

# Guidance



Interpretation

Approach

Information

Decision



**Effective Date:** February 25, 2022

**Identifier:** No. PC0043INT

## Life Agent Reporting Requirements and Related Insurer Obligations

### Purpose

This Guidance provides:

- FSRA's Interpretation of:
  - specific information required under the *Insurance Act* ("Act") and its regulations for FSRA to assess agents' compliance and suitability to hold a life agent licence
  - related obligations of life insurance companies
- FSRA's Approach to implementing its licensing and compliance programs using the information required from life agents.

This Guidance outlines three licensee reporting requirements for life agents: errors and omissions insurance, continuing education, and agents' contracted insurers.

## Scope

This Guidance applies to:

- life agents
- corporate and partnership life agents
- life insurance companies

Life agents, corporate life agents and partnership life agents are individuals or business entities who hold a licence under the Act for both life insurance and accident and sickness insurance.<sup>1</sup> Within this Guidance, “life agent” and “agent” are used interchangeably and, unless otherwise noted, refer to a “life agent”.

This Guidance does not apply to:

- accident and sickness only insurance agents
- general insurance (other than life) agents
- property & casualty insurance companies

## Rationale and background

The Act and Ontario Regulation (O. Reg.) 347/04 (“Regulation”) establish FSRA’s licensing powers for life agents and the duties of life agents and insurers. In its oversight of life agents, FSRA aims to achieve its statutory objects as set out in the *Financial Services Regulatory Authority of Ontario Act, 2016*, including:

- contributing to public confidence in the insurance sector<sup>2</sup>
- promoting high standards of business conduct<sup>3</sup>
- protecting insurance consumers<sup>4</sup>

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<sup>1</sup> O Reg 347/04, s 2(1).

<sup>2</sup> *Financial Services Regulatory Authority of Ontario Act, 2016*, SO 2016, c 37, Sched 8, s 3(1)(b).

<sup>3</sup> *Financial Services Regulatory Authority of Ontario Act, 2016*, SO 2016, c 37, Sched 8, s 3(2)(a).

<sup>4</sup> *Financial Services Regulatory Authority of Ontario Act, 2016*, SO 2016, c 37, Sched 8, s 3(2)(b).

FSRA uses information collected from life agents to administer and enforce its market conduct programs and regulations under the Act. The Regulation contains specific reporting provisions that are outlined in this Guidance. These provisions allow FSRA to:

- assess and validate agents' compliance with legal duties under sections 13 and 14 of the Regulation, where non-compliance could lead to enforcement sanction, including the imposition of a monetary penalty under O. Reg. 408/12.
- ensure that agents who qualified for licensing under section 4 of the Regulation continue to remain suitable for licensing renewal under section 7 of the Regulation

To license and monitor over 55,000 life agents and over 6,000 corporate and partnership life agents in Ontario, FSRA collects data from licensees. Three key life agent reporting requirements are outlined below. Agents report most of the information at licensing renewal; however, as noted in this Guidance, some changes must be immediately reported to FSRA.

This Guidance outlines agents' reporting responsibilities and related life insurer oversight obligations for:

**Errors and omissions (E&O)**

Up-to-date agent E&O insurance coverage information provides assurance that, where there has been negligence or a breach of duty by an agent, a consumer may have recourse to compensation if that negligence or breach results in a consumer sustaining a financial loss.

**Continuing education (CE)**

Details of completed CE courses<sup>5</sup> verify that agents dealing with consumers maintain up-to-date and relevant industry knowledge.

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<sup>5</sup> O Reg 347/04, s 7(3)(c).

**Agents' contracted insurers**

To carry out supervisory and enforcement activities, FSRA needs to know the full scope of the agent's contracted insurers. Where consumer harm is identified, this information enables FSRA to efficiently contact the applicable insurers to determine whether other policyholders may be at risk and assess the effectiveness of the insurer's compliance oversight program for its agents.

**Insurance company responsibilities**

Under section 12 of the Regulation, insurers have an obligation to maintain a system to ensure that agents acting on their behalf comply with the Act, its regulations and the agent's licence. Whether or not oversight functions have been delegated by an insurer to third parties, insurers retain this regulatory responsibility, including the requirements to discharge the obligations that are referenced in this Guidance. Where FSRA determines non-compliance with the referenced reporting requirements, agents' contracted insurers may be required to show FSRA that proper controls to ensure compliance with the Act and the Regulation are in place and working effectively.

# Approach & Interpretation

FSRA has the authority to collect any information needed from a life agent licensee.<sup>6</sup> FSRA uses a targeted approach to collecting the required information, guided by FSRA's **efficient** and **effective** principle – reporting requirements are proportionate to the level needed to ensure a high level of compliance while minimizing routine reporting.

The following tables provide FSRA's Interpretation and Approach for E&O, CE, and agents' contracted insurers.

## Errors and omissions insurance

### Legislative Requirement for E&O Insurance

- Under section 13 of the Regulation, a life agent must maintain valid errors and omissions ("E&O") coverage, regardless of whether they are actively selling. Policy requirements:

- a minimum of at least \$1 million in respect of any one occurrence
- extended coverage for loss resulting from fraudulent acts.

### FSRA's Interpretation of the *Insurance Act* and Ontario Regulation 347/04 for:

#### All life agents licensed in Ontario

- To confirm that E&O insurance is maintained, agents are required to report the following key coverage details at licensing renewal<sup>7</sup>, and within 5 business days whenever the E&O coverage is renewed or changed:

<sup>6</sup> O Reg 347/04, s 7(3)(e); *Insurance Act*, RSO 1990, c I 8, s 442.3(1)7.

<sup>7</sup> O Reg 347/04, s 7(3)(e).

	<ul style="list-style-type: none"><li>➤ policy number</li><li>➤ expiry date</li><li>➤ name of E&amp;O insurer</li></ul>
<b>FSRA's Approach</b>	<ul style="list-style-type: none"><li>• To minimize reporting requirements, FSRA does not routinely require a copy of the policy or certificate. This may be requested when an agent has a history of current or prior complaints, enforcement actions or suitability concerns, or when FSRA conducts spot-checks, thematic reviews or other supervisory examinations.</li></ul>
<b>FSRA's Interpretation of the <i>Insurance Act</i> and the Regulation for: Corporate and Partnership Agencies</b>	<ul style="list-style-type: none"><li>• Each life agent acting on behalf of a corporate or partnership life insurance agency must be insured under an E&amp;O policy.</li><li>• Each corporate or partnership life insurance agency must maintain an E&amp;O policy with at least \$1 million coverage per occurrence and extended coverage for loss resulting from fraudulent acts.</li><li>• Corporate and partnership life insurance agencies are required to provide details of their E&amp;O policy in the <a href="#">Licensing Portal</a> for Corporate Insurance Agencies and Partnerships.</li><li>• Each individual life agent acting on behalf of a corporate or partnership life insurance agency must adhere to all requirements for</li></ul>

## FSRA's Approach

life agents, including reporting E&O information through [Licensing Link](#).

- Coverage can be provided through an agency policy where there is a shared limit among agents covered by a single policy. The E&O policy must include the legal name of the corporation and list the legal name of each individual agent.
- FSRA sends agents an email reminder to update their E&O information thirty (30) days before the E&O policy expiry date that is on file with FSRA.
- When FSRA does not have up-to-date E&O information for an agent, consumers are made aware through a notice on the public registry of licensed agents.

## Continuing education

### Legislative Requirement for Continuing Education

- Under section 14 of the Regulation:
  - a life agent must complete at least thirty (30) hours of continuing education (CE) every two years
  - the education content must be acceptable to FSRA

## **FSRA's Interpretation of the Insurance Act and Ontario Regulation 347/04 for:**

**All life agents licensed in Ontario**

- To confirm that CE hours have been completed, agents are required to report the following details at licensing renewal<sup>8</sup>:
  - course name
  - course provider
  - CE hours
  - date of completion
- Under subsection 7(3)(c) of the Regulation, FSRA has authority to require an agent to file a statement from the course provider certifying which courses have been completed.
- Eligible topics for CE must be related to the technical aspects of life insurance or accident and sickness insurance. Education related to increasing sales and lead generation does not meet the CE requirement. Please see [FSRA's website](#) for details of eligible topics.
- Only courses that are undertaken or completed while the agent is licensed are credited toward the CE requirement.
- Hours of CE exceeding the minimum requirement within any licence term may not be used to meet the CE requirement for subsequent periods.

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<sup>8</sup> O Reg 347/04, s 7(3)(e).

## FSRA's Approach

- CE hours cannot be claimed for:
  - a course where course details cannot be supplied
  - a course/program the agent registered for but did not attend
  - hours spent as an instructor or teaching a course
  - repeating a course, unless there is demonstrated new content
  - hours spent on courses that an agent fails.

## **FSRA's Interpretation of the Insurance Act and Ontario Regulation 347/04 for:**

### **Non-Ontario Resident Life Agents who are Resident in a Canadian Jurisdiction other than Ontario**

- To minimize reporting requirements, FSRA does not routinely require evidence of CE course completion, such as CE certificates. This may be requested when an agent has a history of current or prior complaints, enforcement actions or suitability concerns, or when FSRA conducts spot-checks, thematic reviews, or other supervisory examinations.
- FSRA does not approve providers or delivery formats.
- For life agents who are residents in a Canadian jurisdiction other than Ontario:
  - FSRA considers its CE requirements to be met if FSRA is satisfied that:

- the non-Ontario resident's home jurisdiction has a CE requirement that is equivalent to or exceeds Ontario's requirement of at least thirty (30) hours of continuing education every two years
- the agent has taken the necessary courses to meet those requirements.

- If the home jurisdiction requires less than thirty (30) hours every two years, the agent must complete additional hours to meet Ontario's thirty (30) hour requirement.
- FSRA relies on regulators in other Canadian jurisdictions to ensure CE compliance in their respective jurisdiction.

- Residents of all non-Canadian jurisdictions seeking an Ontario life agent licence are required to comply with Ontario CE requirements.

See Canadian Insurance Services Regulatory Organizations (CISRO) website for information on [CE requirements across Canada](#)

**FSRA Interpretation of the *Insurance Act* and Ontario Regulation 347/04 for:**

- The corporation/partnership does not have CE obligations; however, each life agent

## Corporate and Partnership Agencies

acting on their behalf must individually satisfy the CE requirements.

### FSRA's Approach

- FSRA may require agents to provide evidence of course completion for the current and immediately preceding licensing periods. For example, a certificate, or similar document verifying attendance or successful completion of a course or program of a specified number of hours.
- To monitor compliance:
  - FSRA may contact course providers to confirm course information.
  - FSRA may review the content of courses or programs in the event of complaints or other information received.
- FSRA publishes enforcement actions resulting from an agent's CE non-compliance.

## Agents contracted insurers

### FSRA's Approach

- FSRA can more efficiently and effectively administer and enforce the *Act*<sup>9</sup> if it knows the agent's contracted insurer(s).

<sup>9</sup> *Financial Services Regulatory Authority of Ontario Act, 2016*, SO 2016, c 37, s 6(2)(b).

## FSRA's Interpretation of the *Insurance Act* and Ontario Regulation 347/04

- FSRA does not publish an agent's contracted insurer(s).
- FSRA uses its authority under subsection 7(3)(e) of the Regulation to collect information from insurance agents regarding their contracted insurers.
- Agents must report the name of every insurer the agent acts on behalf of (represents, has a contract with, or sells insurance products for). Reporting must be done at licensing renewal, and within 30 days from the effective date when the agent adds a new contracted insurer or terminates an existing contract with an insurer.<sup>10</sup>
- FSRA may require agents to provide records to confirm the information.<sup>11</sup>
- FSRA may request information from insurers about agents acting on their behalf.<sup>12</sup>
- If FSRA determines that an agent is not meeting its legal obligations, FSRA may contact the agent's contracted insurers to alert them to the agent's non-compliance.

## Insurance company responsibilities

<sup>10</sup> *Insurance Act*, RSO 1990, c I 8, s 442.3(1)7.

<sup>11</sup> *Insurance Act*, RSO 1990, c I 8, s 442.3(1)7; O Reg 347/04, s 7(3)(e).

<sup>12</sup> *Insurance Act*, RSO 1990, c I 8, s 442.3(1)7.

Insurers are required to have a system in place to ensure that all agents acting on their behalf comply with regulatory and licensing requirements that are intended to protect consumers, including those described in the table above.

Consistent with FSRA's principles-based approach to regulation, insurers may achieve the outcomes described in the Interpretation in a way that best suits their business model.

The following table outlines FSRA's Interpretation of requirements and FSRA's Approach for insurer oversight of life agents.

## Insurer's compliance system

Legislative Requirement	Approach
	<ul style="list-style-type: none"><li>• Under section 12 of the Regulation:<ul style="list-style-type: none"><li>➢ Insurers that authorize agents to act on their behalf must establish and maintain a compliance system that is reasonably designed to ensure each agent complies with the Act, the regulations and the requirements of the agent's licence.</li><li>➢ The insurer's compliance system must screen each agent for suitability to carry on business as an agent.</li><li>➢ An insurer is required to report to FSRA if it has reasonable grounds to believe that an agent who acts on behalf of the insurer is not suitable to carry on business as an agent.</li></ul></li></ul>

## FSRA's Interpretation of the *Insurance Act* and Ontario Regulation 347/04

- Insurers must maintain a compliance system which satisfies the requirements of section 12.
- To meet their obligations for a reasonably designed<sup>13</sup> compliance system, insurers must ensure adequate oversight and governance of agents acting on their behalf by:
  - having in place policies, record-keeping and controls
  - exercising due diligence
- Insurers retain responsibility for the compliance of agents acting on their behalf. Whether or not oversight has been delegated to third parties, FSRA's authority applies, and insurers must be able to discharge their duty to ensure an agent's ongoing suitability to maintain a licence, and ongoing compliance.
- To assist insurers in monitoring their agents, insurers have access, through Licensing Link, to E&O details for their sponsored agents and those agents who have reported contracting with them, including the status of their E&O policy.

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<sup>13</sup> O Reg 347/04, s 12(1).

	<ul style="list-style-type: none"><li>➤ Insurers must include in their compliance program a policy and procedure to routinely check their agents' E&amp;O insurance status, either using their own monitoring system or the information available through Licensing Link.</li></ul>
<b>FSRA's Approach</b>	<ul style="list-style-type: none"><li>● FSRA assesses insurers' agent oversight controls through onsite examinations and compliance reviews.</li></ul>

## Compliance and enforcement

Life agents and insurers are required to comply with the requirements under the Act, as interpreted in this Guidance.

- Adherence to the Interpretation in this Guidance is evidence in the determination of suitability for licensing. FSRA has authority to refuse an application<sup>14</sup>, revoke or suspend a licence<sup>15</sup>, or place conditions<sup>16</sup> on a licence based on suitability.
- Maintaining accurate information through timely reporting is essential. Providing false, misleading, or incomplete information<sup>17</sup> on an application may be sufficient grounds for FSRA to reject the application, revoke a licence, result in enforcement action, or give rise to other regulatory sanctions.

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<sup>14</sup> Insurance Act, RSO 1990, c I 8, s 392.4(1).

<sup>15</sup> Insurance Act, RSO 1990, c I 8, s 392.5(1); O Reg 347/04, s 8.

<sup>16</sup> Insurance Act, RSO 1990, c I 8, s 392.4(4), s 407.

<sup>17</sup> Insurance Act, RSO 1990, c I 8, s 447(2)(a).

- FSRA considers the nature and extent of risks or harm to consumers, mitigating actions taken by licensees, and past supervisory findings when determining suitability for licensing and determining enforcement actions.

Life agents are responsible for complying with all requirements under the Act and its regulations, including life agent obligations that are not the subject of this Guidance. These include reporting contact information changes within 5 days after the change is effective<sup>18</sup>, making required written conflict of interest<sup>19</sup> and other disclosures<sup>20</sup>, avoiding prohibited conduct<sup>21</sup> and completing replacement forms<sup>22</sup> as set out in the Regulation and Regulation 674 under the Act.

## Effective date and future review

This Guidance became effective February 25, 2022 and will be reviewed no later than February 25, 2025.

Once effective, this Interpretation and Approach Guidance replaces the information regarding life agent reporting requirements for E&O, CE and contracted insurers that is set out in the following Guidance:

- [PC0039ORG](#)
- [PC0040ORG](#)
- [PC0028ORG](#)
- Bulletin No. [LH-02/96](#)

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<sup>18</sup> O Reg 347/04, s 5.1.

<sup>19</sup> O Reg 347/04, s 16.

<sup>20</sup> O Reg 347/04, s 15(1)-(2).

<sup>21</sup> O Reg 347/04, s 17(a)-(f).

<sup>22</sup> RRO 1990, Reg 674, s 2(2)(i).

## About this guidance

Interpretation guidance sets out FSRA's view of requirements under its legislative mandate (i.e. legislation, regulations and rules) so that non-compliance can lead to enforcement or supervisory action.

Approach guidance describes FSRA's internal principles, processes and practices for supervisory action and application of CEO discretion.

### Learn more:

[FSRA's Guidance Framework](#)

## References

### Consumers

- Public Registry – [Agents Licensed in Ontario](#)

### Life agents

- [Licensing Link](#)
  - Instructions: Update Profile and Licensing Renewal:
    - Maintain Errors & Omissions Insurance policy details
    - Provide details of completed continuing education courses
    - Maintain list of contracted insurers

### Corporate agencies and partnerships

- [Life and Accident & Sickness - Corporate Agency or Partnership](#)

### Insurance companies

- [Access Errors & Omissions Insurance information for your contracted life agents](#)

## All stakeholders

- FSRA's Approach Guidance: [Fair Treatment of Customers in Insurance](#)
- [Guidance: Conduct of Insurance Business and Fair Treatment of Customers](#), adopted jointly by the CCIR (Canadian Council of Insurance Regulators) and CISRO (Canadian Insurance Services Regulatory Organizations) on September 27, 2018