

2019/2020 Market Conduct

# Life Agent Reporting Form (LARF)

Summary Report

**FSRA**

Financial Services Regulatory  
Authority of Ontario



Ontario

# Introduction

The Financial Services Regulatory Authority of Ontario (FSRA) is an independent regulatory agency created to improve consumer protection in Ontario. FSRA promotes high standards of business conduct and good administration of insurance plans by regulating financial services sectors including Life and Health insurance.

Life and Accident & Sickness insurance agents and corporate agencies (agents) are intermediaries who sell life and health insurance products and services on behalf of approximately 70 insurance companies. There are more than 50,000+ agents who are licensed in Ontario.

Agent suitability is essential in achieving fair treatment of consumers. Fair treatment of consumers is about placing consumers' needs and interests first and considering what they expect at every stage of the product life cycle. It starts with screening for suitability at the initial pre-contracting stage and continues with monitoring the agent's business and sales practices throughout the lifecycle of the insurance product.

FSRA's expectations apply to all licensees, whether or not they interact directly with the consumer, and whether or not they are involved in all stages of the product life cycle. These include licensees designing a financial services product, and those distributing or selling products to consumers. While more than one licensee may be involved in the design, marketing, distribution and post-sale servicing of a financial product or service, FSRA sees treating consumers fairly as a shared responsibility among all the parties involved (i.e. insurers and intermediaries including Managing General Agencies and agents).

The Ontario Regulation (O. Reg.) 347/04<sup>1</sup> under the *Insurance Act* (the Act) requires insurers to establish and maintain a system that is reasonably designed to ensure that each agent representing an insurer complies with the Act, regulations, and the agent's licence.

The O. Reg. also states that an insurer shall report if it has reasonable grounds to believe that an agent is not suitable to carry on business as an agent. To protect consumers from agents who are not suitable, insurers should have an established mechanism to monitor their agents and investigate, gather evidence, and report their findings of an unsuitable agent to the regulator and other appropriate parties in a timely manner. To facilitate and capture this reporting, insurers are

---

<sup>1</sup> <https://www.ontario.ca/laws/regulation/040347>

advised to complete and submit a Life Agent Reporting Form (LARF)<sup>2</sup>. LARF serves as a mechanism to understand complaints on agent suitability and to assess insurers' supervision of agents.

## Executive Summary

As part of our commitment to transparency and protecting consumers, we are publishing a new report that summarizes the LARFs received by Market Conduct from the launch of FSRA on June 8, 2019 to the end of its fiscal year on March 31, 2020.

During this period, a total of 52 LARFs were received, resulting in 52 corresponding FSRA complaint files. Of the 52 files, Market Conduct issued Letters of Warning for 23 files (44 per cent), escalated 16 files (31 per cent) for further investigation and potential regulatory enforcement action, and closed 13 files (25 per cent) with no action.

Overview of LARFs (From June 8, 2019 – March 31, 2020)		
<b>Total Number of LARFs Received</b>	<b>52</b>	<b>100%</b>
<b>LARFs – Closed*</b>	<b>36</b>	<b>69%</b>
<i>Letters of Warning</i>	23	44%
<i>No Action</i>	13	25%
<b>LARFs – Escalated*</b>		
<i>Further investigation and potential regulatory enforcement</i>	<b>16</b>	<b>31%</b>

It is important to note that since FSRA's launch, **all** insurers are notified about the result of the LARFs they submitted, regardless of the outcome.

\*Please see details of Closed and Escalated LARFs below.

<sup>2</sup> Life Agent Reporting Form is proposed by Canadian Life and Health Insurance Association Inc. (CLHIA) for use by insurers reporting unsuitable agents to regulators. Please see Appendix A for a LARF template.

# Summary of Findings

## Initial Reporting

The LARF allows insurers to report various types of agent misconduct. Insurers are able to select more than one type of misconduct option provided on the LARF, and multiple types of misconduct were identified in the majority of the LARFs received during the aforementioned period (96 misconduct types reported for the 52 LARFs received. Please see Appendix B for a summary of the 96 agent misconduct types reported).

The final disposition outcomes are based on FSRA's analysis of LARFs received. FSRA has taken steps to ensure a consistent approach has been followed to evaluate submitted LARFs. The outcomes and reasoning behind those decisions are further explained below.

## Closed LARFs

Of the 52 LARFs received, 36 files (69 per cent) were closed within Market Conduct. A closed LARF refers to a file resolved within Market Conduct after all matters relating to the file have been satisfied and completed. These matters included, but were not limited to, discussing the LARF with the insurer, communicating with agents, gathering evidence and supporting documents, determining the risk to the public, and finally making a decision on the outcome.

Closed LARFs can result in two outcomes: a "Letter of Warning" or "No Action Taken." FSRA took no action mainly for the following reasons: no jurisdiction, insufficient evidence, and no financial consumer harm.

Closed LARFs	# of Closed LARFs	% of Total LARFs Received (52)
Letter of Warning	23	44%
No Action Taken	13	25%
Reasons for No Action Taken*		
• No jurisdiction	8	15%
• Insufficient evidence	3	6%
• No financial consumer harm	2	4%

\*Further details of each reasoning are provided below

## Letter of Warning: 23

Of the 52 LARFs received, 23 files (44 per cent) resulted in a “Letter of Warning.”

**In all cases, Letters of Warning are documented on the agent’s licensing file and red flagged in the FSRA licensing system.** If further or repeat misconduct arises in the future, the agent’s file will be reviewed and the misconduct may result in potential licensing or enforcement actions. (This is further explained in the *Escalated LARF* section below.) In situations where an agent applies to renew his/her active licence or reinstate his/her lapsed licence, the Letter of Warning will be reviewed and evaluated in order for Licensing to make an informed decision on the renewal.

When an agent is issued a Letter of Warning, it does not result in an automatic non-renewal. However, FSRA considers it as one of the critical factors in determining whether to renew an agent’s licence when he/she re-applies.

Based on FSRA’s review and analysis, the 23 files resulted in the following final disposition outcomes.

Misconduct Type (as determined by FSRA)	# of Letters of Warning Issued	Rationale
Licensing Violation	8	8 - Insufficient Continuing Education credits. No consumer harm identified.
Forgery and Fraud	6	<p>3 - Fraudulent activities occurred in another province. Reported to the respective provincial regulator.</p> <p>1 - Fraudulent activities. Agent placed under investigation and strict supervision by the respective insurer.</p> <p>1 - Forgery and fraudulent activities. Agent no longer licensed (flagged in FSRA system indicating the agent may need to attend an Advisory Board Hearing to determine suitability to become licensed).</p> <p>1 - Forgery activity occurred and remediated by the agent with the consumer. Agent placed under strict supervision by the respective insurer.</p>
Misrepresentation	2	2 - Misrepresentation to the insurer using incorrect internal user names and passwords. Agent contracts terminated by the respective insurer and no consumer harm identified.
Replacements	2	<p>1 - Agent activity occurred in another province. Investigated by the respective provincial regulator and agent placed under strict supervision by the respective insurer.</p> <p>1 - Sale of unsuitable product with no disclosure (i.e. Life Insurance Replacement Declaration). Agent contract</p>

		terminated by the respective insurer and notified the new sponsoring insurer.
Fronting	1	1 - Agent activity occurred in another province. Reported to the respective provincial regulator and agent contract terminated by the respective insurer.
Product Suitability	1	1- Unlicensed activity occurred in another province. Agent resigned and agent contract terminated by the respective insurer.
Other	3	<p>2 - Modification of securities-related form by a dually licensed/registered agent. Misconduct occurred outside of FSRA's jurisdiction.</p> <p>1- Agent misconduct occurred outside of Life insurance sector (i.e. related to SMI). Agent contract terminated by the respective insurer and the agent is retired.</p>

In summary, the rationale to issue a Letter of Warning was based on the evidence provided by the insurers, where it was noted that:

- Agents were placed under close supervision by their respective insurers.
- Agents' contracts were terminated by their insurers.
- Low or no consumer harm was identified.
- Agents let their licences lapse and did not renew (i.e. agent no longer licensed yet red flagged in FSRA system for future licensing applications).
- Misconduct occurred in another province / territory.

## No Action Taken: 13

Of the 52 LARFs received, 13 files (25 per cent) resulted in “No Action Taken.”

**Although these files resulted in No Action Taken, it is important to note in all cases, FSRA red flagged the agent’s licensing file.** In situations where the agent is actively licensed, FSRA continues to monitor enforcement activities taken by other jurisdictions to assess the suitability of the agent and determine if further action is required. In addition, the flagged file will also be reviewed again when it is time for the agent to renew his/her licence. In situations where the agent is no longer licensed, FSRA red flags the file should the agent apply to reinstate his/her licence. The flagged file will be reviewed and evaluated in order to determine the approval of the agent’s licence.

Based on FSRA review and analysis, the 13 files resulted in the following final disposition outcomes. Reasons for No Action Taken included: no jurisdiction, insufficient evidence, and no financial consumer harm.

- *No jurisdiction*: Of the 52 LARFs received, 8 files (15 per cent) were deemed to be outside of FSRA’s jurisdiction, which means either the misconduct reported was primarily outside the sectors FSRA regulates or the misconduct occurred in another province/territory. Starting February 2020, FSRA began to issue Letters of Warning for misconduct reported outside of FSRA’s jurisdiction.
- *Insufficient evidence*: Of the 52 LARFs received, 3 files (6 per cent) were closed as the insurers were unable to provide supporting documentation.
- *No consumer financial harm*: Of the 52 LARFs received, 2 files (4 per cent) were deemed to be lower risk as there were no financial consumer harm and both licensees were no longer licensed in Ontario.



## Escalated LARFs

Of the 52 LARFs received, 16 files (31 per cent) were escalated for further investigation and potential regulatory enforcement action.

**FSRA's enforcement tools include licence revocation, licence suspension, and administrative monetary penalties as high as \$100,000 for individuals and \$200,000 for corporations.** The type of enforcement pursued is based on the evidence available and the unique circumstances of a contravention, including its seriousness, the extent of harm to consumers or others, and the existence of personal gain.

- Based on FSRA review and analysis, the 16 files were escalated for further investigation and potential regulatory enforcement action due to the severity of the alleged agent misconduct. The escalated conduct included pervasive misrepresentation to insurers and clients, fraudulent misconduct including misappropriation of client funds, fronting for unlicensed entities, unlicensed activities, and trafficking<sup>3</sup> in life insurance.

FSRA has established the Case Management Committee (CMC) to facilitate the identification and prompt escalation of priority cases and to decide on further regulatory actions and outcome.

The CMC places a strong emphasis on consumer harm and continues to focus on significant misconduct such as churning, fraud and forgery, and product suitability. To assist the CMC, FSRA also has developed the Regulatory Action Prioritization Rubric (RAPR) to enable a consistent approach to assessing risk in line with FSRA priorities.

---

<sup>3</sup> Visit <https://www.fsco.gov.on.ca/en/about/warning-notices/Pages/warning-trafficking-life-insurance-09-12-2014.aspx> for more information.

## Conclusion and Next Steps

FSRA is strongly committed to consumer protection, and agent suitability is central in achieving fair treatment of consumers. As such, FSRA will continue to pursue regulatory actions where there is evidence of non-compliance and consumer harm. These actions can result in a number of outcomes and escalations based on the facts and circumstances of each case as noted in the report.

Through its enforcement activities, FSRA is working to ensure that agents are compliant with the legislation, regulations, and licensing requirements in order to ensure continued consumer protection in Ontario. FSRA continues to encourage insurers to file LARFs, and is dedicated to ensuring that each submission is reviewed and handled with a high degree of attention.

In the coming years, FSRA will continue to monitor and analyze the types of misconduct reported in LARFs, in order to assess trends, determine emerging issues and develop supervisory plans that address the sector's key issues. This will support FSRA's priorities for the Life and Health Sector of enhancing market conduct oversight to protect consumers and improving licensing effectiveness and efficiency. These priorities are also driven by FSRA's statutory objects to promote transparency and disclosure of information, deter deceptive or fraudulent conduct, practices and activities, and overall contribute to public confidence.

# Appendix A<sup>4</sup>

## Life Agent Reporting Form

Date: \_\_\_\_\_

Agent Name: \_\_\_\_\_

Life Insurance and/or A&S Agent's License Number: \_\_\_\_\_ Province/Territory: \_\_\_\_\_

### Evidence that suggests: (refer to Guideline G8 Appendix 1 for explanation)

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Churning              | <input type="checkbox"/> Inducements                          | <input type="checkbox"/> Product - Client Suitability |
| <input type="checkbox"/> Coercion              | <input type="checkbox"/> Licensing Violation                  | <input type="checkbox"/> Replacements                 |
| <input type="checkbox"/> Conflict of Interest  | <input type="checkbox"/> Misappropriation of Client Funds     | <input type="checkbox"/> Tied Selling                 |
| <input type="checkbox"/> Forgery               | <input type="checkbox"/> Misrepresentation to Company         | <input type="checkbox"/> Trafficking In Insurance     |
| <input type="checkbox"/> Fraud                 | <input type="checkbox"/> Misrepresentation/Disclosure         | <input type="checkbox"/> Trustworthiness              |
| <input type="checkbox"/> Fronting              | <input type="checkbox"/> Money Laundering/Terrorist Financing | <input type="checkbox"/> Twisting                     |
| <input type="checkbox"/> Holding out Violation | <input type="checkbox"/> Premium Rebating                     | <input type="checkbox"/> Undue Influence              |
| <input type="checkbox"/> Improper Paperwork    | <input type="checkbox"/> Privacy or Confidentiality           | <input type="checkbox"/> Other _____                  |

Agent contract has been terminated:  Yes \_\_\_\_\_

No \_\_\_\_\_

Company Reporting: \_\_\_\_\_

Contact person: \_\_\_\_\_ Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

<sup>4</sup> Visit [CLHIA website](#) to download the latest version of the LARF

# Appendix B

The following chart summarizes 96 agent misconduct types reported by the 52 individual LARF submissions, 51 of which were submitted by insurers and one by a managing general agency.

Misconduct Types Reported	Number of Submissions	Misconduct Types Reported	Number of Submissions
Churning	4	Misrepresentation/Disclosure	7
Coercion	0	Money Laundering/Terrorist Financing	0
Conflict of Interest	4	Premium Rebating	2
Forgery	5	Privacy or Confidentiality	0
Fraud	11	Product – Client Suitability	4
Fronting	7	Replacements	7
Holding out Violation	2	Tied Selling	0
Improper Paperwork	0	Trafficking in Insurance	0
Inducements	0	Trustworthiness	10
Licensing Violation	10	Twisting	0
Misappropriation of Client Funds	4	Undue Influence	0
Misrepresentation to Company	4	Other	15 <sup>5</sup>

<sup>5</sup> Two out of the 15 cases reflected under the “Other” category were related to trafficking. This may be due to insurers using differing or outdated LARF forms.

**Financial Services Regulatory  
Authority of Ontario**

5160 Yonge Street,  
16th Floor  
Toronto, Ontario  
M2N 6L9

Telephone: 416-250-7250

Toll free: 1-800-668-0128

Email: [contactcentre@fsrao.ca](mailto:contactcentre@fsrao.ca)

**FSRA**

Financial Services Regulatory  
Authority of Ontario



Ontario