



Stephen Frank
President and CEO

October 29, 2021

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

Re: Proposed FY 2022-2023 Statement of Priorities

Dear Mr. White,

On behalf of the Canadian life and health insurance industry, thank you for providing the opportunity to give feedback on FSRA's proposed 2022-23 Statement of Priorities. The industry appreciates FSRA's proactive approach to regulation and oversight. We support your focus on regulatory efficiency and effectiveness.

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.

The industry supports FSRA's priorities and offers feedback

The draft Statement of Priorities reflects a modern approach to outcomes focused regulation. Our industry's client centric approach to consumer regulation aligns with FSRA's focus on consumer protections and the CCIR/CISRO Fair Treatment of Consumers (FTC) principles. We look forward to continuing to work with you and provide industry input.

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Below, we offer comments on the following priority areas:

- Burden Reduction,
- Effectiveness, Efficiency, & Innovation,
- Complaints, and
- Fees & Increased Enforcement Activity.

Achieve public policy objectives while reducing regulatory burden

We encourage FSRA to consider regulatory burden on a priority basis. Overall, being conscientious of regulatory burden underpins other priority areas that relate to regulatory effectiveness, efficiency, and innovation.

Focus on risk

It is important that FSRA focuses oversight on areas where there is the greatest consumer risk. In taking a risk-based approach, the burden of ongoing monitoring centers itself on where consumer harm is the most likely to occur.

Minimize repetition and duplication

Many regulators across the country are undertaking similar regulatory initiatives. This makes policy harmonization across the country important. To promote co-ordination and collaboration FSRA should continue to work with the Canadian Council of Insurance Regulators (CCIR). Harmonization eases implementation and ensures consistent outcomes for consumers. It also reduces the risk of duplicating the work of insurers in each jurisdiction.

Develop principles-based and outcome focused rules and guidance

Principles-based regulation protects consumers and allows insurers flexibility to create processes that work with their own internal systems and structures. Notably, client centricity has long underpinned insurers' internal policies and procedures. The CCIR/CISRO FTC Guidance: "Conduct of Insurance Business and FTC" establishes regulator expectations in this area. This will support how internal policies are reviewed over time. As such, while the industry may achieve the stated desired outcomes the underlying documentation of these policies and procedures may need to be updated with reference to the most recent guidance. Therefore, we would encourage FSRA to focus on principles-based regulation.

Review against measurable policy objectives

FSRA should measure an insurer's adherence to FTC by considering the implementation of appropriate policies and procedures. Specifically, this means assessing whether or not an insurer's overall processes and policies are fair to consumers vs whether a consumer deems an outcome to be "positive" or "negative". Focusing on fair processes, and the outcomes, would ensure that FSRA's policy objectives are measurable. This approach would also reduce the burden associated with measuring outcomes related to culture that are difficult to define as they are based on attitudes, intangible organizational values, or mindsets.

Supporting an effective, efficient, & innovative industry

Prioritize Innovation

The market of life and health insurance is highly competitive. Therefore, it is important that insurers continue to innovate so that the industry remains strong and competitive. This would allow insurers to be able to continue to meet the needs and expectations of consumers. We suggest FSRA continue to assess its regulatory and supervisory activities against the priority of ensuring an innovative insurance market.

Clarify requirements for all stakeholder

It is important for regulators such as FSRA to set clear regulatory rules and expectations for all stakeholders in the market. All parties involved in the distribution of life and health insurance have a role to play in implementing FTC policies and procedures. This includes intermediaries such as MGAs. Clarity for each party regarding their role will lead to a stronger distribution system and improve how we serve customers.

Improve regulatory and supervisory efficiency with technology

We encourage FSRA to explore technological solutions that help with oversight and licensing. The industry is concerned with the recent instances of backlogs of new applicants that have completed their training and are seeking a licence. Similar backlogs exist for those looking to renew their license.. Without a valid licence, advisors can neither sell insurance nor receive payment. To control delays, FSRA might consider developing reportable service standards for processing times. We believe that this would help by setting expectations to quickly process license applications and renewals.

Clarity needed on uses of the innovation tool kit

The priorities mention the development of an innovation tool kit. Our industry would like to understand how life and health insurance could use this tool kit.

Insurers have well established dispute resolution practices

Your priorities identify complaints handling as an area of focus for 2022-2023. As FSRA undertakes its review, we would highlight that insurers have well established processes in place for efficiently and effectively resolving complaints. Therefore, it is important to preserve the insurer-first approach to complaint resolution. Often insurers can quickly resolve a matter directly with the business line, or by working directly with the client. For the customer, this is the fastest approach, and the least costly.

Other regulators are also reviewing insurer complaints resolution. This makes harmonization important. Given that complaints management is a requirement of the federal *Insurance Companies Act*, the regulatory framework for complaints should be similar across the country.

Higher fees and understanding the need for increased enforcement

Phase in large cost increases

FSRA should have the resources that it needs to fulfill its mandate. However, the 65% budgetary increase is large. As more regulators move to cost recovery models, large increases like this could be problematic for issuers if they were to occur simultaneously across different jurisdictions. Similarly, where insurers have set budgets in place, it can be difficult to manage large, unexpected expenses.

One approach to mitigate the impacts on issuers of large increases is for large budgetary increases to be phased in over several years. It is also our assumption that such a substantial increase will be unique to this coming fiscal year and there will be much more moderate increases going forward.

The importance of an industry specific approach to fraud

Our industry supports the Ministry of Finance (MoF) and FSRA's efforts to create a fraud and abuse reduction strategy. This will enhance consumer protection and promote plan sustainability. In July 2021, we had the opportunity to respond to the MoF and FSRA consultation on this matter. As we noted in our submission, we continue to encourage the MoF and FSRA to recognize the severity of fraud and abuse throughout the broader insurance industry.

We note that FSRA's stated priorities in this area focus heavily on fraud in the property and casualty (auto) insurance market. FSRA Priority 4.2 indicates a plan to "Develop recommendations and act on reforms of the auto insurance system FSRA will work with the Ministry of Finance to support the development and implementation of initiatives to reduce fraud and abuse in the system." Also, in the context of auto insurance is a plan to "develop Health Service Provider supervisory reforms, including enhanced efficiency and more effective regulation through coordination with regulatory colleges and sector participants".

Focusing on auto insurance may have unintended consequences on the life and health insurance industry

Fraud spreads to the weakest link in the regulatory chain

A possible unintentional consequence of sector specific measures is that they push problems from one sector to another. Health care professions provide care to both those involved in an auto accident, as well as those with group insurance benefits through their life and health insurer. We know from experience that fraud seeks out the weakest link in the regulatory chain. It would appear to be straight forward for an organized crime syndicate to set up clinics that submit claims solely to employer plans, and thereby avoid all of the suggested enhanced regulatory and oversight rules developed for the auto insurance sector. When FSRA looks to more effective regulation with regulatory colleges, we encourage engaging life and health insurers in the discussions to avoid these unintended consequences.

Inadvertent impacts of focusing on the automotive industry alone

It is also important to note that, unless an injury is work related, employer health plans are first payer in Ontario for any supplementary health and disability benefits. This means that if an individual has an automobile accident, has a workplace plan, and is referred for treatment at a health clinic providing services outside of the public health system, the costs of treatment will be incurred by the employer until (if) the employer coverage reaches its maximum limit. Only at that point, does the auto insurer assume any of the liability. In addition, if the individual is not able to return to work, the employer, through group

benefit plans pay health and disability claims that are connected to auto fraud incidents and, in some cases, would bear a significant portion of the financial loss.

For all these reasons we strongly recommend that any anti-fraud initiatives include the broader insurance industry, including life and health insurers.

Conclusion

The life and health insurance industry supports FSRA's overarching goals and priorities and looks forward to collaborating with you on an ongoing basis. If you have any questions or concerns, we would be pleased to meet and provide additional information that may be helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'S. Frank', written in a cursive style.

Stephen Frank