



Independent Financial Brokers of Canada

740-30 Eglinton Avenue West, Mississauga, ON L5R 3E7

November 18, 2019

Mark White, CEO
Financial Services Regulatory Authority of Ontario
5160 Yonge Street, 16th Floor
Toronto ON M2N 6L9

Submitted online via FSRA website

RE: Draft FSRA 2020-2021 Priorities and Budget

Dear Mr. White:

Independent Financial Brokers of Canada (IFB) appreciates the opportunity to comment on FSRA's draft 2020-21 Priorities and Budget.

IFB is a not for profit, professional association representing approximately 3500 licensed financial advisors across Canada. The majority of IFB members are life & health insurance licensees who reside, and/or are licensed to conduct business, in Ontario. IFB members are independent businesspeople who operate small to medium sized financial firms in their local community.

At the outset, IFB wishes to commend FSRA's Board and staff on the successful launch of FSRA, and its shared commitment to redefining how non-securities related financial services are regulated in Ontario. In particular, IFB acknowledges FSRA's commitment to engaging in ongoing consultation with industry stakeholders in an open and transparent way.

The entire financial services industry is transforming in new and innovative ways to adapt to changing demands in how consumers want to access financial products and advice. So too must regulators adapt in new and innovative ways to ensure they protect consumers while not stifling innovation. New regulatory proposals must also be business model neutral and consider the possibility of unintended consequences which could inadvertently advantage or disadvantage the competitiveness of a legitimate business model. IFB looks forward to providing insight and input on the evolving nature of advice, with a particular focus on supporting those who are committed to doing so through the independent distribution channel.

What follows are IFB's comments on the Priorities that are applicable to IFB members.

Burden Reduction & Regulatory Effectiveness

Priority 3.1 Transition to Principles-Based Regulation (PBR)

IFB agrees that a principles-based approach to regulation - setting desired objectives and outcomes, rather than extensive reliance on rules – is a more desirable course. This is consistent with the Fair Treatment of Consumers guidance supported by FSRA and most other jurisdictions, and is a more



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flexible regulatory approach, allowing organizations of various size and complexity to adapt in a way that makes sense for them.

Priority 2.7 Improve Information Sharing with Regulators

IFB agrees that it is important for consumers and the industry for financial services regulators to share information, particularly when it can limit the entry or speed the exit of unsuitable individuals and firms. The increasingly digital nature of information, and the investments in technology undertaken by FSRA to improve its market conduct supervision, will be key to earlier identification of red flags and intervening in higher risk situations which may pose a threat to the public.

FSRA's continuing involvement in CCIR/CISRO/CSA/Joint Forum meetings and with other financial services regulators, provincially and internationally, will help to identify common challenges and lead to similar solutions that can be implemented in a harmonized way.

Life and Health (L&H) Insurance Sector

Priority 6.1: Enhanced Market Conduct Oversight to Protect Consumers

IFB supports industry initiatives which ensure consumers are well-served by life insurers and intermediaries from their initial point of contact to the eventual retirement of the policy.

The G4¹ task force was established to consider opportunities to help improve market oversight and consumer protection in the distribution of life & health insurance. The G4's initial paper was presented to the CCIR in June 2019, and is an example of the life and health insurance industry working collaboratively with regulators. This work continues in support of this priority.

CE & Professional Liability Insurance - IFB has, in past submissions, commented on the need for a review the current CE framework, and E&O requirements for life insurance licensees in Ontario. The current CE standard would benefit from a more modernized approach to educational content, and a more focused approach on learning outcomes. Similarly, a review of current E&O requirements could identify gaps or restrictions in coverage which can undermine the value of E&O protection for consumers in the event of a dispute or claim.

FTC & Code of Conduct - IFB agrees that a national, harmonized Code of Conduct for intermediaries would be helpful, build on the high-level Fair Treatment of Customers principles, and be instructive to intermediaries. Of course, FTC principles are intended to apply to all industry stakeholders, and without its implementation across and within the entire life insurance industry, it will be difficult to operationalize successfully, or be meaningful to all stakeholders.

Many intermediaries, including IFB members, are already subject to regulatory and/or voluntary codes of conduct. In fact, IFB recently modernized its Code of Ethics & Standards of Professional Conduct to

¹ The G4 is comprised of Advocis, CAILBA, CLHIA, and IFB.



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reflect the FTC principles. IFB looks forward to working with FSRA and CISRO on the development of a harmonized code.

Independent distribution - It is IFB's position that any review of processes intended to enhance market conduct and protect consumers should apply equally to all channels of distribution, not just the MGA channel, as proposed by FSRA. Insurance advice is regularly provided in circumstances where only the customer(s) and the licensee are present, regardless of the distribution channel.

IFB supports its members, and the L&H insurance industry more generally, by providing tools and education that promote compliant business practices and contribute to consumer protection. This has also been the shared focus of the G4 industry task force.

In the L&H sector, consumers are frequently advised by career advisors or employees of insurance distributors. The CSA, in its recent amendments to NI31-103², *Client Focused Reforms*, will require registered firms to inform consumers when they offer primarily proprietary products, or have other limits on the products and services they offer. The premise being that these consumers should be assured of transparent disclosure, so they understand any limits on the products or services they will receive from the advisor or firm. Some international jurisdictions have adopted a restricted license for proprietary firms to make the differentiation in services clear between them and independent firms.

IFB members are committed to the value of advice they provide as independent contractors (many of whom came to the independent distribution channel following an exit from the career system). IFB would like to better understand FSRA's focus on independent distribution, and in the research FSRA is planning to assess if there are specific market conduct issues in the MGA channel.

Priority 6.2 Improve Licensing Effectiveness and Efficiency

IFB supports improvements to the effectiveness and efficiency of licensing processes. We agree that there should be barriers in place to prevent unsuitable individuals from becoming licensed, or from continuing to be licensed. Some have advocated that any regulatory infraction in another jurisdiction or by another regulator should result in license suspension or removal. While such action may be justified, we believe FSRA should follow a fair, transparent process when determining the action to be taken.

Whistleblower legislation - In past submissions, IFB has advocated for whistleblower legislation, such as exists in the investment industry, to assist regulators in identifying activities that may be harmful to consumers, including those which may be illegal, unethical, or dishonest. While this would require a legislative change in Ontario, we believe it could be an important tool to enhance consumer protection.

² CSA NI31-103: Reforms to enhance the client-registrant relationship available at:
https://www.osc.gov.on.ca/documents/en/Securities-Category3/ni_20191003_31-103_reforms-enhance-client-registrant-relationship.pdf



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Additional license category – A number of other Canadian life insurance regulators have implemented individual or restricted licensing requirements to improve their ability to oversee those who sell incidental insurance products³ to the public. Incidental insurance refers to insurance sold in relation to another transaction and that may pay make payments on a loan, credit card or line of credit, in case of disability or death, and often sold by automobile dealers, travel agents and agencies, retailers and through branches of lending institutions such as banks, credit unions, finance companies and pay-day lenders. Consumers can be unaware of the terms, costs and post-claim underwriting associated with such products, leading to complaints. Given the large market for such products, we believe this is a gap in the current licensing regime in Ontario.

Consumers who purchase any form of insurance should have the benefit of equivalent consumer protection standards, and be confident they are dealing with intermediaries who are duly licensed, subject to a similar regulatory regime, and have access to complaint and restitution mechanisms.

Section 5.6 Financial Planners/Financial Advisors Sector

Priority 8.1 Implement the title protection framework for FP/FA

IFB has long supported the need for those who hold out to the public as providing financial advice and planning to be licensed, subject to regulatory oversight, and have the appropriate proficiencies to conduct business with the public.

IFB applauds the overall objective of Ontario's FP/FA Act to improve clarity for the public on the titles of Financial Planner and Financial Advisor. It has been IFB's position throughout this process, however, that this need for clarity extends to all licensees - not just those who use the title Financial Planner and Financial Advisor. In our view, this is best achieved through regulatory guidance and rules drafted by provincial regulators with statutory recognition for the regulation of financial services. This is the appropriate mechanism for regulating licensed individuals and firms, and the most effective, inclusive, and objective.

IFB supports restricting the title of Financial Planner as proposed, along with a simpler, less burdensome approach to regulating use of the title Financial Advisor, as described in our response to FSRA under separate cover.

IFB looks forward to assisting FSRA as it works to define the details of the FP/FA framework, which we trust will include cost-benefit analysis, and consideration of the risk of potential unintended consequences, such as reducing access to financial planning or advice from qualified advisors or increasing the regulatory burden of market conduct oversight to unsustainable levels. Overall, we seek a framework that will be balanced, fair and transparent for advisors and the public.

³ The CCIR defined incidental sellers of insurance as those who, in "pursuing activities in a field other than insurance," offer accessory insurance products on behalf of an insurer that relate to the seller's specific (non-insurance-related) goods or services.



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IFB appreciates the opportunity to comment on FSRA's 2020-21 draft priorities, and looks forward to continuing to work with FSRA on regulatory matters affecting the L&H sector in Ontario.

Should you have any questions, or wish to discuss, please contact myself or Susan Allemang, Director Policy & Regulatory Affairs (email: sallemang@ifbc.ca).

Yours truly,

A handwritten signature in dark ink that reads 'Nancy Allan'.

Nancy Allan

Executive Director

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