

October 29, 2020

Financial Services Regulatory Authority of Ontario
5160 Yonge Street, 16th Floor
Toronto, Ontario M2N 6L9

Dear Sir/Madame;

Proposed FY2021-2022 Statement of Priorities as published October 13, 2020

Thank you for the opportunity to provide comments on the 2021-2022 Statement of Priorities.

As the Ontario Mutual Insurance Association, we are providing feedback on behalf of our member companies, all of whom are property-casualty insurers organized as mutual insurers and incorporated under Ontario statute.

We represent 38 mutual companies in Ontario; our members write farm, home, automobile and commercial business. All of our mutuals are over 100 years old, with the oldest being about 160 years old. Most of our companies are located in small towns and cities across Ontario. As mutuals, each of our policyholders is a fully participating mutual member. The boards of directors of our mutuals are composed of policyholders and all policyholders are eligible to vote at annual general meetings and participate in any refunds granted from surplus.

From an enterprise level our individual mutuals are relatively small insurers in a rapidly consolidated property-casualty insurance sector. Nonetheless our mutuals when aggregated write a significant volume of farm, home and auto insurance in the province.

When regionality is considered many of our mutuals are a significant part of the P&C market in many areas of the province.

By way of overview, we appreciate the fact that FSRA has made significant progress in organizing as a new regulator and there has been a concerted effort within most parts of FSRA to establish relationships with all stakeholders. We also acknowledge FSRA's efforts in responding across the many sectors it regulates to the unique challenges of COVID-19 and the sector specific pressures placed on FSRA's regulated entities.

We believe that a key factor in effectively responding to a crisis, such as the pandemic, is a combination of both formal and informal communication among all regulated stakeholders to understand the best approach and decisions being taken to respond to emerging events. We experienced this with FSRA leadership during the critical early days of the pandemic.

In organizing its priorities for 2021-2022, FSRA has identified 4 high-level cross sectoral priorities as well as sector specific priorities. In an attempt to provide our most cogent feedback on this matrix style approach we will comment both on the cross sectoral priorities and the sector priorities but attempt to avoid duplication of our comments.

Regulatory Efficiency and Effectiveness

Protect the Public Interest

FSRA has set out an ambitious structure to collect consumer input across the sectors and the creation of a Consumer Office appears to signal FSRA's core responsibility to protect consumers of financial services.

We note that FSRA will be accessing new insights through research on consumer perspectives, expectations, and understanding of auto insurance and financial advice professionals. We strongly urge that these insights be shared with all stakeholders and that the source of the research and the insights that follow will be transparent, accessible, and credible across a wide range of consumers.

We also note under this priority that FSRA will be studying the effectiveness of consumer disclosure.

Perhaps one of the ironies of the evolution of the financial services sector is that while it appears there are market expectations of increasingly simplified processes to obtain financial services, the financial services themselves become more complex and less transparent. We believe this is particularly the case with the prevalence of analytics and artificial intelligence. While many may argue that these tools can be used to increase the effectiveness of targeted consumer disclosure we still believe that there is a significant onus on a consumer of any product to educate themselves and that disclosure should be straightforward and in as plain language as possible. Unfortunately, we believe that the legal and regulatory environment often make it impossible to provide any consumer-friendly level of disclosure. Nonetheless we would welcome a simplified approach to consumer disclosure that also allows for the providers of financial services to work within a relatively straightforward set of disclosure rules.

Based on experience, disclosures as mandated by regulators are not always effective.

Consumer Education

Whereas mandated disclosure may be problematic in terms of balancing legal requirements against simplicity and readability, we believe that a regulator led approach to consumer education may be the most effective, credible, and consumer friendly approach to education on basic financial services. We believe that increasing financial literacy is core competency best served by other Ministries. Consumer education, however, on regulated financial products and services could be effectively developed by FSRA and counterpart regulators and done at a scale and level of professionalism that would be difficult to achieve in a more piece meal approach by regulated entities.

Enable Innovation

This Priority notes that "The Innovation Office will lead with putting the consumer first, ensuring FSRA continues to deliver on its mandate to protect the public interest, and safeguard public

confidence and trust in financial services in Ontario." We believe that a core responsibility for FSRA is not to enable a casual approach to innovation but to ensure that it takes place in a thoughtful, meaningful, and safe way. We urge the Innovation Office to ensure that in "putting the consumer first" they consider the long-term needs of consumers. Some of these long-term needs are not always recognized by consumers themselves. Although insurance regulators have been accused of standing in the way of innovation, we believe that experience both inside and outside the insurance sector demonstrate that need for oversight on modern issues such as privacy and the use and sale of data. In addition to ensuring safe and secure financial products, the oversight of innovation must also ensure that "innovation" does not result in the development of monopolistic markets in financial services.

The publicity and general hoopla surrounding InsureTechs and the potential entry to the marketplace of disruptors must be also be carefully weighed. New entrants and disruptors have no track record with financial services consumers and in our opinion are often created simply to monetize one or two ideas and quickly leave the sector. As companies who have provided property-casualty insurance for over 100 years and have operated as a system for 130 years we understand the importance of stability in the property-casualty marketplace. Recent concerns over availability of commercial insurance and condo insurance underline the importance of ensuring the quest for innovation does not create instability or opaque business models which are not consumer oriented.

In general, as much of innovation is inevitably tied to new technology, we would also urge FSRA to consider the important contributions of open-source approaches and thinking in developing longer-term consumer benefits.

Modernize Systems and Processes

We recognize the need for FSRA to have access to data and effective communication processes with regulated entities. We believe that as property casualty insurers the data reporting requirements to the regulator are already extensive and are also a significant expense for insurers as relates to both the capital infrastructure and ongoing support. We believe that the focus should be on streamlining and efficiency for FSRA as a collector of data and that the full cost of any changes in the process should be weighed against the actual benefit to sector stakeholders.

We believe that in some cases process improvements and data requirements are adopted on a "nice to have" basis and often are underutilized.

Transition to Principles-Based Regulation (PBR)

We have seen some of the initial work on moving to a guidance framework system and believe that this can be an effective way to provide regulatory insight. To the degree that the guidance is unambiguous and clear, we see this as an important part of protecting consumers and helping insurers understand what expectations are in place.

As we have stated consistently in submissions to both for FSCO and FSRA, we also believe that the principle of proportionality needs to always be first and foremost in a diverse industry where small insurers may have significantly different and smaller risk footprints than larger insurers. Even in a principles-based regulation environment one size will not always fit all.

To ensure that expectations are clearly understood we believe that FSRA will need to spend considerable time with regulated entities in an interactive environment to exchange thoughts on how regulation can be effective in a principles-based regulatory environment. There were good examples of this stakeholder consultation with FSCO management and we would look for FSRA to continue to develop that level of rapport with the mutual insurance industry.

Property and Casualty (Auto) Priorities

5.1 Empower and protect P&C and auto insurance consumers

FSRA recently began publishing a new approach to benchmarks. This is in its early stages and we would suggest that the success of the use of benchmarks is still open for debate. That being said in the current COVID-19 environment there has not been much opportunity for fully understanding the impact.

One of the deliverables was noted as establishing expectations for enhanced accountability for insurers on rating and underwriting compliance. To be blunt, we believe these expectations need to be clearly stated and communicated to insurers and should as closely as possible provide examples of clearly defined practices that fall within or without those expectations.

The current work involving market conduct oversight and the availability of auto insurance to “all comers” will provide an opportunity to determine the effectiveness of market conduct oversight in the auto sector particularly as this involves significant coordination with RIBO.

As relates to the Fair Treatment of Customers Guidance, we provided our input to that in a separate consultation, but again look to an appropriate level of proportionality and ensuring that guidance does not become intrusive when there are no clear risk-based reasons to undertake examinations or mandate detailed and complex market conduct reporting.

5.2 Support and implement government's auto insurance priorities

We recognize that FSRA as a regulator will have a limited if any opportunity to influence the significant policy changes that are needed in the auto market. The last several years have seen numerous consultations by the Ministry with all stakeholders including mutual insurers. OMIA has provided extensive input on those consultations. In general, OMIA echoes the input and experience of other automobile insurers in Ontario. The complexity of the product, the adversarial nature of the process, and the inflationary impact of damage awards and indemnity interpretations has created a product that at its root defies many of the key deliverables that FSRA have set out in other areas in this Priorities document.

While much discussion of the concerns on the auto product has revolved around SABS regulations, there is also a significant upward cost pressure in the litigation and tort environment that falls outside regulation. We recognize that this falls outside of FSRA's scope, but it must be acknowledged as contributing to the cost and complexity of auto insurance.

Recognizing that much responsibility rests with the legislature, we encourage FSRA to do as much as possible to ensure that higher-level policies also incorporate sufficient regulation and rules to meet the core objective of reducing the cost of automobile insurance in Ontario by removing complexity, adversarial processes, and inflationary benefit cost and indemnity trends.

5.3 Implement auto insurance data and analytics strategy

The collection and reporting of automobile data is already a significant expense that contributes to the overall cost of automobile insurance in Ontario. We urge FSRA to look internally for opportunities to work more effectively with data and not increase the overall reporting burden unless absolutely necessary to create transparency. We are participating in working groups and will provide further input there.

General Commentary

In reviewing FSRA's proposed 2020-2021 budget, we note a significant increase on the allocation to P&C prudential regulation expense.

We will require further details on the rationale and materiality of the actual increase as relates to our members.

As a final comment, we believe that FSRA can continue to make progress in communicating its expectations and ongoing work on market conduct.

Some of this work in the auto sector has been well communicated, however we believe a broader communication as to expectations on market conduct in general should be made available to all insurers in some form of Townhall format or question-and-answer forum.

This has worked well on previous initiatives such as the introduction of the Annual Statement of Market Conduct.

OMIA has a standing Regulatory Review Committee that includes representatives from our member companies. This committee met twice annually with FSCO management and a key agenda item a briefing on market conduct and governance initiatives. We believe that meeting played an important role in shaping a healthy multilateral approach to market conduct. We realize that FSRA's organizational structure and processes are considerably different than FSCO, but we would welcome a opportunity to discuss how these types of meetings could be developed.

Thank you for your continuing consultations throughout a very unusual year. We appreciate the opportunity to provide our input to the 2021-2022 Statement of Priorities.

Yours truly,

A handwritten signature in blue ink that reads "John L. Taylor". The signature is written in a cursive, flowing style.

John L. Taylor BBA, FCIP, FCLA, CHRL
President