to some transactions captured in the framework.

The benefit of this approach would be to provide FSRA with more options rather than a binary approval or outright rejection of an application. This could be of particular benefit to those applications that show a good business case but may require a credit union to have some experience to put in place the necessary systems and mitigants to demonstrate successful proof of concept. Such an approach would be in line with the principles-based intent of this guidance.

We would welcome a separate conversation on this item.

### **Concluding Remarks**

With the proclamation of the *CUCPA 2020*, the sector looks forward to taking advantage of the newly granted business powers. We are hopeful that FSRA's proposed principles-based guidance will provide greater flexibility to credit unions in seizing business opportunities to strengthen the sector while meeting consumer needs for new financial services.

Our recommendations highlight several areas where we hope FSRA will provide more transparency and additional burden reduction. We look forward to addressing these issues and advancing opportunities for Ontario's credit unions.

We would be happy to further discuss the contents of this document, please don't hesitate to reach out.

Sincerely,

Andrei Belik  
Regional Director, Ontario Government Relations  
Canadian Credit Union Association

