



May 31, 2023

Mr. Mark White  
Chief Executive Officer  
Financial Services Regulatory Authority of Ontario  
5160 Yonge Street, 16<sup>th</sup> Floor  
Toronto, Ontario M2N 6L9

**Re: Consultation: Proposed Guidance: Administrative Monetary Penalties**

Dear Mr. White,

On behalf of the Desjardins Group, I am pleased to respond to your request for comments on Financial Services Regulatory Authority of Ontario's (FSRA) Proposed Guidance: Administrative Monetary Penalties (AMP).

Desjardins Group is the leading cooperative financial group in Canada serving over 7.5 million members and clients across the country. For over 120 years, Desjardins Group has listened and responded to its members' needs and adapted to change. We provide Canadians with banking, wealth management, life & health insurance, property & casualty insurance, and personal business as well as institutional financial services. In Ontario, the Desjardins Ontario Credit Union (DOCU) is the second largest credit union in the province with over 137,000 members, 48 branches, and just shy of 11 billion in assets<sup>1</sup>. Desjardins General Insurance Group (DGIG) is a subsidiary of Desjardins Group and proud to be the leading personal use auto insurer in Ontario. Desjardins Financial Security (DFS) is the fifth largest Life and Health insurer in the country.

We support FSRA's objective to improve transparency, fairness, and consistency in the imposition of monetary penalties. We however have a few questions and comments about FSRA's expectations.

**Advance warning**

The Guidance states that "FSRA ensures that general AMPs are not punitive". In order to better accomplish this objective, we believe FSRA should include the concept of warning letters in cases where the contravention generates a low risk based on the criteria set in the guidance (intentional, harm to members, presence of corrective action, economic benefit, history). Compliance breaches are often a result of simple oversights or to differing interpretations of

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<sup>1</sup> [2022 Annual report, Desjardins Ontario Credit Union](#)

regulation. In these cases, a penalty would offer little gain from a supervisory point of view, as it is not a deterrent for unintentional behaviour.

### Scale of Penalties

The Guidance states the maximum imposable general AMP provided for in the law (max. \$100k/individual, \$500k/entity). We understand that the decision to impose a penalty depends on several factors and that FSRA is granted considerable discretion with respect to the imposition of AMPs. However, without a couple more details, it is difficult to truly grasp the extent of the penalties for a given non-compliance. We believe a few “benchmark” penalties could be given as examples to provide reference points for stakeholders and add transparency to the Guidance.

### Independence of the inspection process and clarity on what situations may result in an administrative penalty

In its supervisory role, FSRA may identify compliance issues in a stakeholder’s activities. For credit unions, this could increase its deposit insurance premium. FSRA should take the deposit insurance premium impact into account when determining the amount of AMP to impose. As FSRA has stated, AMPs are not meant to be punitive, and this process could lead to a situation where a credit union is penalized twice for a unique offense as opposed to other types of stakeholders.

We thank you for giving us the opportunity to provide feedback on the Proposed Guidance: Administrative Monetary Penalties and we welcome further discussions upon our comments in greater detail.

Sincerely,

Giuseppina Marra  
Regulatory Affairs  
Desjardins Group

CC

Mr. William Boucher, Chief Executive Officer, Desjardins Ontario Credit Union  
Mr. Mario St-Hilaire, Vice-President, Insurance Risk Division