



Independent Financial Brokers of Canada

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

February 8, 2019

Financial Services Regulatory Authority of Ontario  
130 Adelaide St. W., Suite 800  
Toronto ON M5H 3P5

Submitted online: [www.fsrao.ca/en/consultations](http://www.fsrao.ca/en/consultations)

Attention: Bryan Davies, Chair  
Mark White, CEO

**Subject: FSRA Proposed 2019-20 Priorities and Budget**

Independent Financial Brokers of Canada (IFB) is pleased to comment on the Financial Services Regulatory Authority of Ontario's (FSRA's) Proposed Priorities and Budget document.

IFB was federally incorporated as a not for profit association over 30 years ago and today represents approximately 3,500 licensed financial advisors across Canada. The majority of IFB members are mutual fund representatives and/or life insurance licensees, although many are licensed or accredited to provide other types of financial advice such as securities, mortgages, estate and trust planning, and financial planning. IFB members are self-employed, operating small to medium sized financial practices in communities of all sizes in Ontario. IFB does not represent career agents or employees of financial institutions.

IFB members are deeply committed to the value of independent advice and preserving this choice for consumers of financial services. An important part of the work IFB does is to advocate on behalf of its members with government, regulators, industry stakeholders, and others, to ensure the voice of the independent advisor is heard when changes are contemplated which may affect their business or their clients.

IFB supports a regulatory and legislative framework which does not impede marketplace competition, and is neutral in its effect on distribution channels.

**Comments**

IFB appreciates FSRA's commitment to working with industry stakeholders in an open and consultative way and values the opportunities to provide FSRA with input through the Industry Advisory Group. We look forward to continuing to do so as FSRA moves toward its 2019 launch in June.

IFB's comments will be primarily directed at those sections of the FSRA consultation document which affect the life and health insurance industry.



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## 5. FSRA Budget

IFB responded to the draft Interim and Final Fee Rule consultation in January 2019. We have reviewed the budget in this document and have no further comment other than that it is our hope that FSRA will work to contain its costs, and where that is not possible that there is a corresponding relationship to improved consumer protection.

## 6. Proposed Priorities

IFB supports FSRA's two overall priorities, which are "to deliver a positive impact in reducing burden and improving regulatory effectiveness, improving stakeholders' regulatory experience".

## 7. Burden Reduction

We encourage FSRA to work closely with other financial services regulators to achieve these priorities. Many consumers of financial services use multiple financial providers (banks, insurance, investments), which, by law, are separately regulated. Similarly, many insurance industry stakeholder groups, most notably insurance agents, conduct business in other financial services sectors (deposit brokers, mutual funds), and are licensed in other Canadian jurisdictions. Consumers and advisors benefit from a streamlined, harmonized approach to regulation that supports consistent outcomes.

In January, the Ontario Securities Commission announced a [consultation](#) to examine ways to reduce the regulatory burden on its registrants. The OSC and Ministry of Finance have established a Burden Reduction Task Force with a focus on finding ways to eliminate unnecessary rules and processes, and enhance competitiveness for Ontario businesses, while still protecting investors and marketplace integrity. We urge FSRA's participation on this Task Force, as an accompaniment to its commitment to burden reduction. The Task Force would then benefit from a broader cross-sector view when considering ways to reduce regulatory burden, without reducing consumer protection.

### 7.1.1 Review Inherited Guidance

IFB supports the proposed review of the existing guidance for the life insurance sector. It is important that such guidance is clear and meets current practice standards and expectations for market conduct behaviour. FSRA will need to consider how best to deliver these documents to licensees to maximize awareness, and aid compliance. It is important that industry stakeholders, like IFB, also have access to such guidance, as it is often used as the basis for compliance tools and advice developed by IFB, to help members meet their regulatory requirements.

### 7.1.2 Review Data Collection and Filing Requirements

IFB recommends that in most cases when data is collected by regulators, that the results should be shared with all industry participants. In the past, FSCO complaints statistics have been shared with life insurance companies, but often not with intermediary groups. IFB can be a helpful resource to communicate known risks and frequent complaints to IFB members, and more broadly through our education events which attract both members and non-members.



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#### 7.1.3 Establish Meaningful Service Standards

IFB supports the establishment of service standards so that the delivery of regulatory activities is measurable and predictable. Delays in regulatory action can be detrimental to consumers and industry participants.

### 7.2 **Regulatory Effectiveness**

#### 7.2.1 Protecting the Public Interest

IFB agrees that FSRA needs to have expertise to keep abreast of how the financial services sector and consumer expectations are evolving. Due to changing consumer demands, a growing number of financial products are being sold without the benefit of advice. While this is convenient for some, these consumers may not always be cognizant of the risk associated with purchasing sensitive products like life/health insurance without advice, including the impact incomplete information may have on ensuring the policy's validity, if they need to make a claim. Recent media accounts of consumers' misunderstanding of their travel insurance coverage and the subsequent effects for them upon denial of medical coverage is an example of this, as are post claim denials of short and long term disability benefits. Consumers need clear disclosure throughout the purchasing process to better understand the product, and evaluate if they need to access advice from a licensed advisor.

IFB supports greater inclusion of a consumer perspective going forward and the establishment of a Consumer Office. It is important that products are developed, marketed and serviced in alignment with the Fair Treatment of Consumers guidance. It is our hope that FSRA will be able to access a pool of consumers who are generally supportive of the life insurance industry, and the role life insurance products can play in reducing financial risks for individuals and families. We note that advisors work every day with clients, and have first-hand knowledge of consumer issues that can lead to confusion or misunderstandings. IFB can support FSRA by tapping into its members' experiences and providing feedback.

As FSRA looks to identify and improve avenues for consumers and businesses to report information about fraud and bad actors, IFB continues to support whistleblower legislation, similar to that in place for the OSC and MFDA. This provides an alternative mechanism – a safe harbour - for those who may be uncomfortable with reporting such instances directly to FSRA or the insurance company.

#### 7.2.2 Sectoral Expertise

Sectoral expertise will be a critical component of FSRA's initial success. FSRA must attract talent who are knowledgeable about the life and health insurance industry, and who hold an impartial view of distribution channels and those regulated by FSRA.

#### 7.2.3 Enable Innovation

As FSRA moves to establish an Innovation Office, we see opportunities to collaborate with other financial sector regulators and teams, such as in the OSC's regulatory 'sandbox', or similar type of initiative.

#### **7.2.4 Enhancing Stakeholder Collaboration**

IFB welcomes opportunities to contribute to the development of an open, transparent, fair and balanced regulatory framework. We look forward to continuing to work with FSRA staff and Board to ensure life insurance advisors are represented in stakeholder discussions.

#### **7.2.5 Modernize Systems and Processes**

FSRA has identified the need for more effective IT systems and processes. Having a well-functioning IT system will enable FSRA to build in more comprehensive risk-based processes that will identify those agents and companies with deficient processes, or that are not meeting regulatory requirements, in a timely way.

### **8.3 Insurance Conduct**

#### **8.3.1 Adopt Effective Conduct Standards**

FSRA has commented on “the lack of regulation of intermediaries between insurers and agents (MGAs)”. IFB seeks further clarity on this observation. The CCIR held a consultation which examined a potential regulatory framework for MGAs in 2012. The responses to this from industry stakeholders would provide FSRA with a good body of work from which to assess any next steps.

Life insurance stakeholder associations have a history of working together to develop voluntary measures to strengthen the industry and consumer outcomes. IFB looks forward to assisting in discussions to address improvements in current market conduct standards. We note, however, that frequently there is not so much a need for new rules, as there is for better enforcement of existing ones.

We seek clarity on FSRA’s comment that “if stakeholders in a particular subsector (P&C or LAH) adopt a code of conduct, FSRA will review it...and consider adopting it for use in its supervision of such sector”. IFB has a Code of Ethics that members must agree to abide by upon joining, and annually thereafter. In light of this, IFB seeks to understand more fully what is meant by the statement above.

#### **8.3.2 Improve Licensing Effectiveness and Efficiency**

IFB continues to advocate for a licensing regime applicable to those involved in the sale of incidental insurance products (ISI), or creditor insurance in Ontario. A number of other Canadian jurisdictions have implemented individual or restricted licensing requirements in past years to improve consumer outcomes. Given the large number of consumers who are exposed to the ISI market, we believe this is a gap in the current licensing regime in Ontario.

Consumers who purchase any form of insurance should have consumer protection standards in place, such as being able to rely on intermediaries who are duly licensed, subject to a similar regulatory regime, and have accessible complaint and restitution mechanisms. We note that the CCIR undertook a [consultation on ISI licensing](#) in 2008, which may provide a useful framework for review.



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IFB has suggested in the past that the aggregated results of the Annual Statement on Market Conduct, and insurer-specific reviews that focus on areas of potential risk to the fair treatment of customers, should be shared with all stakeholders.

*Continuing Education:*

IFB is a respected in-person (summits and events) and online (IFB Academy) education provider. IFB's Toronto summit is the largest, attracting over 600 advisors. The Calgary and Vancouver summits also attract hundreds of advisors. IFB holds smaller, regional events across Canada, which have included Ottawa, Saskatoon, Winnipeg, several times per year. At IFB events, attendees are monitored to verify attendance.

IFB supports updating the current CE framework to reflect current professional and industry standards. However, we believe an open and competitive education marketplace produces better quality offerings, on a cost competitive basis.

Below are our observations regarding CE for life licensees in Ontario:

- i) Current CE standards are vague and not well understood by some of the organizations offering accredited CE. Historically, there has been little auditing of advisor compliance with the CE requirements, and no clear guidance on how attendance should be verified. While IFB does not advocate for a CE system that is overly bureaucratic or complex, we would welcome the opportunity to contribute to the development of a more modern and professional approach to education, and would welcome more explicit guidance from FSRA on CE definitions, and appropriate standards to be met by providers.

*Professional liability insurance (E&O):*

IFB sponsors a group professional liability insurance program for its corporate and individual members. The program provides comprehensive and affordable coverage tailored to independent distribution. For example, for an advisor, it covers any products the advisor can sell under the advisor's mutual fund and/or life insurance license. The IFB plan offers limited coverage for exempt market registrants, as an add-on to their life/mutual fund E&O, privacy cover, and extended reporting for advisors retiring or otherwise leaving the business.

Below are our observations regarding E&O for life licensees in Ontario:

- ii) While E&O is a mandatory licensing requirement in most Canadian jurisdictions, standards of E&O insurance coverage vary. Provincial regulators set coverage requirements in terms of limits (e.g., \$1million/\$2million aggregate and fraud coverage) but not what the policy should cover. Some E&O policies restrict the products it will cover, or limits coverage to the products of one company. This can create gaps, and undermine consumer protection, by creating a situation under which an advisor can



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meet the basic E&O requirement, but in fact not have adequate coverage based on the products or advice the advisor is providing to clients.

Currently, when advisors retire or leave the business, there is no requirement in Ontario to purchase extended reporting coverage. IFB offers extended coverage under such circumstances, but there is little uptake.

As FSRA examines the current standard in Ontario, it may want to look at the insurance requirement in Manitoba, which requires an advisor to purchase mandatory ERP for 5 years, requires the E&O policy to cover all the products an agent can sell, and prohibits policies that are restricted to one insurer's products. See Manitoba [Insurance Act regulation 389/87 Section 12.](#)

- iii) IFB looks forward to participating in discussions to restrict entry or require exit of non-compliant registrants. Most advisors are compliant and seek to provide appropriate and knowledgeable advice to their clients. Consumers need to feel confident in the life/health insurance industry. Bad actors undermine the confidence of the public and the many advisors who take the steps necessary to operate a compliant business which serves their clients well.

#### 8.3.3 Harmonize Treating Financial Services Consumers Fairly Guidance

IFB supports FSRA's priority to further clarify the FTC guidance. Many IFB members are small business owners, operating a sole proprietorship or partnership. IFB is pleased that the FTC guidance incorporates the principle of proportionality, however, we look to provide members with more specific guidance on how sole proprietors and small offices will be seen to have achieved compliance.

Thank you for the opportunity to provide our comments on FSRA's proposed priorities and budget. We trust you will find them useful. Should you have any questions, or wish to discuss, please contact myself or Susan Allemang, Director Policy & Regulatory Affairs (email: [sallemang@ifbc.ca](mailto:sallemang@ifbc.ca)).

Yours truly,

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

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