



Stephen Frank
President and CEO

October 7, 2021

Mr. Mark White
Chief Executive Officer
Financial Services Regulatory Authority of Ontario (FSRA)
5160 Yonge St, 16th floor
Toronto, ON M2N 6L9

Re: Life Agent Reporting Requirements and Related Insurer Obligations

Dear Mr. White,

On behalf of the life and health insurance industry, we are writing in support of FSRA's proposed Guidance on Life Agent Reporting Requirements. Clear guidance about reporting obligations helps us to support Agent reporting responsibilities. We share your position that fair outcomes for consumers are supported by:

- advisors maintaining proper errors and omissions (E&O) insurance,
- the completion of continuing education,
- identifying what company's products an advisor sells, and
- insurer compliance systems.

Our submission provides feedback about the proposed life agent reporting requirements as it relates to these four areas.

About CLHIA

The CLHIA is a voluntary association with member companies that account for 99 per cent of Canada's life and health insurance business. The life and health insurance industry is a significant economic and social contributor in Ontario. It protects about 10.9 million Ontario residents and makes almost \$45 billion a year in benefit payments to residents in Ontario (of which 90 per cent goes to living policyholders as annuity, disability, supplementary health or other benefits and the remaining 10 per cent goes to beneficiaries as death claims). In addition, the industry has nearly \$280 billion invested in Ontario's economy. A large majority of life and health insurance providers have licences to operate in Ontario, with seventy headquartered in the province.

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General Comments

We support FSRA's emphasis on minimizing regulatory burden. Over time we would encourage FSRA to consider technological solutions that would centralize how reportable data is collected and shared with other regulators. Such an approach would strengthen fair treatment of consumers policies through harmonization and potentially minimize regulatory arbitrage depending on the shareability of this information.

Errors and Omissions Insurance

E&O insurance is an essential customer protection tool. We agree that all advisors should be required to carry E&O insurance that protects their clients and themselves at an individual and corporate level (where a corporation exists).

Continuing Education

Overall, continuing education is essential to ensuring that advisors are providing accurate and competent advice that reflects the fast-changing marketplace.

We are concerned that the proposed approach of excluding continuing education credits for sales and production related training may be too broad. Where course work has a distribution compliance focus, topics related to the CCIR/CISRO fair treatment of consumers guidance may still relate to sales. For example, training on needs-based sales processes, fact finds, and the provision of advice are still training about a sale. It is important that these topics be eligible for continuing education credits because they are, in part, training about how products are sold. Similarly, there are proposed restrictions on production-based training. This term has a different meaning in the context of the life and health insurance industry. For example, the technical components of how products function may be referred to as being production related. This important training helps advisors identify how a product may correspond with a client's needs.

Therefore, we would recommend that FSRA take a narrower approach by excluding training on leads generation and increasing sales as qualifying for continuing education credits. This would address our concerns and continue to achieve the public policy objective of limiting continuing education to substantive topics.

Reporting Agent's Contracted Insurers

It is important that FSRA collects information about which insurers an agent is contracted. As detailed in our submission to the consultation on the proposed Guidance "Proposed Transparent Communication of FSRA Enforcement Action", notifying insurers of reported misconduct supports insurer policies for screening candidates of sales agreements, and ongoing monitoring of advisor suitability.

This information would allow FSRA to provide insurers with notification of issues, findings, and other relevant information. This would support advisor suitability, screening and monitoring completed by insurers. Further, it would reduce an advisor's ability to avoid sanctions by moving between insurance companies.

Insurer's Compliance Systems

We agree with the statement that “insurers retain responsibility for the compliance of agents acting on their behalf”. However, we believe that fair outcomes for consumers are best achieved when there are clear expectations and requirements for all parties involved. In addition to insurer compliance systems, intermediaries, such as agents, MGAs and National Accounts, should also maintain compliance systems. Ideally, these systems should reflect their own distribution activities. This is important because intermediaries can see an advisor's market conduct as it relates to all insurer's products they sell.

The Guidance states that insurer compliance systems must “[...] ensure adequate oversight and governance of agents acting on their behalf by exercising [...] ‘due diligence’”. To add clarity and consistency, we would ask that this due diligence requirement be cross-referenced with the CCIR/CISRO Guidance “Conduct of Insurance Business in Canada and the Fair Treatment of Customers”. This specificity would define what processes should be followed.

Further, we would ask that the Guidance mirror the language in O. Reg. 347/04 about there being a “reasonable compliance systems”. This reasonableness standard affords insurers the flexibility to fulfill their requirements using systems and processes that are relevant to their unique internal structures, systems, and processes.

Conclusion

The life and health insurance industry would like to express our support for the approach that FSRA has taken in the proposed Guidance. We would be pleased to provide additional information or meet to discuss any of the issues raised in our submission if it would be helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read "S. Frank". The signature is stylized and cursive.

Stephen Frank