



Stephen Frank
President and CEO

September 24, 2021

Mr. Mark White
Chief Executive Officer
Financial Services Regulatory Authority of Ontario (FSRA)
5160 Yonge St, 16th floor
Toronto, ON
M2N 6L9

Email: mark.white@fsrao.ca

Public Consultation Re: Guidance on FSRA's Approach to Communication of Enforcement Actions

Dear Mr. White,

On behalf of the Canadian life and health insurance industry I am pleased to provide the industry's feedback on the proposed approach to communicating enforcement actions. This information is essential for evaluating the suitability of advisors and making sure that consumers have access to sound advice.

The first section of our submission identifies areas where increased transparency would help insurers to better understand FSRA's investigative processes. In the second section, we examine when notice about enforcement activities would assist in the assessment of advisor suitability. In the final section, we recommend setting clear expectations for who can report misconduct.

About CLHIA

The CLHIA is a voluntary association with member companies that account for 99 per cent of Canada's life and health insurance business. The life and health insurance industry is a significant economic and social contributor in Ontario. It protects about 10.9 million Ontario residents and makes almost \$45 billion a year in benefit payments to residents in Ontario (of which 90 per cent goes to living policyholders as annuity, disability, supplementary health or other benefits and the remaining 10 per cent goes to beneficiaries as death claims). In addition, the industry has nearly \$280 billion invested in Ontario's economy. A large majority of life and health insurance providers have licences to operate in Ontario, with seventy headquartered in the province.

Canadian Life and Health Insurance Association
79 Wellington St. West, Suite 2300
P.O. Box 99, TD South Tower
Toronto, Ontario M5K 1G8
416-777-2221 www.clhia.ca

Association canadienne des compagnies d'assurances de personnes
79, rue Wellington Ouest, bureau 2300
CP 99, TD South Tower
Toronto (Ontario) M5K 1G8
416-777-2221 www.accap.ca

Toronto • Montréal • Ottawa

Transparency

Insurers actively investigate cases when they discover potential misconduct. A case is often reported to a regulator simultaneously with an insurer's own internal sanctions, or when severe misconduct is identified (e.g. theft). Increased transparency about FSRA's own process would help insurers align how they conduct their own internal investigations and structure the reports that they submit.

To help with this, we would like to better understand FSRA's:

- Investigative process,
- Criteria for undertaking an investigation,
- Service standards based on how long it takes to review a report,
- Criteria for licence suspension or termination,
- Approach for how complaints or investigations are referred to the OPP or RCMP, and
- Processes that are followed to reduce regulatory arbitrage (e.g. selling securities following the termination of a life licence).

Notification

The assessment of suitability involves determining if an advisor's conduct indicates a willingness and ability to provide customers with sound advice about life and health insurance products and services. It is an industry standard defined in the CLHIA's Guideline: "G8: Advisor Suitability".

Suitability is evaluated and monitored throughout an advisor's relationship with an insurer starting when they are a candidate for a sales agreement. Notification of investigations, and findings, directly supports monitoring and determining eligibility for a sales agreement.

Investigation

When it comes to an ongoing investigation, or review, we appreciate that there are limitations on the information that can be shared. However, there may still be opportunities for simplified notification, that still respect privacy requirements when an investigation is underway, while also helping insurers in screening advisors.

The receipt of this information would support insurers' processes. For example, when an advisor has a sales agreement with more than one insurer, if FSRA were to notify each one of an investigation or finding related to an advisor, it would allow insurers to take more immediate steps to mitigate risks to consumers. Similarly, if there was a way to determine if an advisor was under investigation, it could be considered during the initial screening for a sales agreement. In short, the earlier insurers know of issues associated with an advisor, the earlier they can include that information in their review and decision-making processes.

Findings

Reviewing reports of FSRA's findings is also part of the ongoing monitoring and screening processes for insurers. However, these reports can be very high-level making it difficult to identify the advisor involved, particularly where they have common names. It would be clearer to include an advisor's licence number

in a reported finding. It would be even more helpful if were to notify the insurers with which an advisor has a sales agreement with when a finding has been reached.

Reducing Arbitrage

Notification at the investigation stage, and once a finding has been reached, would together cut down on the ability of advisors to avoid sanctions by switching between companies, jurisdictions, or products. To this end, enhanced notification would help to keep bad actors out of the industry and protect consumers.

Who Can Submit a Report?

While there is not currently a limitation on who can report misconduct to FSRA, there may be an assumption that it is only insurers that can report misconduct. We would encourage FSRA to harmonize with the Insurance Council of British Columbia which has made it a requirement for intermediaries, such as MGAs and National Accounts, to report misconduct. In doing so, it would increase clarity of who can report misconduct, which would ultimately benefit consumers through working with suitable advisors.

Conclusion

We believe that the areas highlighted in this submission would help ensure that consumers are receiving sound advice from competent and professional advisors. We would be pleased to provide additional information that would be helpful or discuss any of the issues raised in this submission at your convenience.

Yours sincerely,

Stephen Frank