

Proposed Guidance: Life Insurance Agent and MGA Licensing Suitability

Webinar

Date: Wednesday, January 17, 2024 @ 11:00am – 11:45am

Speakers:

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Financial Services Regulatory
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Land Acknowledgement

We acknowledge the land we are on is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples. We acknowledge that Toronto is covered by Treaty 13 with the Mississaugas of the Credit and the Williams Treaties signed with multiple Mississaugas and Chippewa bands.

Agenda

- Background
- Suitability requirements under the Insurance Act and FSRA Act
- What is FSRA's Licensing Process?
- How FSRA Assesses Suitability For Licensing
- Public Consultation / Next Steps
- Q&A



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Why is FSRA publishing Guidance for Licensing Suitability?

- **Confirm standards:** FSRA has proposed Guidance that clearly sets out the requirements to be suitable to hold a life insurance agent licence in Ontario
- **Better protect consumers:** FSRA wants to ensure all life agents in Ontario, including Managing General Agents (MGAs), have the necessary skills, treat customers fairly, and comply with the law
- **Communicate FSRA's gatekeeping role:** For applicants and agents to understand how past and current conduct may affect their suitability to hold a life insurance agent licence in Ontario



Supervision Findings

- FSRA's supervisory reviews have identified gaps in compliance in the insurance marketplace and a lack of clarity relating to the roles and responsibilities shared among insurance companies, MGAs, and independent agents
- These gaps include:
 - A lack of agent training and supervision
 - Unsuitable product sales
 - Agent recruitment and compensation models that may lead to the unfair treatment of customers
- FSRA is releasing this proposed Guidance as part of its six-point action plan to correct troubling business practices identified in the life insurance sector



1. FSRA has broad authority to determine matters that are relevant to whether an agent, including an MGA, is suitable to be licensed under s. 392.4(1) of the Insurance Act
2. Ontario Regulation 347/04 under the Insurance Act sets out qualifications for licensing and circumstances that FSRA considers when assessing suitability
3. FSRA's assessment of suitability is also guided by its statutory mandate under the FSRA Act



FSRA's guiding principles

- **Consumer-centric:** FSRA's approach to regulating individuals and entities focuses on the impact on consumers
- **Risk-based:** FSRA directs its resources to the regulated individuals and entities that pose the highest risk of harm

FSRA's Gatekeeping Role

- FSRA ensures market participants are suitable and qualified, which reduces the risk of non-compliance or consumer harm.
- A strong gatekeeping role is a cornerstone of FSRA's licensing activities



FSRA's process for assessing suitability

1. Sponsoring insurer screening and certification
2. Application and eligibility assessment
3. Suitability assessment
4. Disclosure and attestation
5. Actions resulting from suitability assessments
6. Suitability assessment during licensing term



Circumstances that may lead to licensing suitability concerns

Conduct or activities that create a risk that an agent, including an MGA, may fail to comply with the law or to treat customers fairly, or act contrary to legal and regulatory obligations, may demonstrate that an applicant or agent, including an MGA, is not suitable for licensing

Includes the following (but not limited to):

- Criminal charges
- Breaches of laws, regulations or FSRA rules
- Insolvency
- Non-disclosure on an application
- Dishonesty to FSRA or others
- Failing to diligently perform any duty or activity that an agent, including an MGA, undertakes or agrees to perform on behalf of an insurer, etc.



Key factors FSRA considers in assessing the licensing suitability of an applicant or agent, including an MGA

When FSRA becomes aware of conduct and circumstances that are relevant to suitability, FSRA evaluates the impact of the conduct on suitability, according to the interpretation outlined in the Guidance

Includes the following (but not limited to):

- Nature of the conduct
- Patterns of behaviour
- Time since conduct occurred
- External factors that would explain the misconduct is unlikely to reoccur
- Whether past conduct resulted in a regulatory or criminal proceeding or sanction, etc.



Suitability considerations apply to MGAs

- In this Guidance, the term MGA refers to a corporate or partnership life insurance agency that performs specific types of actions on behalf of insurance companies including recruiting, screening, training, and supervising life agents
- MGAs, as licensed agents, are subject to the requirement to be suitable to hold a licence
- The individual agent suitability considerations described in the guidance, including those outlined in the corporate and partnership agents' section, apply to MGAs



For an applicant or agent whose business is that of an MGA to be considered suitable, the agent must demonstrate it:

- Has the expertise and resources, to conduct activities in a trustworthy and competent manner
- Knows and understands its regulatory obligations and takes reasonable steps to ensure that the MGA and any agents which they recruit, train, supervise or support, either directly or indirectly through sub-agents, (individual agents) are suitable for licensing

FSRA also considers:

- Adequacy of the MGA's control and compliance functions to ensure it meets its regulatory obligations as well as any obligations that they undertake on behalf of insurers
- Improper Practices: practices that contravene regulatory requirements and standards

Responsibility for Life Agent Activities

- Insurance companies have an obligation to have a system in place that is reasonably designed to monitor the suitability and compliance of agents who act on their behalf.
- This includes reporting to FSRA if the insurer has reasonable grounds to believe that an agent who acts on its behalf is not suitable for licensing.
- Where oversight functions of an insurer (e.g. agent training, supervision and monitoring) have been delegated by an insurer to an MGA, an insurer retains responsibility.



Update Guidance

- You have an opportunity to comment on the guidance
- FSRA will be accepting submissions on our website until Friday, February 9, 2024
- FSRA will consider feedback and publish an update on the Guidance in due course

Rule: Planned Public Consultation

- FSRA plans for consultation on a proposed Rule for Life and Health MGAs as set out in our statement of priorities in our annual business plan

Questions?

