

2020/2021 Market Conduct

Life Agent Reporting Form (LARF)

Summary Report
Second Edition

FSRA

Financial Services Regulatory
Authority of Ontario



Ontario

Executive Summary

FSRA places a strong emphasis on addressing consumer harm and enforces the *Objects of Authority* set out in Section 3(1) of the *Financial Services Regulatory Authority of Ontario Act, 2016*¹. This includes regulating and supervising the regulated sectors, contributing to public confidence, promoting transparency and disclosure of information, and deterring deceptive or fraudulent conduct, practices, and activities.

Under Ontario regulation, insurers are required to report unsuitable agents to FSRA. This is typically done by the insurer filing a Life Agent Reporting Form (LARF) with FSRA. As part of FSRA's commitment to transparency and protecting consumers, this second edition of the LARF Summary Report provides a statistical snapshot of the LARFs received by FSRA from April 1, 2020 to March 31, 2021 and an update on open LARFs since FSRA's inception.

During the last fiscal year, 57 LARFs were received and reviewed by FSRA. The outcomes are as follows:

- 23 LARFs (40%) were escalated for further investigation;
- 28 LARFs (49%) were closed; and
- 6 LARFs (11%) are under review by Market Conduct.

FSRA is committed to taking appropriate action on LARFs to ensure consumer protection. In the fall of 2020, FSRA established a life and health agent team in Market Conduct. This team supervises the business practices and conduct of life and health insurance agents, including reviewing agents for whom FSRA receives a LARF. Through its market conduct and enforcement activities, FSRA is working to ensure that agents are compliant with legislation, regulations, and licensing requirements in order to enhance market conduct oversight to protect consumers.

¹ Visit <https://www.ontario.ca/laws/statute/16f37> for more information.

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 policies by regulating financial services sectors, including Life and Health insurance. Life and Accident & Sickness insurance agents and corporate agencies (agents) are intermediaries who sell insurance products and services on behalf of approximately 70 insurance companies. There are approximately 60,000 agents who are licensed in Ontario.

On January 1, FSRA announced that it would use *Guidance: Conduct of Insurance Business and Fair Treatment of Customers* (Guidance) to supervise the conduct of insurers and other entities FSRA regulates under the *Insurance Act* (Ontario), with respect to the fair treatment of customers. The Guidance requirements and expectations apply to all licensees, including agents. Agent suitability is essential in achieving fair treatment of customers. It starts with screening agents for suitability and continues with monitoring agents' business practices throughout their careers.

The Ontario Regulation (O. Reg.) 347/04² 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 agent licensing requirements. This insurer obligation exists for all distribution channels, including managing general agencies. 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 report findings of unsuitable agents to FSRA and other appropriate parties in a timely manner.

To facilitate reporting of unsuitable agents, insurers are advised to complete and submit a Life Agent Reporting Form (LARF)³. FSRA reviews agents who are the subject of a LARF to assess if they meet conduct standards and treat consumers fairly. If an agent is found to be unsuitable, FSRA will take enforcement action.

FSRA takes agent conduct seriously. In late 2020, FSRA established a life and health agent team in Market Conduct. The team supervises the business practices and conduct of life and health insurance agents, including reviewing agents for whom FSRA receives a LARF. FSRA will share its life and health agent supervisory framework in the coming months.

² <https://www.ontario.ca/laws/regulation/040347>

³ Life Agent Reporting Form is provided by the Canadian Life and Health Insurance Association for use by insurers reporting unsuitable agents to regulators. Please see Appendix A for a LARF template.

2020-2021 LARF Status Report

The LARF allows insurers to report various types of agent misconduct. Insurers may select more than one type of misconduct option on the LARF, and multiple types of misconduct were identified in the majority of the LARFs received during the reporting period (See Appendix B for a summary of the agent misconduct types reported in fiscal 2019-20 and 2020-21). 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.

Escalated LARFs

FSRA uses a risk-based approach to identify and escalate priority cases and to decide on additional regulatory actions and outcomes. This consistent approach to assessing risk is in line with FSRA priorities. Of the 57 LARFs received, 23 files (40 percent) were escalated for further investigation and potential regulatory enforcement action as follows:

Escalated LARFs (From April 1, 2020 – March 31, 2021)		
Total Number of LARFs Escalated	23	40%
<i>Legal and Enforcement</i>	17	29%
<i>Regulatory Discipline Officer</i>	6	11%

Based on FSRA review and analysis, the 23 files were escalated due to the severity of the alleged agent misconduct and the supporting evidence provided. The escalated files included allegations of pervasive misrepresentation to insurers and clients, misappropriation of client funds, fronting for unlicensed entities, unlicensed activities, and trafficking⁴ in life insurance. FSRA will provide a status update on these LARFs in the next annual LARF report.

⁴ Visit <https://www.fsco.gov.on.ca/en/about/warning-notices/Pages/warning-trafficking-life-insurance-09-12-2014.aspx> for more information.

Update on 2019 – 2020 escalated LARFs

The 2019 – 2020 LARF report indicated 16 files were escalated for further investigation and potential regulatory enforcement action. Following publication, 3 more files were escalated for a total of 19. Of the 19 escalated files, 1 file was closed with a Letter of Warning, 2 files were closed following a voluntary licence surrender for a period of 2 years, and regulatory enforcement proceedings were commenced for 6 files. The others remain under investigation.

Escalated LARFs (June 8, 2019 – March 31, 2020)		
Total Number of LARFs Escalated	19	100%
<i>Escalated to Legal and Enforcement</i>	16	84%
<ul style="list-style-type: none"> Regulatory Enforcement Proceedings Commenced 	6	31%
<ul style="list-style-type: none"> Closed – Voluntary Licence Surrender 	2	11%
<ul style="list-style-type: none"> Under Review 	8	42%
<i>Escalated to Regulatory Discipline Officer</i>	3	16%
<ul style="list-style-type: none"> Closed – Letter of Warning 	1	5%
<ul style="list-style-type: none"> Under Review 	2	11%

Closed LARFs

Of the 57 LARFs received, 28 files (49 percent) 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 making a decision on the outcome.

Closed LARFs result in three outcomes: a “Letter of Warning”, “No Action Taken” or “Voluntary Licence Surrender”. FSRA took no action mainly for the following reasons: no jurisdiction, insufficient evidence, and lapsed licence.

Closed LARFs	# of Closed LARFs	% of Total LARFs Received (57)
Letter of Warning	19	33%
No Action Taken	6	11%
Voluntary Licence Surrender	3	5%
<i>Reasons for No Action Taken*</i>		
• No jurisdiction	2	4%
• Insufficient evidence	2	4%
• Lapsed Licence	2	4%

**Further details of each reasoning are provided below*

Letter of warning: 19

Of the 57 LARFs received, 19 files (33 percent) 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 repeat misconduct arises in the future, the agent’s file will be reviewed and the further misconduct may result in potential licensing or enforcement actions. (This is further explained in the *Escalated LARFs* section above.) 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 FSRA issues a Letter of Warning to an agent, it does not result in an automatic non-renewal of a licence. However, FSRA considers it as one of the critical factors in determining whether to renew an agent’s licence when they re-apply.

Based on FSRA’s review and analysis, the 19 files resulted in the following final disposition outcomes.

Misconduct Type (as determined by FSRA)	# of LoW Issued	Rationale
Licensing Violation	6	<p>1 – Solicitation in Quebec while unlicensed in that province.</p> <p>2 – Unlicensed activity, submitted a client application while unlicensed in Ontario.</p> <p>1 – Failure to report Consumer Proposal.</p> <p>1 – Unlicensed activity, submitted a client application while licence was lapsed in Ontario.</p> <p>1 – Falsely reported Continuing Education credits obtained in previous reporting period.</p>
Forgery and Fraud	2	<p>1 – Claimed total disability payments while being employed by the same insurer.</p> <p>1 – Agent named his father as the annuitant and beneficiary on the client's Guaranteed Investment Fund (GIF) application. Also changed client's address to his father's address.</p>
Misrepresentation	2	<p>1 – Pattern of misrepresentation to clients and insurer.</p> <p>1 – Fraudulent policy submission insurer. (Incorrect client information was provided on the policy.)</p>
Replacements	3	<p>1 – Failure to complete Life Insurance Replacement Declaration (LIRD) for 3 policies and failure to complete needs assessments for 58 policies.</p> <p>1 – Insurer identified a trend of replacing 5 policies and not completing LIRDS for 3 of</p>

		<p>them. The policies were replaced from his wife (life agent)'s book of business.</p> <p>1 – Insurer could not verify the legitimacy of 4 policies submitted to insurer.</p>
Conflict of Interest	2	<p>1 – Borrowed funds from two clients for investment purposes. Potential misconduct with securities business in BC (on-going investigation by ICBC).</p> <p>1 – Failure to disclose civil proceedings.</p>
Other	4	<p>2 – Unsatisfactory Advisor Practice Review.</p> <p>1 – Signature of convenience (1 case).</p> <p>1 – Breach of Insurer's Code of Conduct (agent admitted to witnessing client's signature in their absence).</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's system for future licensing applications).
- Misconduct occurred in another province/ territory.

No action taken: 6

Of the 57 LARFs received, 6 files (11 percent) 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’s review and analysis, the 6 files resulted in the following final disposition outcomes. Reasons for No Action Taken included: no jurisdiction, insufficient evidence, and lapsed licence.

- *No jurisdiction:* Of the 57 LARFs received, 2 files (4 percent) were deemed to be outside of FSRA’s jurisdiction, which means either the misconduct reported was primarily outside of 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 57 LARFs received, 2 files (4 percent) were closed as the insurers were unable to provide supporting documentation.
- *Licence lapsed:* Of the 57 LARFs received, 2 files (4 percent) were closed because the licensees allowed their licence to lapse without seeking renewal.

Under review: 6

At the time of publishing, 6 LARFs received in fiscal year 2020-2021 remain open and under review by Market Conduct. FSRA will provide an update on their status in the next annual LARF report.

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, and to enforce the *Objects of Authority* set out in Section 3(1) of the *Financial Services Regulatory Authority of Ontario Act, 2016*. 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 market conduct and enforcement activities, FSRA is working to ensure that agents are compliant with 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 thoroughly reviewed and examined.

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. In particular, the life and health agent team will focus on agent suitability by examining agents for whom FSRA receives LARFs. This will support FSRA's priority to enhance market conduct oversight to protect consumers in the Life and Health sector. 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 contribute to overall public confidence.

Appendix A⁵

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: _____

⁵ Visit [CLHIA website](#) to download the latest version of the LARF
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Appendix B

The following chart summarizes the agent misconduct types reported in 2019-20 and 2020-21.

Misconduct Type Reported	2019-2020	2020-2021	Misconduct Type Reported	2019-2020	2020-2021
Churning	4	3	Misrepresentation/Disclosure	7	9
Coercion	0	0	Money Laundering/Terrorist Financing	0	0
Conflict of Interest	4	9	Premium Rebating	2	3
Forgery	5	17	Privacy or Confidentiality	0	8
Fraud	11	20	Product – Client Suitability	4	3
Fronting	7	3	Replacements	7	2
Holding Out Violation	2	2	Tied Selling	0	4
Improper Paperwork	0	0	Trafficking In Insurance	0	0
Inducements	0	6	Good Character Concerns	10	10
Licensing Violation	10	10	Twisting	0	2
Misappropriation of Client Funds	4	3	Undue Influence	0	11
Misrepresentation to Company	4	19	Other	15	12

**Financial Services Regulatory
Authority of Ontario**

25 Sheppard
Avenue West
Suite 100
Toronto, Ontario
M2N 6S6

Telephone: 416-250-7250

Toll free: 1-800-668-0128

Email: contactcentre@fsrao.ca

FSRA

Financial Services Regulatory
Authority of Ontario



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