

March 28, 2023

Financial Services Regulatory Authority of Ontario  
25 Sheppard Avenue West, Suite 100  
Toronto, ON  
M2N 6S6

Re: Response to Guidance on “Proposed Information Technology (“IT”) Risk Management

In January 2023, FSRA released Guidance on “Proposed Information Technology (“IT”) Risk Management.

In response to that Guidance, I am writing on behalf of the Ontario Mutual Insurance Association, a trade association representing farm mutual insurers incorporated and operating in Ontario. Our members all fall within the regulated entity category defined as “Ontario-Incorporated Insurance Companies and Reciprocal”.

As FSRA looks at implementing the guidance we believe that there needs to be clear alignment and consistency with requirements and protocols that are applicable under the Personal Information Protection in Electronic Documents Act (PIPEDA). As it relates to the requirements following a cyber incident, there should be clear lines of delineation so that FSRA’s Guidance and PIPEDA are harmonized and the regulated entity can provide a coordinated and appropriate response under both sets of obligations. Under PIPEDA a regulated entity is only obligated to report “any breach of security safeguards involving personal information under its control if it is reasonable in the circumstances to believe that the breach creates a real risk of significant harm to an individual” (Section 10.1). Care needs to be taken to ensure that requiring a regulated entity to report to FSRA a “material IT risk incident” under this Guidance will not result in the regulated entity breaching its obligations under PIPEDA.

The Guidance as it relates to Ontario-Incorporated Insurance Companies and Reciprocal cites Subsection 437(3) of the Insurance Act as FSRA’s authority. Section 437(3) states that every insurer shall “institute and record procedures to be followed in the handling and safeguarding of its investments and shall, at all times, ensure strict compliance with those procedures”. This interpretation of Subsection 437(3) is a very broad interpretation indeed, given the context of Act’s references to, what we believe, were traditional investment instruments held within the Insurance Acts parameters.

Thank you for the opportunity to provide comment.

Yours truly,



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President

